

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
 One Hundred and Eleventh Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 Augusta, Maine
 April 27, 1983
 Senate called to order by the President.

House of Representatives
 Augusta 04333
 April 26, 1983

Which Report was Read and Accepted. The Bill Read Once and Tomorrow Assigned for Second Reading.

Prayer by the Reverend Julian Hall of Old South Congregational Church of Hallowell.

REVEREND HALL: Couldn't help but think as I looked out this morning, this looks like a rather representative crowd after Easter, or on any Sunday morning.

One of the great church leaders of this century was Harry Emerson Fosdick in the cause for justice and human rights. He wrote a book, obviously many years ago, and it came out of his own experiences of deep depression and then subsequently, as you may remember, he served for many years at the Riverside Church in New York. I offer this morning a prayer from this particular book, written by a person of the last century.

Let us pray! "O God, Who art, and wast and art to come. Before Whose face the generations rise and passed away, age after age, the living seek Thee and find that of Thy faithfulness, there is no end.

Our fathers and mothers in their pilgrimage, walked by Thy guidance and rested on Thy compassion. Still to their children, be Thou, the cloud by day, the fire by night.

In our manifold temptations, Thou alone knowest, and art ever nigh.

In sorrow, Thy pity revises the fainting soul. In our prosperity, and easy, it is Thy Spirit own that can wean us from our pride and keep us low.

O Thou, sole source of peace and righteousness, take now the veil from every heart and join us in one communion with Thy prophets and saints, who have trusted in Thee and were not ashamed. Not of our worthiness, but of Thy tender mercy, hear our prayer. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Out of Order and Under Suspension of the Rules:

On motion by Senator PRAY of Penobscot, the following Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches in the Hall of the House at 10 o'clock for the purpose of extending to the Honorable Joseph E. Brennan, Governor of the State of Maine, an invitation to attend the Convention and make such communication as pleases him, and for the further purpose of extending to the Honorable Margaret Chase Smith an invitation to attend the Convention and make such communication as pleases her. Which was Read and Passed.

The President appointed, Senator Pray of Penobscot to deliver the message, the Senator then retired to the Hall of the House and subsequently reported that he had performed the duties with which he was charged.

At this point a message was received from the House of Representatives, through Representative Mitchell of Vassalboro concurring in the proposition for a Joint Convention to be held in the Hall of the house at 10 a.m. to extend to His Excellency, Governor JOSEPH E. BRENNAN, Governor of the State of Maine, an invitation to attend the Convention, to make such communication as pleases him, and further, for the purpose of extending to the Honorable Margaret Chase Smith an invitation to make such communication as pleases her.

Communications

The Following Communication:
 State of Maine

Honorable Joy J. O'Brien
 Secretary of the Senate
 111th Legislature
 Augusta, Maine 04333
 Dear Madam Secretary:

The Speaker appointed the following members of the House to the Joint Select Committee on Commercial Whitewater Rafting:

- Representative MCGOWAN of Pittsfield
- Representative JACQUES of Waterville
- Representative CLARK of Millinocket
- Representative MICHAUD of East Millinocket
- Representative MURRAY of Bangor
- Representative KIESMAN of Fryeburg
- Representative RODERICK of Oxford

Respectfully,
 S/EDWIN H. PERT
 Clerk of the House

Which was Read and Ordered Placed on File.

The Following Communication:
 The Senate of Maine
 Augusta

April 27, 1983

Honorable Joy J. O'Brien
 Secretary of the Senate
 111th Maine Legislature
 Augusta, Maine 04333
 Dear Secretary O'Brien:

Pursuant to Joint Order, S.P. 505, please be advised I today appointed the following members to the Joint Select Committee on Commercial Whitewater Rafting:

- Senator Pearson of Penobscot, Senate Chair
- Senator Usher of Cumberland
- Senator McBreairsty of Aroostook

Sincerely,
 S/Gerard P. Conley
 President of the Senate

Which was Read and Ordered Placed on File.

**Committee Reports
 House**

Ought Not to Pass

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Concerned with the Thermal Treatment of Hazardous Waste" (H. P. 608) (L. D. 756)

BILL, "An Act Relating to the Frequency of Payments by Certain County Officials to County Treasurer" (H. P. 343) (L. D. 402)

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the Legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Change the Method of Taxing Potatoes" (H. P. 767) (L. D. 997)

BILL, "An Act Concerning Loose Wood Measurement" (H. P. 600) (L. D. 748)

BILL, "An Act to Provide for Caucus and Convention Alternative for Making Nominations for Election" (H. P. 922) (L. D. 1201)

Senate

Leave to Withdraw

The following Leave to Withdraw report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Require Discharge Planning for Mental Health Patients" (S. P. 463) (L. D. 1412)

Ought to Pass

Senator DANTON for the Committee on Transportation on BILL, "An Act to Change Reference to the Public Utilities Commission in the Transportation Statutes" (S. P. 360) (L. D. 1081) Reported that the same Ought to Pass.

Senator BUSTIN for the Committee on Health and Institutional Services on BILL, "An Act to Amend the Laws Governing the Administration of Medications in Group Home Intermediate Care Facilities for the Mentally Retarded" (S. P. 466) (L. D. 1420) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft under New Title
 Senator CHARETTE for the Committee on Legal Affairs on BILL, "An Act Concerning Games for Prizes" (S. P. 409) (L. D. 1257) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Concerning Transient Sellers who Offer Merchandise as Free of Charge" (S. P. 508) (L. D. 1522)

Which Report was Read and Accepted. The Bill in New Draft under New Title Read Once and Tomorrow Assigned for Second Reading.

**Second Readers
 House**

The Committee on Bills in the Second Reading reported the following:

BILL, "An Act to Amend the Wholesale Seafood License Law" (H. P. 776) (L. D. 1006)

BILL, "An Act to Fairly Apportion the Cost of Cancelled Generating Facilities" (H. P. 1140) (L. D. 1496)

BILL, "An Act to Authorize the Maine Criminal Justice Academy to Revoke Officer Certification" (H. P. 1141) (L. D. 1505)

BILL, "An Act to Amend the Probate Code" (H. P. 867) (L. D. 1115)

BILL, "An Act Relating to Clam Regulation in the Unorganized Territories" (H. P. 908) (L. D. 1187)

BILL, "An Act Concerning Late Filing Under the Referendum Campaign Reporting Law" (H. P. 984) (L. D. 1289)

RESOLVE, Authorizing Governor to Convey an Interest in Land and Buildings on the Bangor Mental Health Institute Campus (H. P. 1016) (L. D. 1341)

BILL, "An Act Governing State Participation in the Federal Job Training Partnership Act" (H. P. 1148) (L. D. 1512)

Which were Read a Second Time and Passed to be Engrossed in concurrence.

BILL, "An Act to Create Boothbay Region Waterfowl Sanctuary" (H. P. 713) (L. D. 904)

Which was Read a Second Time.
 The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, with respect to L.D. 904, I move that this Bill and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter moves that L.D. 904, Bill, "An Act to Create Boothbay Region Waterfowl Sanctuary" be Indefinitely Postponed.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Mr. President and Members of the Senate, I regret that the leadership of the opposition party has taken on this Bill which is a great magnitude to most of the State, but of very great importance to a small area in my region in Boothbay Harbor.

I discussed this rather thoroughly yesterday. No land is being taken in this: it is merely a water area. It is, I believe, what true sportsmen would do, we're trying to save a migratory area for ducks, it is a commercial, and certainly, it is the busiest boating area, probably in the State, in the harbor of Boothbay Harbor—not the place where hunters are too often.

The person I sponsored it for, is, probably one of the greatest duck hunters, sportsman,

someone who has traveled all over the country, trying to preserve species of ducks. This is merely a migratory area. I ask for a Division on this and I hope that those of you who were with me yesterday will stay with me today. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President and Members of the Senate, another point of information. I double checked with the Department yesterday, and the first time that the Department knew about any part of the problem down there was at the hearing.

The normal procedure is to go to the Department when you do have a problem in the area, and it did stem from vandalism in the area, that was testimony that was given at the hearing. There was only one person, which was Mr. Kelly, plus the sponsor that spoke for it, and at least eight or nine opponents to the Bill.

It was an issue that should have been brought to the Department first, and the first time was at the hearing.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I think the Senator from Cumberland, Senator Usher has just delineated why, the major reason why, I moved this Bill's Indefinite Postponement this morning.

The Department has a process whereby people can at least make application to it for areas, such as this, to be set aside. As the good Senator from Cumberland, Senator Usher just pointed out, the Department never even heard about this. There was not any great outpouring of support from the area; there was one person who is intimately involved with this, plus the sponsors of the Bill, who came to the public hearing and testified. As the good Senator from Cumberland, Senator Usher has already pointed out various sportsmen's groups and the Department of Inland Fisheries and Wildlife were caught off guard and it did appear as opponents. It just didn't seem to me to be a need or a great outcry of support, even from the affected area. As the Senator already has said, there were some problems down in that area with vandalism or what not and the whole idea seems to have stemmed from this.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President and Members of the Senate, I would only suggest that there is a process, that the person the Honorable Ransom Kelly for whom we put this Bill in, knows the process. He was on the Committee to which this was referred, for three terms in this Legislature. He understands it; he did have problems; he had discussed it and if they hadn't heard of it, it was surprising that they came in such opposition.

The only real—The Department didn't want to do this it seems, but they were very very happy to accept eight hundred acres of land which this gentleman gave to the State for a management preserve. They were happy to accept the lands, they were glad to take it and make it into a management area. This man is not ignorant of how this system works and people in the area decided that it is a necessary thing.

I don't understand what the great opposition is and not all the sportsmen's groups are against this. Let me explain to you, those of you who don't hunt, perhaps don't belong to sportsmen's groups as I do. I suppose that some of you know that I've raised black labs and showed them at field trials. I'm not exactly a "white sneaker" myself. For instance, Ducks Unlimited, a National Organization and this is exactly what they do, they make these sanctuaries all over the country and in Canada. They raise money by having dinners and auctions to make these sanctuaries so that we can have certain species of ducks preserved.

In Maine you can't shoot black ducks. Why? Because there aren't any. There are very few and they are trying to preserve them. This is the sort of thing done with private money and done in an area like this, where we're taking no land at all in a busy area where it's practically, people wouldn't be hunting there anyway. I don't understand it! Down in Cumberland County area we have the Roger Snowe Wildlife Sanctuary. Does it make a difference that he's a Democrat?

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the Indefinite Postponement of this Bill, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

17 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Indefinitely Postpone LD 904 in non-concurrence, Prevailed.

Sent down for concurrence.

House — As Amended

BILL, "An Act to Amend the Statutory Requirements Pertaining to Medicaid Co-payments" (Emergency) (H. P. 823) (L. D. 1063)

BILL, "An Act to Provide Legislative Participation in the Allocation of Consumer Settlements and for Allocation of Funds for the Low Income Energy Assistance Program" (Emergency) (H. P. 1136) (L. D. 1495)

Which were Read a Second Time and Passed to be Engrossed as Amended in concurrence.

(Off Record Remarks)

BILL, "An Act to Clarify Certain Provisions of the Marine Resources Law" (Emergency) (H. P. 987) (L. D. 1292)

Which was Read a Second Time.

On motion by Senator Minkowsky of Androscoggin, Tabled for 2 Legislative Days, pending passage to be Engrossed.

Senate

BILL, "An Act Concerning Public Easements for Access to Harvested Lands and Cemeteries" (S. P. 326) (L. D. 971)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Senate — As Amended

BILL, "An Act to Reestablish the Time for Announcing a Shorter Deer Season" (S. P. 304) (L. D. 918)

Which was Read a Second Time and Passed to be Engrossed as Amended.

Sent down for concurrence.

On motion by Senator Pray of Penobscot, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to Order by the President.

At this point the Senate retired to the Hall of the House, where a Joint Convention was formed.

(For proceedings of Joint Convention, See House Report)

AFTER JOINT CONVENTION IN SENATE

The Senate called to Order by the President.

On motion by Senator Carpenter of Aroostook, Adjourned until Friday, April 29, 1983 at 12 noon.