

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

INDEX

FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

INDEX

FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

INDEX

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

INDEX

HOUSE

Friday, September 7, 1984

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Bruce Hudson of the Highland Avenue United Methodist Church, Gardiner.

The Journal of Wednesday, September 5, 1984, was read and approved.

Papers from the Senate

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the Governor's nomination of Joan D. Susi of West Buxton for appointment to the State Harness Racing Commission.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Labor, the Governor's nomination of Edward S. Godfrey of Portland for appointment as the Chairperson, Public Representative to the Maine Labor Relations Board. Mr. Godfrey is replacing Sidney W. Wernick.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the Governor's nomination of John B. Beliveau of Lewiston for appointment as a Judge-at-Large of the District Court.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing

Committee on Judiciary, the Governor's nomination of Vincent L. McKusick of Cape Elizabeth for reappointment as the Chief Justice of the Maine Supreme Judicial Court.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the Governor's nomination of Stephen Perkins of South Portland and Herbert T. Silsby, II of Ellsworth for reappointment as Superior Court Justices.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the Governor's nomination of Bruce W. Chandler of South China for appointment as a Superior Court Justice.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of the Very Reverend Richard E. Harvey of Brewer for reappointment to the Board of Trustees of the Maine Maritime Academy.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
The Senate of Maine
Augusta

September 5, 1984

The Honorable John L. Martin
Speaker of the House
111th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Labor, the Governor's nomination of Patricia McDonough of South Portland for appointment as the Commissioner of the Department of Labor.

Ms. McDonough is replacing William Malloy.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Communications

The following Communication: (H. P. 1890)
State of Maine
House of Representatives
Augusta 04333

September 6, 1984

John L. Martin
Speaker of the House
111th Legislature
Gerard P. Conley
President of the Senate
111th Legislature

Dear Mr. Speaker and Mr. President:

On September 6, 1984 one Bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on September 6, 1984 as follows:

APPROPRIATIONS AND FINANCIAL AFFAIRS

Bill "An Act to Create the Downeast Correctional Facility within the Department of Corrections" (Emergency) (H. P. 1889) (L. D. 2487) (Presented by Representative DIAMOND of Bangor) (Cosponsors: Senator BROWN of Washington, Representatives MANNING of Portland and RANDALL of East Machias)

Sincerely,

S/ EDWIN H. PERT

Clerk of the House

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

The following Communication: (H. P. 1892)
State of Maine
House of Representatives
Augusta 04333

September 6, 1984

John L. Martin
Speaker of the House
111th Legislature
Gerard P. Conley
President of the Senate
111th Legislature

Dear Mr. Speaker and Mr. President:

On September 6, 1984 one Bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on September 6, 1984 as follows:

PUBLIC UTILITIES

Bill "An Act to Allow the Establishment of Generation and Transmission Cooperatives for the Purpose of Reducing Borrowing Costs for Ratepayers" (Emergency) (H. P. 1891) (L. D. 2488) (Presented by Representative VOSE of Eastport) (Cosponsors: Representatives TAMMARO of Baileyville, MOHOLLAND of Princeton and Senator CARPENTER of Aroostook)

Sincerely,

S/ EDWIN H. PERT

Clerk of the House

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

Orders

On motion of Representative MITCHELL of Freeport, the following Joint Resolution: (H. P. 1888) (Cosponsors: Representatives DAVIS of Monmouth, JACKSON of Harrison, MASTER-TON of Cape Elizabeth, BENOIT of South Portland, JALBERT of Lewiston, Senators CLARK of Cumberland, and GILL of Cumberland)

WHEREAS, Joan Benoit has captured the hearts of the people not only from this State, but those across our great nation and beyond; and

WHEREAS, she entered the Games of XXIII Olympiad, in Los Angeles, California, as a young hopeful woman in excellent condition who would meet all challenges in the spirit of sportsmanship and fair competition; and

WHEREAS, she became the first woman ever in Olympic history to win the gold medal in the women's marathon; and

WHEREAS, "Joanie," with home and roots deep in the soul of Maine, has given athletes the world over a shining example of championship; and

WHEREAS, Joan Benoit, with typical grace, determination, perseverance and a relentless pace has given us all a thrilling moment and memory that will glow as brightly as the Olympic torch itself for years to come; now, therefore, be it

RESOLVED: That we, the Members of the 111th Legislature, now assembled in special session, join at this time to honor and pay tribute to Joan Benoit, Olympic Gold medalist, of Freeport, who with dignity and athletic prowess has so well represented her state and her nation; and be it further

RESOLVED: That a suitable copy of this joint resolution be presented to Joan Benoit in token of deep pride of her outstanding accomplishment.

The Resolution was read.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Mitchell.

Mr. MITCHELL: Mr. Speaker, Men and Women of the House: An outstanding athletic performance is not only a great achievement for an athlete but it's also a great achievement for all mankind. Joan Benoit's great performance at the Olympics in Los Angeles last month was a great achievement for all people. It was a moment of great pride for the people of America and for the people of this great State, and it was a special moment of great pride for the people of Cape Elizabeth, where Joan grew up, and the people of Freeport, where she now lives.

Joan combined her great gifts with hard training and determination and perseverance. Her hard training for the marathon serves as an example and an inspiration for our young people. It also serves as an inspiration for the people of Freeport.

Shortly after Joan moved to our town about a year and a half ago, I was driving through the village and I passed her running on the Flying Point Road. She was three miles from home, running back home. She ran fast, she ran gracefully, it was a real inspiration. As the months passed and the days passed we saw her almost weekly. I saw her in South Freeport running and training, running hard. I saw her in Brunswick, and she became a real inspiration for us. I think the people in my town were secretly confident. We knew that she would do very, very well at the Olympics. We were sort of afraid to predict victory, but I think we all knew in our hearts that she would do very well.

We in Maine, I think, are very honored to have her as a citizen of our State, and the people of my community are very honored to live with her in our small town. I hope the members of the House will join me today in wishing Joan Benoit and her fiancé, Scott, great happiness in their life together.

Thereupon, the Resolution was adopted and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Drinkwater of Belfast,

Recessed until four o'clock in the afternoon.

After Recess
4:00 p.m.

The House was called to order by the Speaker.

The following papers were taken up out of

order by unanimous consent:

Papers from the Senate

The following Joint Resolution: (S. P. 929)

JOINT RESOLUTION IN HONOR OF

SENATOR SAMUEL W. COLLINS, JR.

WHEREAS, with the retirement of the Honorable Samuel W. Collins, Jr., from the Maine Senate, the State and the Legislature will lose an outstanding public servant whose political ability, high intellect, Yankee ways and dry wit have earned him bipartisan respect and admiration; and

WHEREAS, "Senator Sam," a graduate of the University of Maine and Harvard Law School, has, during his 5 terms in the Maine Senate, carried on with distinction a long-standing family tradition of public service to the coastal communities of Knox County and the State of Maine; and

WHEREAS, Senator Collins has proven his considerable leadership abilities by ably chairing the Joint Standing Committee on Veterans and Retirement and the Joint Standing Committee on Judiciary and by serving as Senate Majority and Minority Floorleader and as a member of the Legislative Council; and

WHEREAS, Senator Collins, who has been called a "Sam Ervin and Archibald Cox rolled into one," was instrumental in the enactment of such historic legislation as the Maine Criminal Code, the Maine Probate Code, the Maine Tort Claims Act, the Indian Land Claims Settlement and the Maine Bottle bill; now, therefore, be it

RESOLVED: That We, the Members of the 111th Legislature, now assembled in Third Special Session, join at this time to honor and pay tribute to the Honorable Samuel W. Collins, Jr., of Rockland, for his service to this State and to wish him well in the future; and be it further

RESOLVED: That a suitable copy of this Joint Resolution be presented to Senator Collins in token of our esteem and affection.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

The following Joint Resolution: (S. P. 930)

JOINT RESOLUTION SUPPORTING

CANADIAN PRIME MINISTER-ELECT BRIAN

MULRONEY IN HIS DECISION TO

REINSTATE THE VIA RAIL ATLANTIC LIMITED LINE

WHEREAS, the system known as Via Rail's Atlantic Limited line is of vital importance to the people of the State of Maine and the Provinces of Quebec, Nova Scotia and New Brunswick; and

WHEREAS, Via Rail is integral to the smooth transportation of people and the Atlantic Line provides an efficient and effective link for the people of Maine, Quebec, Nova Scotia and New Brunswick; and

WHEREAS, these passenger services of the Atlantic Line were curtailed by the Canadian Government in 1981, causing hardship to those along its route; and

WHEREAS, Canadian Prime Minister-elect Brian Mulroney has announced his full support of and concrete commitment to the reinstatement of the services of Via Rail's Atlantic Line; now, therefore, be it

RESOLVED: That We, the Members of the 111th Maine Legislature, now assembled in Third Special Session, hereby express our full support for the commitment of Brian Mulroney to reinstate the Atlantic Line of the Via Rail system; and be it further

RESOLVED: That a suitable copy of this joint resolution be sent forthwith by the Secretary of State to Canadian Prime Minister-elect Brian Mulroney.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

Consent Calendar

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar

for the First Day:

(H. P. 1881) (L. D. 2483) RESOLVE, Authorizing the Exchange or Sale of Certain Public Reserved Lands—Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-747).

Under suspension of the rules, Second Day Consent Calendar notification was given.

Whereupon, the House Paper was passed to be engrossed as amended and sent up for concurrence.

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-748) on Bill "An Act to Create the Downeast Correctional Facility within the Department of Corrections" (Emergency) (H. P. 1889) (L. D. 2487)

Signed:

Senators:

NAJARIAN of Cumberland

PERKINS of Hancock

BROWN of Washington

Representatives:

JALBERT of Lewiston

KELLEHER of Bangor

ARMSTRONG of Wilton

MASTERTON of Cape Elizabeth

CHONKO of Topsham

LISNIK of Presque Isle

CARTER of Winslow

SMITH of Mars Hill

BELL of Paris

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Representative:

CONNOLLY of Portland

Reports were read.

Mr. Carter of Winslow moved the acceptance of the Majority "Ought to Pass" Report.

Mr. Baker of Portland requested a Division.

The SPEAKER: The pending question is on the motion of Representative Carter of Winslow that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

98 voted in favor of the same and 6 against and subsequently the motion did prevail.

The Bill was read once.

Committee Amendment "A" (H-748) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended and sent up for concurrence.

Consent Calendar

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1882) (L. D. 2484) RESOLVE, to Address Training and Employment Opportunities for Handicapped Persons Beyond School Age (Emergency) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-749).

Under suspension of the rules, Second Day Consent Calendar notification was given.

The House Paper was passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith.

Consent Calendar

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1891) (L. D. 2488) Bill "An Act to Allow the Establishment of Generation and Transmission Cooperatives for the Purpose of Re-

ducing Borrowing Costs for Ratepayers" (Emergency) Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-750).

Under suspension of the rules, Second Day Consent Calendar notification was given.

The House Paper was passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass

Pursuant to Joint Order (S. P. 925)

Report of the Committee on Judiciary reporting "Ought to Pass" Pursuant to Joint Order (S. P. 925) on Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 931) (L. D. 2489)

Came from the Senate, with the report read and accepted and the bill passed to be engrossed as amended by Senate Amendment "B" (S-444).

Report was read.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will bear with me when I make a few remarks about this particular piece of legislation that is before us.

The Errors Bill which is here for consideration is recommended to this Special Session by our committee and this differs from the Errors Bills considered during the Regular Session of the Legislature. This Errors Bill contains not only the technical corrections typically recommended but also some substantive provisions of an emergency nature.

The Judiciary Committee takes the unusual step of proposing these substantive amendments in the Errors Bill because this bill is the only vehicle available in this session for making these necessary changes. The Errors Bill contains no amendments affecting appropriations. Any suggestions concerning appropriations were deleted by the Judiciary Committee. Because this Errors Bill contains more than technical corrections, I want to point out the sections of this bill which do make substantive changes.

Please join with me in looking at the sections of the bill and cross-check those sections of the bill with the Statement of Fact, which is self-explanatory.

Sections two through six correct constitutional officers' salaries. During the last Regular Session, as you know, these were inadvertently lowered and the committee, as you can see from the amendment, has taken care of that situation.

I direct your attention now to Sections 27 and 28. These sections correct the unintended repeal of certain rulemaking powers of the Commission of Agriculture, Food and Rural Resources, again bringing this to your attention along with the other changes because there are substantive issues involved.

I call your attention next to Section 29—this section replaces a ceiling on the tax on boxing and wrestling receipts mistakenly removed from a bill by a drafting error. This is a straightforward amendment, and I believe that the Business Legislation Committee and its Chair could explain it to you if there are any questions.

I bring your attention now to Sections 30 through 32—this particular section reenacts a grandfathering clause inadvertently repealed by the Fame legislation. If you have any questions regarding this particular provision, please ask. It was brought to our attention by the gentleman from Brunswick, Representative Livesay.

Section 38 is also a section which involved substantive changes. This is in regard to remedying a problem that has arisen in the selling of non-resident hunting and fishing licenses. The Performance Audit Committee, as

well as the Fisheries and Wildlife Committee, have addressed this issue and it was brought to our attention by the gentleman from Lincoln, Mr. MacEachern, and the committee. If you would like an explanation of this, I will be glad to do so, or the gentleman from Lincoln, Mr. MacEachern, at a later time in more depth.

Sections 48 through 50 is the next section I would like to have you take a look at. This amends Maine's new domestic relations law to permit courts, for good cause shown, to hear motions for certain temporary orders prior to a final divorce without referring the parties to mediation.

If you will notice, the bill came from the other body with an amendment which puts a grandfather clause—I should say a sunset provision of March 1st. This will allow the next legislative session to address this issue because the law needs to be put into effect to find out whether or not there are any problems as amended.

I would like to bring your attention now to Section 68 of the bill. This proposal places two unorganized townships which were left out inadvertently from any legislative district by the recent reapportionment, and this deals with House District No. 132. It is my understanding that there are no voters or citizens that live in these two particular unorganized townships relative to House District No. 132. This was proposed to us at the request of Deputy Secretary of State James Henderson. It is my understanding that the gentleman from Bangor, Mr. Kelleher, was also informed of this and it appears after reviewing it that there is no problem with this particular section.

Next is Section 73. This section replaces the penalty provision in the hazardous materials control statute which was mistakenly repealed last session. It is my understanding that the gentleman from Sangerville, Mr. Hall, can provide you with some further information concerning that section.

I would like to bring your attention now to Sections 85 and 86. These sections amend the forest fire suppression tax statutes to address the issue of exemptions from multiple owners of acreage. It also extends the time for calculation of the tax. Again, you can refer questions to the Taxation Committee concerning that particular section.

Finally, Sections 97 through 102 correct mistakenly enacted provisions of the Kennebec County budget. Unfortunately, the bill that was engrossed dealing with the budget of Kennebec County was not the correct budget. It was signed into law, and this is to correct the mistakes that were made from the time the bill went from Legislative Research to Engrossment. Again, Sections 97 through 102 are substantive changes but, as you can see, is in fact an inadvertent error which has caused a problem in Kennebec County's budget.

I should further reiterate the point that the Committee, in looking at the proposals, and they were numerous, as you probably saw from the original proposal and those who have presented those amendments to us, we were faced with a situation where we rejected numerous amendments which we felt were substantive and which had a potential vehicle for consideration by this body, and those were in the areas of the Education budget.

One last point. I want to reassure everyone that this bill contains no amendments affecting appropriations. Those proposals which were presented to our Committee were sent down to the Appropriations and will be considered as part of the Appropriations Act. We deleted all of those provisions pertaining to appropriations.

If that has not been enough explanation, I would suggest that you raise some questions. I and members of the Judiciary Committee and other members of this body who presented these amendments which I have outlined here I'm sure will attempt to explain them to you.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The item that I have a particular interest in is Section 2 through Section 6 that the gentleman from Saco, Mr. Hobbins, mentioned earlier dealing with constitutional officers' pay. The reason I'm interested in this is because it was brought to my attention that we did, in fact, decrease the pay of the constitutional officers inadvertently during the last session of the Legislature.

I'm not sure if I want to pose a question or just make a statement, but I guess I would make the statement that this change is supposed to, in fact, in the 112th Legislature put the Secretary of State, the Treasurer and the Auditor in Range—excuse me, I'm going to have to back up again. In Range 87, the Secretary of State and the Treasurer will be included in Step A, no matter who those people are, even if they are the existing constitutional officers. The Auditor would be in Step A of Range 88, no matter who that individual is; and the Attorney General will be in Range 90, but Step G, no matter who that particular individual is. That's the understanding that I have had all along. I thought that I understood that that's what the amendment or this particular change did until I read Section 6, and then I became extremely confused. But I want to make sure that we haven't negated what I thought the Council agreed to earlier in the year and what this Legislature voted on.

So in this particular case, the sum and substance of it is that incumbency or years of service is not going to necessitate the Legislative Council raising that particular constitutional officer above Step A in that Range. That was our intent, and if this legislation does anything differently than that, I would like to have someone say so.

Thereupon, the Report was accepted in concurrence and the Bill read once. Senate Amendment "B" (S-444) was read by the Clerk and adopted in concurrence.

Under suspension of the rules the Bill was read the second time and passed to be engrossed as amended in concurrence.

On motion of Representative MURRAY of Bangor, the following Joint Order: (H. P. 1893)

Ordered, the Senate concurring, that H. P. 1039, L. D. 1364, Bill, "AN ACT to Amend the Law Relating to Tax Increment Financing" be recalled from the Governor's desk to the House.

Was read and passed and sent up for concurrence.

On motion of Representative CARTER of Winslow,

Adjourned until Monday, September 10, 1984, at nine o'clock in the morning.