

Journal of the Senate

WEDNESDAY, JANUARY 15, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 5

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 38. Joint resolution relating to weekend adjournment .

And has adopted the same in concurrence.

Senate Concurrent Resolution Adopted

Senate concurrent resolution of the following title was offered, read and adopted in concurrence:

By All Members of the Senate,

By All Members of the House,

S.C.R. 30. Senate concurrent resolution in memory of Senator and former Representative Sally Fox of South Burlington.

Whereas, Senator Sally Fox led an exemplary life dedicated to public service, including representing the citizens of Vermont in the General Assembly, and

Whereas, she was a native Nebraskan, graduated from the University of Wisconsin, earned a law degree at the State University of New York at Buffalo, and concluded her eastward journey when she settled in Vermont, and

Whereas, in 1986, Sally Fox's strong desire to engage in the public policy arena and work for a civil society that treated all Vermonters fairly and without prejudice inspired her to seek a seat in the House of Representatives, and

Whereas, for seven consecutive bienniums, Sally Fox was a House member from Essex, and strove to turn into legislation her deeply held beliefs in equity and social justice, and

Whereas, as a member of the House Committee on the Judiciary, Sally Fox played a leading role in the crafting and enactment of Act 220, establishing the Family Court, and she took great pride in witnessing this judicial innovation for addressing family-law-related matters, and

Whereas, as Chair of the House Committee on the Judiciary, Sally Fox focused her attention on improving the effectiveness and fairness of the State's criminal and juvenile justice systems, and she viewed her leadership in enacting Act 55 of 1991, which lowered the legal definition of an alcoholically impaired driver from a blood alcohol content level of 0.10 to 0.08, as a major contribution to highway safety in Vermont, and

Whereas, as Chair of the House Committee on Appropriations, she sought to preserve the social safety net protecting Vermonters, while still addressing the State's fiscal requirements, and

Whereas, the members of the House Democratic Caucus respected Sally Fox's ingenuity, initiative, and leadership skills, electing her its Deputy Majority Leader for the 1997–1998 Biennium, and

Whereas, after concluding her House membership in 2000, Sally Fox endeavored to improve the lives of Vermonters as Director of Family Court Operations, as Policy Director of Vermont Businesses for Social Responsibility, as the Coordinator for the City of Burlington's Offender Reentry Program, and as the Government Affairs Director for the Vermont State Colleges, and

Whereas, in 2010, Sally Fox won a Senate seat representing Chittenden County, and her new legislative duties included sitting on the Committees on Health and Welfare and on Appropriations and service on several joint committees, including cochairing the Mental Health Oversight Committee, and

Whereas, she was an active participant in a number of community organizations, and

Whereas, after battling a rare form of sarcoma, Sally Fox died on January 10, 2014, at the age of 62, leaving her husband, Michael Sirotkin, sons, Jacob and Jesse, and many friends and admirers among her legislative colleagues and throughout Vermont, and

Whereas, her presence will be missed in the Vermont State House, and the large outpouring of mourners at her funeral was a moving tribute to Senator

Sally Fox and her passionate commitment to assisting Vermont's most vulnerable citizens, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly mourns the passing of Senator Sally Fox of South Burlington and extends its sincere condolences to her family, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to her husband and each of her sons.

Remarks by Lieutenant Governor Philip B. Scott

Prior to the adoption of a Senate concurrent resolution in tribute to Senator Sally G. Fox, the President Lieutenant Governor Philip B. Scott addressed the Senate, as follows:

“As I said last week, it was certainly a sad moment gaveling in Friday’s session and ending our first week – knowing that our colleague Senator Sally Fox wouldn’t be joining us in the Chamber again. No matter how many signs there are that the end is near, I don’t think there’s any way to fully prepare for the feelings that come when you lose someone – whether it’s someone you worked with, a friend, or a member of your family.

“After attending Sally’s service on Sunday, I now find myself with feelings of regret – possibly a missed opportunity.

“I came away realizing I didn’t know Senator Fox as well as I should have – and I left feeling as though I met a whole other side of her. I now look forward to hearing from you and getting to know her a bit more through your reflections. I hope we can honor her legacy by taking the time to get to know each other better rather than remaining only acquaintances.”

Pending the question, Shall the Senate adopt the Senate concurrent resolution on it’s part?, the following remarks were delivered and, in the discretion of the President, were entered into the Journal, and are as follows:

Remarks by Senator William T. Doyle

“My very best memory of Senator Fox was working with her for a period of one year planning the Eastern Regional Conference of the Council of State Governments 1999 Annual Meetings. The Conference was held in Burlington for four days in August of 1999. Senator Fox was involved in every major decision, the first one being to engage Jeanne Kennedy to manage the Conference. Senator Fox was a very gracious hostess; gracious to the participants and guests young and old.

“The Conference was opened by Lt. Governor Doug Racine who welcomed everyone to Vermont and by Mayor Peter Clavelle who welcomed everyone to Burlington. Governor Howard Dean was in attendance and gave the keynote address. Also in attendance was Burlington Mayor Clavelle who also made opening comments. Other invited speakers included Chris Matthews, host of CNBC “Hard Ball” and Mara Liasson from National Public Radio. One of the most interesting comments was when Senator Fox was talking to Chris Matthews, she told him, “You are too conservative to be a Democrat.”

“The conference opening social evening was held at Shelburne Farms and was attended by nearly 900 conference attendees, their spouses and many of their children. A very important part of the conference was having an excellent program for the children. Speaking of Legislators, over half of the members of the Vermont House and Senate participated in the Conference.

“James Douglas, who was State Treasurer at that time, moderated a panel on the 2000 Election. Panelists included William Kristol, Editor and Publisher of the “Weekly Standard” and Chris Matthews. Chris Graff moderated a panel on Economic Deregulation and was also involved in the fundraising for the Conference. Senator Helen Reihle moderated a panel on Managed Care and one of the panelists was Rep. Paul Poirier. Senator Elizabeth Ready moderated a panel on Smart Growth. Deborah Markowitz who was Secretary of State moderated a panel on Civic Engagement.

“Senator Fox was a remarkable person, gifted in many areas but I will always remember her contributions to the 1999 Eastern Regional Conference.”

Remarks by Senator Peter W. Galbraith

“Mr. President:

“Since her death Friday, Senator Sally Fox has been described as the voice in Montpelier of those who had no voice: the poor, the sick, those with disabilities. I do not think that description was quite right, at least for the time I knew Sally.

“For one thing, she was soft spoken and, in the last two years, her voice was weaker. But, mostly, I feel the description understates Sally’s contribution. Yes, she spoke on behalf of the voiceless but, more importantly, she got things accomplished that directly benefited thousands of less well off Vermonters.

“Even in her short time here, Sally Fox had real accomplishments, and none bigger than working with Senator Ayer to the secure the passage of Act 48, Vermont’s landmark health legislation to establish a system of universal, publicly financed health care legislation. In my mind’s eye, I think of Sally with her roll call sheet checking with Senators on how they might vote on amendments, and, no doubt, working on the persuadable and not wasting time

on those with fixed opinions. And her devotion to helping Vermonters continued literally to the very end of her life. On Friday, Senator Ayer told me that Sally had pushed hard to schedule a meeting of the Health Care Committee on mental health issues for December 30.

“I have also thought about how we might honor Sally Fox. Our words are nice but I think what mattered to her was deeds: a budget that makes sure that the most vulnerable Vermonters have the services they need, quality mental health services, more money in the pockets of low wage working families, and universal access to health care. Our continued work toward these goals is undoubtedly the best memorial to Sally Fox.”

Remarks by Senator Richard J. McCormack

“Sally Fox was an exemplary public servant; motivated by compassion, fiercely committed, diligent and competent by virtue of her intelligence, her comprehensive knowledge and her good collegial relationships. Her passing leaves an empty space in our state’s civic life that will not be readily filled.

“Personally I mourn the loss of a good friend. Her passing leaves a sad, empty space in me that will not be readily filled.”

Remarks by Senator Ann E. Cummings

“I first encountered, and encountered is the correct word, Sally over 20 years ago. I was still serving in local government and was thrilled to receive an invitation to hear Bill Clinton speak at a rally on the Burlington water front. There was a huge crowd and I ended up standing near the vivacious young woman. I had no idea who she was. In fact, it would be several years before I found out. But she caught my attention. She was talking to someone next to her about her work on the Appropriations Committee and how her dining room table was covered with reports she had to read and how she hoped this rally didn’t run overtime because she had to pick up her boys. She seemed totally alive, engaged and happy. Suffice it to say, I don’t remember a word Bill Clinton said that day. But I remember Sally.”

Remarks by Senator Timothy R. Ashe

“I have many important personal remembrances of Sally, but I didn’t think I could physically talk about them today. Some of them are a bit off-color and one doesn’t want to miss the moment. So instead I offer a few observations about my Senate memories of Sally.

“Sally’s first day in the Senate got off to quite a start. For those of you not a part of the Chittenden delegation you may not appreciate the sometimes delicate negotiations of seat assignments. Traditionally seniority is the basis for selection then the new members pick from what’s left. Sally being the

strategic thinker, one used to the somewhat more orderly nature of the House experience, set to work making sure she'd end up with Seat No. 10, which she hoped to sit in because it had been the Senate seat of her long-time close friend Doug Racine. After working we incumbents over, she had the seat lined up. So, on swearing in day back in 2011, Sally arrived ready to occupy Seat 10, only to find Senator Hinda Miller's belongings laid out on the Seat 10 desk. Sally, somewhat exasperatedly, asked Hinda why she was there when she'd agreed not to sit there. Hinda, who many of us know as a spiritual person from her time in the Senate, told Sally her numerologist had told her 10 was becoming an important number in her life and that she'd decided to claim Senate 10 after all. Sally sought to enlist me in the outrage, but instead of sympathy I flashed a grin and said 'You're in the Senate now, Sally, this is how we roll.' She reached out in mock strangulation for the first but not last time.

"But Sally, as we all know, was a quick study when it came to this building. From the outset on Health and Welfare and on Finance, Sally was no freshman. On Finance Sally sat between Rich Westman and me. Having been a leader in the House Sally was used to being in the know. Since she wasn't in the leadership or a Chair, Sally just worked harder to know what was going on. I know this because she would e-mail me prolifically to check in on everything I was working on. And she was insistent on finding out what was going on. Looking through some old e-mails from Sally, many of them signed off with expressions like 'will you please call me?' 'are you going to call me back' and similar themes as she tried to pick up intel from me, my personal favorite was 'paranoidly yours'.

"2012 brought bad health news to Sally and I still remember how painful it was to take that Saturday morning call in my home office to hear the news from Sally. I told Sally during that conversation, and I'm glad I did, that I was not going to treat her like a patient, always asking after her health and I never did. We continued our relationship as colleagues and friends, always with Sally's health in the background but never blocking our working on Sally's and my passions and in the Senate. She continued helping me in so many ways during this difficult time for her.

"I was very honored and proud in 2013 to drive Sally to the State House on her first day back in the Senate. It was for me a feeling that signaled a deeper relationship with Sally and me.

"Every close relationship has a moment when it goes from what Lieutenant Governor Scott referred to as an acquaintance type of relationship to something more than that. That drive was the moment for me with Sally. I hope that

Sally thought of me as a borrowed little brother. It was that moment she became my borrowed big sister.”

Remarks by Senator Richard A. Westman

“Sally's history in many ways is the history of this building over the last 25 years. Her service here, a husband that worked here, a son that was a Page and sons that clearly effected how she viewed policy toward children and teens. She wanted all kids to have the chance to excel like her kids.

“I was privileged to have shared much of that history.

“Already, as I turn corners I see Sally. Both in places and in the people I see.

“Two examples:

“I stopped at the Inn at Essex the other day and I'll never go in the place again and not think of her. We were for years chair and vice chair of Appropriations, and met there for breakfast on a regular basis. Meeting there became a regular thing even after the Appropriations years. I worked at VSAC and Sally worked for the State Colleges and there was lots to talk about.

“I was reminded yesterday at the Education Funding symposium at Saint Mike's about this. When Sally chaired the Appropriations Committee we didn't always do what the Administration liked with the budget and for a period of time when we voted on things a member of the Administration would come in with his arms folded and stand in front of the door. She felt he was trying to intimidate her and the committee and she wasn't having it... Everyone on the 5th floor heard about it including that person who by the way could have been intimidating physically to some, but not Sally. I saw that person yesterday at the symposium.

“As, I'm putting this together at the coffee shop this morning a woman we used to work with quite closely from the children's forum walked in to buy coffee. She had given us both awards for our service to kids in those years... Interesting...

“Sally lived her life with a strong compass as to what she believed. She didn't like it when things got in her way and she wasn't afraid.

“As we have all said she was a strong and successful advocate for people especially children and teens....

“Finally, here in the Senate she was literally my eyes and ears as she was for Michael at home apparently. I can't read without reading glasses now and three years ago when I sat next to Sally on the Finance Committee she looked

at me and said where are your glasses? She new full well I had lost them again. She said, 'here is a pair don't put them in your mouth and don't get them dirty. I'll want to use them'. I also frequently forgot the cord to my phone and she always keep two cords-one in Health and Welfare and one in finance and then in Appropriations in the afternoon. I was told not to lose them. Michael and Jesse told me she did the same for Michael every evening.

"As an aside it's interesting to me that we both moved from the Finance Committee to Appropriations together here in the Senate. We spent a lot of time together working out money issues....

"I'll miss my big sister but she'll always be there around unsuspecting corners and particularly around this building."

Remarks of Senator M. Jane Kitchel

"We grieve the loss of our widely respected and beloved friend and colleague, Senator Sally Fox. At this same time we also celebrate her remarkable achievements in a life that was cut too short. Over many years, I have had the privilege of working with Senator Fox beginning when she was Chair of the House Appropriations Committee where I spent many hours before her in the witness chair. We shared many common goals, but needless to say our approaches and thinking on how to achieve them diverged on more than one occasion. This past year was a special one for me because Senator Fox served with me on the Committee on Appropriations. Her passion for government to be a positive and helpful presence in the lives of all Vermonters, particularly those who are the most vulnerable and marginalized among us, never failed. Her institutional knowledge, her keen intellect, her courage and her love of the Vermont Legislature were her very special qualities.

"There is an empty chair at the Appropriations table. We shall miss Senator Fox's radiant smile that could light up the room, her perspective, her knowledge and her constructive presence as we undertake our work each day. Senator Fox has left us for a better place and it is because of her more than three decades of public service that she has left us all in a better place."

Remarks of Senator Diane B. Snelling

"Sally and I became friend during the 2010 Chittenden County Senate campaign. We were an unlikely duo big and little but we quickly discovered many areas of common interest and values. I was delighted we became seat mates. I convinced her to have Seat Number 9 on the floor and in Appropriations. We bonded further over fidelity to process and the dancing piggies I drew to entertain her. Michael, Jesse and Jacob, thank you for your brave remarks on Sunday. Listening to you, it was hard not to think of losing

my father in 1991 at age 64. In the 23 years since my Dad died I have found that an amazing thing has happened: many times friends and strangers have stopped to share wonderful stories and memories of him with me. I know you will experience similar gifts and I hope those stories will be comforting and sustaining throughout your lives. I'm going to miss Sally very much and I am grateful for all the gifts I have received from her."

Remarks of Senator Mark A. MacDonald

"My first service in the Vermont House began during the Special Session in July 1983. Hot humid weather caused the requirement to wear jackets be waived for members and for Pages.

"The Special Session lasted four days. During those days I thought Sally was a Page. Imagine my surprise following adjournment on day four to see Sally having a drink with legislative counsel staff at the Thrush patio!

"Sally was elected to the House a few years later. In the late 80's the House featured a myriad of occupations. Among the several teachers and many farmers were a clown, a couple of authors, and only one lawyer, Sally.

"Sally was appointed chair of the Judiciary and some good natured ribbing followed:

"Sally, you were the only lawyer. The speaker had to appoint the only member qualified".

"Not so", Sally responded, "he could have appointed the clown."

"A term or two later, Sally was appointed chair of Appropriations. This time there was no ribbing about experience or competence, an appointment well earned.

"I won't extend these remarks to cover the many reasons we loved Sally. Mike, Jacob, and Jesse did so Sunday far better than we could here today."

Remarks of Senator Joseph C. Benning

"My first introduction to Sally Fox was not as a legislator, it was as a lawyer working in what was then a very different Superior Court. Occasionally Sally and I would face off against each other in the courtroom. I like to believe that we retained a mutual respect for each other, even when our clients had major differences.

"I got to know her better when she was engaged in transforming the judiciary as we knew it, seeking to install a family court component into what could best be described as a stodgy old system that was ill equipped to deal with the explosion of litigants in family law cases. It was then I learned she was not a person who was motivated by glory or fame; she was genuinely

desirous of helping those not getting a fair shake from the system. Her tireless efforts helped bring about a major change in one of Vermont's branches of government, a testament to her passion and strength.

“When I was first elected to the senate I attended an orientation seminar in which Sally was a presenter. I was struck by one thing she told us Senate neophytes that, looking back, seems so prophetic and so sad at the same time. She told us to be prepared for the fact that at least one Senate colleague would pass away during our time here. I suspect it was her way of saying that we should cherish our time with each other, since none of us knows when our time will end. None of us would have expected that Sally herself would be the first to demonstrate that our time here is indeed limited.

“Oddly enough my last conversation with Sally occurred in the same context as our first meeting. Two lawyers, now Senators, sparring over the legal parameters of the Senate's sexual harassment policy. Sally helped write the existing policy almost twenty years ago. Looking back, I regret that that was how we ended our relationship, although in fairness neither of us knew that would be the last time we spoke. I have every reason to believe that, had we seen each other again, we'd have simply laughed off our previous discussion, we'd arrive at a consensus for the benefit of moving forward, and I would have had a chance to see her smile once again. I hope she's smiling now.”

Remarks of Senator David E. Zuckerman

“Today's moment of silence at the opening of our session prompted my story/memory of Senator Fox.

“When I first joined the House of Representatives in 1997 I was astounded that we had a religious opening to the day. Having grown up knowing that we have a system that separates church and state I left the floor with visible agitation re: this issue.

“Senator Fox was one of the first that I encountered in the hallway. While she indicated that she agreed with me, she grabbed my arms in her hands and told me to pick my battles and not to put myself in a box my first day.

“Needless to say I took her advice, as you all know I push few issues, but I have to say, I am not so sure she took her own advice.

“Sally took on many large and important issues and did not shrink back from taking on more and more.

“She was tenacious in the best sense of the word.”

Remarks of Senator Anthony Pollina

“The best way to honor Sally Fox is to emulate her. Act as Sally would with caring and compassion, willing to stand up, for our vulnerable neighbors.

“Let Sally’s legacy be our strength and do the same in her honor.”

Remarks of Senator Virginia V. Lyons

“There isn’t much more to say than has already been so beautifully expressed about Senator Sally Fox. She was a friend and colleague. We commuted together to the State House sharing many conversations – one of the last about the sexual harassment policy previously mentioned. We will miss her soft voice with its powerful and passionate message of caring. Sally’s messages were insightful and meaningful. They were especially important to those who were without housing, who were hungry, who needed mental health support or those who were simply young and vulnerable, deserving and needing protection.

“Sally’s obituary portrays a life worth living of someone we will miss. She was determined and courageous to the end. How many times did she say, “Tell me what I missed yesterday – did we do anything to Reach Up or mental health? I had to go to Boston for another Doctor’s appointment”. That was it, she missed what was going on here as much as we will miss her contribution to our decision making about people and the budget.

“Ironically for all the caring that Sally gave to others – in the end she needed significant hospice care. Her obituary indicates two organizations to which we can donate to honor her life. Please give your donations to The Vermont Cancer Network and/or Voices for Vermont Children. You can give these to Rebecca or Connor in the Pro Tem’s office or to Senator Baruth. In this way we can honor Sally as a Senate.”

Remarks of Senator John Campbell

“It would be difficult to find a more passionate advocate and champion for those who were among our most vulnerable citizens---the young, the elderly and the disabled. As a Chittenden County state senator she fought tirelessly to ensure that all Vermonters had access to quality health care, that those who suffered from mental illness were not forgotten and that our children were provided with every opportunity to succeed.

“I had the opportunity to speak with Judge Amy Davenport, a great friend of Sally. She spoke to me of the creation of the Family Court and how much of a critical and significant role Sally played in its establishment. Sally had spoken with Judge Davenport in 1989 about the idea of creating a Family Court and from there dedicated an immense amount of her time and effort to

make it happen. She never gave up, even in the face of opposition to the idea, and in the end her hard work and dedication was what made the difference.

“While Sally’s physical presence may be absent from the Vermont State Senate, her spirit will live on and provide us with guidance and support.”

Thereupon, the pending question, Shall the Senate adopt the resolution on it's part?, was decided in the affirmative.

Recess

On motion of Senator Campbell the Senate recessed until 1:55 P.M.

Called to Order

The Senate was called to order by the President.

Joint Assembly

At two o'clock in the afternoon, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 34. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

The Senate repaired to the hall of the House.

Having returned therefrom, at two o'clock and fifty minutes in the afternoon, the President assumed the Chair.

Third Reading Ordered

S. 272.

Senator Nitka, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to detention of public inebriates.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Thursday, January 16, 2014.