

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
May 24, 2011

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Senator Dawn Hill of York County.

SENATOR HILL: Good morning. I was very pleased to be asked to do this prayer. I've never been asked to do such before. Given the intense days we're having and the complicated issues we're dealing with I thought a simple prayer would be best to ground us. This is not written by me but by a very ordinary person. I'd like to share it with you. It's called "Just For Today."

Oh God, give us grace for this day, not for a lifetime nor for next week, nor for tomorrow, just for this day. Direct our thoughts and bless them. Direct our work and bless it. Direct the things we say and give them blessing too. Direct and bless everything that we think and speak and do so that for this one day, just this one day, we have the gift of grace that comes from Your presence. Amen.

Pledge of Allegiance led by Senator Cynthia A. Dill of Cumberland County.

Reading of the Journal of Monday, May 23, 2011.

Doctor of the day, Richard Flowerdew, MD of Falmouth.

The President requested the Sergeant-At-Arms escort the Senator from Penobscot, Senator **PLOWMAN** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORT - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Improve Party Status Requirements"

H.P. 125 L.D. 142

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-41)**

In House, March 29, 2011, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-41)**.

In Senate, March 31, 2011, Report **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-41) AS AMENDED BY HOUSE AMENDMENT "A" (H-184)** thereto, in **NON-CONCURRENCE**.

Senator **FARNHAM** of Penobscot moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#95)

YEAS: Senators: ALFOND, COLLINS, COURTNEY, FARNHAM, GOODALL, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, JACKSON, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TRAHAN, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **FARNHAM** of Penobscot to **RECEDE** and **CONCUR, PREVAILED**.

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Attendance of Attorneys at Pupil Evaluation Team Meetings"

H.P. 822 L.D. 1110

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-251)** (9 members)

Minority - **Ought Not to Pass** (4 members)

In House, May 18, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-251)**.

In Senate, May 19, 2011, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **LANGLEY** of Hancock, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

Joint Resolutions

The following Joint Resolution:

H.P. 1163

JOINT RESOLUTION MEMORIALIZING THE HONORABLE MICHAEL B. DONLEY, SECRETARY OF THE UNITED STATES AIR FORCE, AND THE MAINE CONGRESSIONAL DELEGATION TO PETITION FOR AN OPEN AND OBJECTIVE EVALUATION BY THE UNITED STATES AIR FORCE CONCERNING BASING DECISIONS FOR THE KC-46A REFUELING TANKER

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the Honorable Michael B. Donley, Secretary of the United States Air Force, and the Maine Congressional Delegation as follows:

WHEREAS, the Maine Air National Guard 101st Air Refueling Wing, Bangor, Maine, has served with honor and distinction supporting military contingency operations around the world for over 3 decades; and

WHEREAS, the KC-46A is the United States Air Force's next generation aerial refueling tanker; and

WHEREAS, the Maine Air National Guard accounts for over 400 full-time and over 700 part-time traditional jobs with an annual economic impact on Maine of over \$100,000,000; and

WHEREAS, the first military aircraft over New York City on September 11, 2001 formed a combat air patrol anchored by a tanker from the Maine Air National Guard; and

WHEREAS, the 101st Air Refueling Wing has had personnel and aircraft on alert for immediate launch to ensure national security 24 hours a day, 7 days a week, 365 days a year since November 2001; and

WHEREAS, the 101st Air Refueling Wing has launched more aircraft in support of alert missions than any other Air National Guard tanker unit; and

WHEREAS, the Defense Base Closure and Realignment Commission of 2005 reassigned 2 tanker aircraft to Bangor, Maine, specifically identifying the high volume of missions and aircraft being processed at the 101st Air Refueling Wing; and

WHEREAS, the 101st Air Refueling Wing has processed more jet fuel annually than any other Air National Guard base in the continental United States every year since 2002; and

WHEREAS, the 101st Air Refueling Wing has supported more transient aircraft stops annually than any other Air National Guard base in the continental United States every year since 2002; and

WHEREAS, the 101st Air Refueling Wing location is closer to 2 of the most heavily used refueling tracks in the world, AR-20 for missions coming from or returning to East Coast bases and AR-62 for missions coming from or returning to West Coast bases, than any other air refueling wing location; and

WHEREAS, the 101st Air Refueling Wing enjoys extremely high community support for 24-hour operations with no limitations or restrictions on night, early morning or weekend missions; and

WHEREAS, the 101st Air Refueling Wing has been the unit of choice to support highly classified and presidential missions being refueled over the Northeast; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to urge and petition Secretary Donley and the Maine Congressional Delegation to ensure that the United States Air Force uses all available objective data during basing decisions for the next generation air refueling tanker, the KC-46A; and be it further

RESOLVED: That We, your Memorialists, call upon the Maine Congressional Delegation to highlight the significant accomplishments of the 101st Air Refueling Wing in its support of United States Air Force missions, with no operational restrictions, launching aircraft immediately when necessary and supporting a high volume of transient military aircraft; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Michael B. Donley, Secretary of the United States Air Force and to each Member of the Maine Congressional Delegation.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 392

**STATE OF MAINE
125TH LEGISLATURE**

May 23, 2011

Honorable Joseph G. Carleton
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Carleton,

Pursuant to our authority under Title 12 MRSA §6447, we are pleased to make the following appointments to the Lobster Management Policy Council;

Representative Dianne C. Tilton of Harrington, representing Zone A
Senator Brian D. Langley of Hancock, representing Zone B
Representative Walter A. Kumiega, III of Deer Isle, representing Zone C
Senator Christopher W. Rector of Knox, representing Zone D
Representative Kimberly N. Olsen of Phippsburg, representing Zone E
Representative Amy Fern Volk of Scarborough, representing Zone F
Representative Wayne R. Parry of Arundel, representing Zone G

Please let me know if you have any questions regarding these appointments.

Sincerely,

S/Robert W Nutting
Speaker of the House

S/Kevin L. Raye
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 393

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Gregory A. Campbell of Hampden for appointment as a District Court Judge.

Pursuant to Title 4 MRSA §157, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Judiciary.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 394

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Bonnie D. Newsom of Eddington for appointment to the Board of Trustees, University of Maine System.

Pursuant to P & SL 1967, Chapter 229, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 395

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating George C. Gervais of Hampden for appointment as Commissioner of the Department of Economic and Community Development.

Pursuant to Title 5, MRSA §13057, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 396

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Norman A. Gosline of Gardiner for appointment to the Land for Maine's Future Board.

Pursuant to Title 5, MRSA §6204, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Agriculture, Conservation and Forestry.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 397

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Lawrence J. Davis of Hallowell for appointment to the State Liquor and Lottery Commission.

Pursuant to Title 5, MRSA §283-A, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 398

**STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 23, 2011

The Honorable Kevin Raye
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Daniel E. Wathen of Augusta for appointment to the Maine Turnpike Authority.

Pursuant to Title 23, MRSA §1965, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Transportation.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: H.C. 181

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

May 23, 2011

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Secretary Carleton:

Please be advised that pursuant to House Rule 201.1, (I) the Speaker made the following change in a Committee.

The appointment of Representative Frederick L. Wintle of Garland to the Joint Standing Committee on Labor, Commerce, Research and Economic Development was rescinded and Representative Andre E. Cushing III of Hampden replaced him.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and ORDERED PLACED ON FILE.

Senate at Ease.

Senate called to order by President Pro Tem
DEBRA D. PLOWMAN of Penobscot County.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act To Increase Efficiency of the State Court Library Committee"
H.P. 935 L.D. 1276

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse"
H.P. 1013 L.D. 1374

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Increase Recycling Jobs in Maine and Lower Costs for Maine Businesses Concerning Recycled Electronics"
H.P. 725 L.D. 981

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-315)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-315)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-315) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Create Consistency and Fairness in Maine's Bottle Bill"
H.P. 970 L.D. 1324

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-316)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316)**.

Report **READ**.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence.

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Restore Exemptions in the Natural Resources Protection Act"

H.P. 1020 L.D. 1387

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-317)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-317)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-317) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Streamline the Waste Motor Oil Disposal Site Remediation Program" (EMERGENCY)

H.P. 1055 L.D. 1434

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-318)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-318)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-318) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing Comprehensive Planning To Encourage the Development of Affordable Housing"

H.P. 743 L.D. 1007

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-320)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-320) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Align State Standards Pertaining to Food and Beverages outside of the School Lunch Program to Federal Standards"

H.P. 398 L.D. 505

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-297)**.

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
JOHNSON of Greenville
LOVEJOY of Portland
MAKER of Calais
McFADDEN of Dennysville
NELSON of Falmouth
RANKIN of Hiram
WAGNER of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

MASON of Androscoggin

Representative:

McCLELLAN of Raymond

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297)**.

Reports **READ**.

On motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-297) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, To Waive the Fine That the Department of Environmental Protection Imposed on Arthur Drolet in Connection with the Removal of Underground Petroleum Storage Tanks

H.P. 332 L.D. 439

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

SAVIELLO of Franklin
GOODALL of Sagadahoc

Representatives:

HAMPER of Oxford
DUCHESNE of Hudson
HARLOW of Portland
INNES of Yarmouth
KNAPP of Gorham
NASS of Acton
PARKER of Veazie
WELSH of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-306)**.

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

AYOTTE of Caswell
LONG of Sherman

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **SAVIELLO** of Franklin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#96)

YEAS:

Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, TRAHAN, WHITEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS:

Senators: JACKSON, THOMAS

33 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **SAVIELLO** of Franklin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Exclude Cupolas from the Measurement of Height for Structures in the Shoreland Zone"

H.P. 435 L.D. 552

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-305)**.

Signed:

Senators:

SAVIELLO of Franklin
GOODALL of Sagadahoc

Representatives:

HAMPER of Oxford
AYOTTE of Caswell
DUCHESNE of Hudson
KNAPP of Gorham
LONG of Sherman
NASS of Acton
PARKER of Veazie

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

HARLOW of Portland
INNES of Yarmouth
WELSH of Rockport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305)**.

Reports **READ**.

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-305) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Protect Owners of Private Property against Trespass"

H.P. 442 L.D. 559

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-312)**.

Signed:

Senators:

MARTIN of Kennebec
PATRICK of Oxford
TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville
BRIGGS of Mexico
CRAFTS of Lisbon
EBERLE of South Portland
ESPLING of New Gloucester
GUERIN of Glenburn
SARTY of Denmark
SHAW of Standish
WOOD of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representative:

CLARK of Millinocket

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312)**.

Reports **READ**.

On motion by Senator **MARTIN** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-312) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Governing Child Support Enforcement"
H.P. 97 L.D. 115

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

HASTINGS of Oxford
BLISS of Cumberland
WOODBURY of Cumberland

Representatives:

NASS of Acton
BEAULIEU of Auburn
FOSTER of Augusta
MALONEY of Augusta
MOULTON of York
PRIEST of Brunswick
ROCHELO of Biddeford
SARTY of Denmark
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-309)**.

Signed:

Representative:

DILL of Cape Elizabeth

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **HASTINGS** of Oxford, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Regarding the Saltwater Recreational Fishing Registry" (EMERGENCY)

H.P. 250 L.D. 308

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

SULLIVAN of York

Representatives:

WEAVER of York
BELIVEAU of Kittery
CHAPMAN of Brooksville
KNAPP of Gorham
KRUGER of Thomaston
KUMIEGA of Deer Isle
MacDONALD of Boothbay
OLSEN of Phippsburg

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-181)**.

Signed:

Senators:

SNOWE-MELLO of Androscoggin
LANGLEY of Hancock

Representatives:

PARRY of Arundel
TILTON of Harrington

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **SNOWE-MELLO** of Androscoggin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the House of Representatives

H.P. 33 L.D. 40

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

THOMAS of Somerset
COLLINS of York
SULLIVAN of York

Representatives:

COTTA of China
BOLAND of Sanford
CASAVANT of Biddeford
GRAHAM of North Yarmouth
MOULTON of York
TURNER of Burlington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-198)**.

Signed:

Representatives:

BOLDUC of Auburn
HARVELL of Farmington
KAENRATH of South Portland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **THOMAS** of Somerset moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Senator **KATZ** of Kennebec requested a Roll Call.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

On motion by Senator **KATZ** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Madame President. Men and women of the Senate, the premise behind this bill is that it's not a bad idea to take a fresh look at something every 170 years or so. The size of the Maine House was set back in 1841. Abraham Lincoln, whose portrait hangs there, was a lawyer at the time. He wasn't even President yet. It's a time when people got around in their districts by horse and buggy and it might take someone a day or more just to get across their House District. We didn't have telephones. We certainly didn't have automobiles. It's so long ago that baseball hadn't even been invented yet. How things have changed now and how we communicate and stay in touch with our constituents has changed. I'll bet there are many members of this Body who have communicated with people back in their home district this morning by e-mail or text, whether you live in Aroostook County or you live in Augusta, as I do. Yet, as those things have changed and as our ability to stay in touch with our constituents has changed, our House of Representatives remains large. We have the sixth largest House in the entire country. The sixth largest in the entire country despite the fact that we have the thirty-ninth largest population and the fortyish largest land mass. We have larger legislatures than states like ours in terms of population like Wyoming or Idaho. We also have a larger legislature than very large states like Illinois or California. Why is that? Why is it in this day when instantaneous communication and all sorts of way our constituents can stay in touch with us and we can stay in touch with our constituents that we insist on holding to the sixth largest legislature in the entire United States? Why is it that within the last fifteen years eleven states have voted to reduce the size of their legislatures that we won't even let this go out to the voters?

I think it's an idea whose time has come for another reason. We really need in the legislature, I would suggest, to lead by example. We're saying to our towns and our cities, through our decreased revenue sharing and in many other ways, that they need to do more with less. We're saying to our schools, our K-12 school, through a reduction in our funding, that even with the GPA we're going to give them they are going to have to do more with less. What are we doing ourselves to tighten our own budgets? I'm honored to serve on the Appropriations Committee and time and time again that's the message we have to tell people. To the people who are waiting on waiting lists for disability services for longer and longer, we have to tell them to tighten their belts. To the people that we may be cutting off from MaineCare because we simply can't afford to do all that we have been doing, we're asking them to tighten their belts. To all of our constituents who

have to ride over some of the worse roads in the country, we're certainly asking them to tighten their belts. What are we doing ourselves to do that?

This is not a party issue and I would suggest it's not even a rural/urban issue. Everyone would continue to represent the same proportionate number of people. I, personally, think this bill, which reduces the size of the House to 131, doesn't go nearly far enough. I think it should be much lower but it is the only bill that is before us. Again, it's not the legislature changing the size of the House but the legislature simply allowing this matter to go out to referendum. Again, maybe once every 170 years it's not such a bad thing to do. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Madame President. Men and women of the Senate, I just wanted to stand to point out a few things. I think I waiver on this because I do hear from people about reducing the size of the legislature, but when you come from a district that has both sort of more populated towns and then some really rural areas you understand better the challenges that occur in serving those towns by getting to meetings and school board meetings. I serve 23 communities in my Senate District. I happen to know from one of my Representatives, Representative Turner, that it is a very expansive district. It's a lot easier when you come from a very compact area to speak in favor of this kind of legislation. Yes, you can serve but a lot of that is going to be telephone and e-mail because, in the rural areas, it's harder and harder to travel the distances. I'm really not certain about the way I want to support this because I know that there are going to be other pieces of legislation that include reducing the size of the Senate. If we're going to reduce the size of the House perhaps we should reduce the size of both. If we're going to lead by example than perhaps that's the way to go and not on this one.

I also wanted to say that I don't think that we have ever called, at least I haven't heard it, for school boards to be reduced. The governing boards, I don't think we have suggested that those governing boards be reduced at all. I've never seen it. I've never heard of that. In fact, when we talk about tightening our belts we're talking about things like administrative costs. Even though I understand there is this call, I think we represent our Senate Districts and the other Body represents their House Districts and we have a large geographic location. I would suggest that perhaps some of the people who live in the more compact areas should come along with me and see where I go in my Senate District and how far I travel to get places so people can actually see me in my Senate District and know that I really care about them and believe that they should have direct contact with their representatives. It will be awfully difficult to do that as we get smaller. I feel both ways on this issue. It's a very, very difficult issue to decide on. Do we need the size of this Body to be this big? I'm not sure we've really done a thorough examination of this issue. I would be willing to send something out to the people if it was more carefully examined to see if this particular number is the appropriate number. I haven't gotten any data to suggest that this particular number is the appropriate number. I just wanted to put that out there because I think sometimes when people come from more compact areas they think about how easy this would be and then when they come to other areas in the state that are much more expansive in the geographic area to meet the

population that we need to serve as a Senate District it is a lot more difficult than when you serve one city council and one school board or maybe one or two. It's a different ballgame altogether. I guess that would be my challenge to you before we go ahead on this particular bill and say to House members to expand their districts. Take a ride around Representative Turner's district and see what that is like. Thank you.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Madame President. Ladies and gentlemen of the Senate, I promised my seatmate that I wouldn't read the 59 towns and townships in my Senate District because we'd be here all day. I realize that this is a bill affecting the other Body and not ours, but it will come to our Body if we pass this. There will be calls to reduce the size of this Body. Serving on the committee of State and Local Government is a member of the other Body that also has 59 towns and townships. We like to represent our constituents as well as every other member. It's a long way from Palmyra to Patten I'll guarantee you. Some day you ought to come up and ride with me. One hundred and seventy years ago, as my seatmate mentioned, government didn't interfere with our daily lives like it does today. Today you can't turn around but there is some bureaucrat telling you that you can't do this or you shouldn't do that so constituents didn't need to contact their legislator. Today they need to contact their legislator. I just can't believe that it's the right thing to do to make these districts bigger. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Madame President. Men and women of the Senate, first I would very much like to ride with the Senator from Somerset, Senator Thomas, from Palmyra to Patten. I think that would be exciting, to say the least. Seriously, I'm also on this Ought Not to Pass and there are several reasons, one of them being, as the good Chair pointed out, that this is truly the story of the two Maines. One Maine where you can stay in a city. There are some cities, my city, that happens to have three Representatives. That's how large we are. It wouldn't bother us at all. As we mentioned, Representative Turner, from the other Body, has just been elected and she has tons of towns. Sometimes when people introduce themselves and they try to list off all of their different townships, I have to add something like the Vatican something just to feel important because I only have four little places. I will tell you that three of those four places have separate town meetings. If you try to make the town meetings, if you try to keep in touch with a city council, and you try all those things, there is not enough time to be able to service your people.

I think we tend to over-inflate our importance. If you put something out to the people they would vote to do away with all of Augusta people, you and me included, for many of the reasons that the Senator from Somerset, Senator Thomas, just talked about. It seems like every time you turn around you hear, "I'm

here from government and I really want to help." That's one of the three big lies. That's how they look at it. If we're going to do this let's not just be willy-nilly about it and so that we've picked this number and we're going to use this number. It costs money to put something out to the people. Trust me. I think at this point of time and this area of crisis where we are trying to redefine government we ought to at least have a well thought out plan. I think that since we've waited 170 years I'm okay with waiting 175 years. I think that's okay. There is a reason why there are three Senators on this Ought Not to Pass. There is a reason why there are seven of the ten House members on the Ought Not to Pass. We've sat through the committee hearings and listened to several bills. If the committee process works and we've taken the time, we being the whole committee which is aptly and very competently run by the Senate Chair, unless there is a compelling reason, I really think you ought to honor a bi-partisan report and the fact that three Senators are on this. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you Madame President. Ladies and gentlemen of the Senate, five points, if I can make these without being too lengthy. I would note that in the Civil War times and after that they only met every other year for a short period of time. In my lifetime, and yours too, they used to have the Executive Council, I believe, the Governor's Executive Council, that handled this short session. We've morphed into something else. I believe firmly that there are things we could do. One of them is to limit the number of bills. There are states that do that. Three thousand bills becomes a mess. There is a gentleman who is moving to Florida now to work down there with the initials of TB and I asked him what Florida was like. If you go on-line, 60 days, in and out. They move to Tallahassee and do their business. The trick is that the committees themselves, the committee Chairs, look at the bills and then they decide what they are going to have for bills that are of significance. You have a screening process that I think we could go through. I know what people think, but I am not sure whoopie pies would be on one of my bills, frankly. Sorry to the other Body. There are other things that need to be done. It seems to me that if we really wanted to become efficient that we could have a process by which we wouldn't deal with 3,000 bills and that we would deal with bills of substance that people have, in effect, in some way negotiated over before they show up. I won't go into the other states that have looked at this, but there are other states that have something similar to that. I've talked to a member of the other Body, who shall remain nameless. In some states the committees, if you want to bring a bill out, you have to have at least two people bring it out. We'll bring it out with one and I've done that too. It seems to me that if we wanted to do any changes in this Body that there are ways to do it without running around the countryside and asking if you want to vote or not vote on something. By the way, to talk about how far Aroostook is, I can go on Interstate 95 at 75 miles per hour and beat Ron Collins to Augusta fairly easily, so I thank you for that, passing that bill.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Madame President. I rise as a rural legislator. I have 62 towns and townships, separate voting

precincts, in my district which covers parts of three counties. It runs from Franklin to Danforth. To the Senator from York, Senator Sullivan, you'd be welcome to come with me as well on that trip. My constituents, rural constituents, frequently ask me why Maine has such a large legislature. Neither geography nor population, if you look at legislatures across this country, warrant Maine having such a large legislature. I would point out that the Maine Constitution already allows the size of this Body to be reduced to 33 or even to 31 and at various points throughout history we have had a 33 or a 31 member Senate. I believe that this is a reasonable bill. It is not an anti-rural bill because we who live in rural Maine will still have one person and one vote. It will still be proportionate. I just wanted to rise and somewhat respond to the good Senator from Penobscot, Senator Schneider, who said that it may be a matter of people who have nice little compact districts like a neighborhood in Portland or a few towns. I rise as someone who, for the past seven years, has represented 62 towns and townships covering the entirety of Washington County and portions of Hancock and Penobscot. I can tell you that it is doable. It is doable and I believe that this is a cost effective, commonsense, reform that the people all across Maine, whether they be urban or rural, would embrace. I think we should at least give them the opportunity to do so.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Madame President. Men and women of the Senate, again, briefly. I knocked on a lot of doors this Fall and this is one of the things I asked people about. I probably asked this question of literally thousands of people. I can't remember a single person I spoke with who didn't think it was a good idea to at least put this out to the voters once I told them we had the sixth largest House in the entire United States. I can't speak for other districts but I would suspect it would be similar there. We represent now the equivalent of about four and a half House Districts in the Senate now, each of us. I know it's a struggle for us to do a decent job to represent our constituents and it's long hours and it's weekends, but I think we're doing a pretty good job of it. That's four and a half House Districts. This bill is so modest in its reduction in the size of the House. Each House member would only have about one-seventh additional people. Given the workload we have and how we are able to do it, does anybody seriously think that members of the House won't be able to effectively serve one-seventh more people? Again, the financial savings are significant; hundreds of thousands of dollars over a biennium. Again, we should be tightening our own belts before we ask anyone else to tighten theirs. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Madame President. Ladies and gentlemen of the Senate, probably most of you know but for some who don't know, I served in the House for four terms. As you

recall, I was termed out. I took four years off and came back into the Senate. I was reelected to serve in this Body. In those interim four years technology has advanced considerably as far as communication. I have to tell you, and I guess I don't have to tell you because you already know, that people, with the speed of communication, contact their Representatives and Senators on a very frequent basis. During that four year span of when I was here last and when I came back I've seen a huge increase in communications between our constituency and we who serve in the Maine legislature. They demand, and rightly so, a quick response. They want to know the answer to a question. They want to know our opinion, how we're going to vote. To reduce the size of the other Body now, I think, would be a mistake. The demands on us, as legislators, have increased dramatically, in my opinion. It's an important job, a job that requires constant communication with our constituency back home. As time evolves it will get worse, if that is the correct word. It creates an environment where to reduce the size of the other Body, in my humble opinion, would be a drastic mistake. The numbers should stay the same as they are today, increasing the opportunities for communication with our constituency back home. I'll be voting in favor of the current motion and I would hope you would do the same. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Madame President. Ladies and gentlemen of the Senate, I rise today to join with the good Senator from Kennebec, Senator Katz, and the good Senate President from Washington County to just state that it's time that we improve the process by which we operate and become more efficient. I am somewhat disappointed that we're not going further in regards to touching on many of the different aspects of how we operate, potentially when we operate as well as recognizing the changing lives of professionals in this state and how that directly relates to a citizen legislature. In addition to that, I think we also have to look at ourselves. Obviously this bill does not include the Senate. As the good Senate President said, this can be done through a separate statutory action, not requiring a Constitutional Amendment. This really is not a partisan issue. That's not why I rose. I, too, just heard over and over again from my constituents that this is an issue that they would like to see forwarded to them to allow them to vote on it. With the improvements of technology I believe that we can adequately address the concerns of our constituents on a daily basis and communicate with them whether it's electronically as well as in person. There may be more challenges but at the same time I think it's time to save money in the long run and make this a more efficient process. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Madame President. As a Senator from a rural district that literally goes from the Canadian border to Augusta, I won't stand here either and count the names I have but I will tell you that many of them do not have names. They have numbers. I am someone who represented a district that had six towns and it used to take me over an hour and a half to drive around it in the event that I drove the speed limit it took that long, if I took advantage of my blue plates it was a lot less. As I was out on the campaign trail I clearly heard that we need to

reduce the size of the legislature. I will be voting against this proposal and asking for us to reduce the size of the House. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Dill.

Senator **DILL:** Thank you Madame President. Men and women of the Senate, for those of you who are afflicted with New Hampshire envy, I would just point out that New Hampshire has 424 legislators, 24 of them being Senators. It's been that way for 216 years. I am going to be voting to accept the Majority Ought Not to Pass report because I believe that if we are going to do something we should do something that pertains to both the House and the Senate. I respect the committee process with respect to this issue. Thank you.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you Madame President. Men and women of the Senate, I rise today in opposition to the pending motion for some of the very reasons we've heard from other Senators today. Clearly the people communicate to me that they would like to see us reduce the size and so putting it out for them to validate is certainly worthwhile. Means of communication is certainly another factor and we all hear from many people every day. I know that. I would like to offer a comment on the other good Senator from Kennebec, Senator Katz's remarks when he was referring to the 1840's. While he is correct, the size of the legislature has remained static, the population has not. We currently, each legislator, represent about three times as many people as those legislators in the 1840's. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Madame President. Ladies and gentlemen of the Senate, the time has come to reduce the size of the House. The time has come to reduce the size of the Senate. When I was honored to be the Chief Election Official of the State I had the opportunity to travel around from top to bottom and from east to west and have seen all of the various large and small electoral districts and the units, the select-people, the counselors, and all those units and how well they work together. I think that is the base of who we represent. It's the base of our contacts. As people have said, the technology and the communication we have today is really unbelievable. I've been Skyped, I've been Facebooked, I've been Twittered, and I even got a letter yesterday in the mail. All from constituents who have, and will continue, communicated their concerns to me. I think the time has come. I think we should take this seriously. As has been mentioned by the President, this Body can change without a Constitutional Amendment. We can change this down to 31 if we'd like. We can do that at the reapportionment time, which is

coming right up, or maybe even next year. Everything is coming together. We can reduce the House, we can reduce the Senate. Ladies and gentlemen, it's time to do that. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Madame President. Ladies and gentlemen of the Senate, I have been waiting a while to speak and I'm glad I had a chance to go after my good friend, the Senator from Cumberland, Senator Diamond. I know that the good Senator knows how far my house is, how far my district is, because he visited me this past Summer. He knows how long it is and how rural it is. I also know that he knows that his cell phone didn't work while he was there. You are not Skyping very well there. I never actually knew how many towns I represented. I knew I represented a lot and I actually counted them. I'm a little bit ashamed to say I only represent 39. I have, like the good Senator from Franklin, Senator Saviello, a lot of places that are numbers. Township 17 and things like that. It is an expansive district. To get from one end of it to another I have to use three different highways. I have to go down one, up another one, and then back down another one. I tell you, picking up signs after the election takes a long time because you just can't get from one end to the other on one highway. All the comments about people saying that we needed to reduce the legislature, I'm sure there are people in my district that feel that way but I can't think of very many. I did hear a lot of people that said, on both sides, that we are making \$170,000 a year like the U.S. Senate. When you explain to them what we are actually getting they are quite shocked. I have people that say that we should be making more or whatever. I'm actually happy with whatever it is. I think that there are a lot of things that we could do that would save money. I'd rather sit down with this type of thing and maybe put this out, but besides that put out maybe to see if the voters would like us to go to four year terms. That would save a lot more money than this proposal does. I think it saves a couple of million dollars. One thing I do hear a lot from people in my district is that they feel like we are campaigning all the time. That would cut a couple of elections out. People are always complaining about the mailings, the advertisements, and things like that. I think there are a lot of different things that we could do that would save money and help us become more efficient than this actual bill would. I would defer to the senior Senator from Aroostook, Senator Sherman, but I think our two districts, when we compare other states to Maine, it's not apples and oranges. I think Connecticut and Rhode Island both fit into our two districts. You've got to take into account how big a state Maine is. It just doesn't compare in a lot of regards to some of those other states. I actually get more people that are asking me things. They have become more and more accessible. It's very, very hard. I got a call on the way down. I got here around midnight Sunday night. On the way down I got a call from a school board member that wanted to know if I could be in St. Francis on Wednesday night. I had to tell him there was just no way I could do that. There are rural districts and then there are really rural districts. I think that for some of those House members it's going to hurt the constituents in those districts and I see that come to the Senate eventually. I just don't think, for the most part, it's good for the voters and the people in this state.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you Madame President. Men and women of the Senate, I wonder how many times you have gone around your Senate District and people have said to you, "How's Congress?" or "Say such and such when you go back to D.C." and "Gee, I wish you would stop giving yourselves raises from \$140,000 up every year." There are a lot of people who make a lot of statements about the work that we do just because they don't know what we do here. There are plenty of people who have mentioned this issue. As I've said I'm neither here nor there on this particular issue since basically we're talking to ourselves about this issue, which is nice. It sounds good. We want to be efficient and we want to cut costs even though it failed in the other Body. What I'm saying is it sounds awfully good. I'm just wondering what we've really done if we're really serious about becoming more efficient and if we're really serious about cutting costs and tightening our belts? Why are we using a little sort of dart board and shooting at it and saying this is the way to reduce the House by X number of seats? We haven't really done a thorough examination of this issue. I can bet if we went to a four year term and if we made it so you could only put bills in on the first, or let's say the second, year for example, and emergency bills only the first and third and fourth years, and in addition we could only have one budget that we would have supplementals for, and we actually be able to learn the budget the first year so we would really know what we're doing and we could figure out this bureaucracy better, I bet we could save some money. If we are looking for efficiencies why are we shooting in the dark and deciding this is what we should send out to the people? I'm not in opposition to this so much, but it just seems to me this is not the most thoughtful approach. If we're really serious about this, rather than putting something on the record that sounds good because we're tightening our belt and becoming more efficient or that's what we're supporting, maybe we should really put some effort behind this and really look at this more carefully, at all the different things we could do. We talk about being business friendly. One of the biggest complaints I have from businesses is that we keep changing the laws and that they can deal with the laws that we have if they just stayed the same. If we're really serious about becoming a efficient legislature and an efficient government let's look at that. Anyways, I just think that there are a lot of misunderstandings about what we do here and about maybe the best way that we can get to make our government a better government. I think we should look at this and really be serious about it. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN**: Thank you Madame President. Men and women of the Senate, I come from the tiniest Senate District in the entire state of Maine. I represent one town. I wouldn't dare go back to my one town and say that I voted against reducing the legislature. When we talk about efficiency, democracy was not designed to be efficient. It never will be efficient if it's a real democracy. At the same time I am going to vote to reduce the legislature, not because it's a good idea, and I do sympathize with people who represent rural districts, but because my district would never forgive me if I didn't. Thank you, Madame President.

The Chair noted the absence of the Senator from York, Senator **HOBBINS** and further excused the same Senator from this Roll Call vote.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Somerset, Senator Thomas to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#97)

YEAS: Senators: BRANNIGAN, COLLINS, DILL, GERZOFISKY, HILL, JACKSON, MASON, ROSEN, SCHNEIDER, SHERMAN, SULLIVAN, THOMAS, WHITTEMORE

NAYS: Senators: ALFOND, BARTLETT, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GOODALL, HASTINGS, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RAYE, RECTOR, SAVIELLO, SNOWE-MELLO, THIBODEAU, TRAHAN, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

EXCUSED: Senator: HOBBINS

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-198) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require a Two-thirds Vote To Approve the Issuance of a Bond or Security by the Maine Governmental Facilities Authority

H.P. 728 L.D. 984

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

SULLIVAN of York

Representatives:

BOLAND of Sanford
BOLDUC of Auburn
CASAVANT of Biddeford
GRAHAM of North Yarmouth
KAENRATH of South Portland
MOULTON of York

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-304)**.

Signed:

Senators:

THOMAS of Somerset
COLLINS of York

Representatives:

COTTA of China
CELLI of Brewer
HARVELL of Farmington
TURNER of Burlington

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-304)**.

Reports **READ**.

Senator **THOMAS** of Somerset moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide a Sales Tax Holiday Weekend"

H.P. 1017 L.D. 1384

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-288)**.

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
BURNS of Alfred
HARMON of Palermo
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

WOODBURY of Cumberland

Representatives:

BERRY of Bowdoinham
BRYANT of Windham
FLEMINGS of Bar Harbor
PILON of Saco

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-288)**.

Reports **READ**.

On motion by Senator **TRAHAN** of Lincoln, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-288) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

Nine members of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Permit Persons To Perform Simple Electrical Repairs under Limited Licenses"

H.P. 591 L.D. 784

Reported in Report **"A"** that the same **Ought Not to Pass**.

Signed:

Senators:

RECTOR of Knox
MARTIN of Kennebec

Representatives:

DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
WINTLE of Garland

Three members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-300)**.

Signed:

Representatives:

PRESCOTT of Topsham
TUTTLE of Sanford
VOLK of Scarborough

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-301)**.

Signed:

Senator:

JACKSON of Aroostook

Comes from the House with Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300)**.

Reports **READ**.

Senator **RECTOR** of Knox moved the Senate **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **RECTOR** of Knox to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**. (Roll Call Ordered)

Senate

Ought to Pass

Senator **HASTINGS** for the Committee on **JUDICIARY** on Bill "An Act To Provide That Private Transfer Fee Obligations on Real Property Are Void and Unenforceable"

S.P. 463 L.D. 1482

Reported that the same **Ought to Pass**.

Report **READ** and **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

Senator **McCORMICK** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program"

S.P. 436 L.D. 1407

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-149)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-149) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **RECTOR** for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Modify the Laws Regarding Status as an Independent Contractor"

S.P. 437 L.D. 1420

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-150)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-150) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **THOMAS** for the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Require the Treasurer of State To Publish All State Liabilities"

S.P. 258 L.D. 854

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-148)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-148) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

All matters thus acted upon were ordered sent down forthwith for concurrence.

SECOND READERS

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

House

Bill "An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council"
H.P. 1093 L.D. 1486

Bill "An Act To Enhance Enforcement of Fish and Game Laws By Authorizing Maine To Enter into an Interstate Wildlife Violator Compact"
H.P. 1112 L.D. 1509

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act To Amend the Laws Governing County Jail Budgeting for York County"
H.P. 70 L.D. 82
(C "A" H-289)

Bill "An Act To Reduce Deer Predation"
H.P. 298 L.D. 372
(C "A" H-311)

Bill "An Act To Prevent the Disclosure of Student Social Security Numbers"
H.P. 399 L.D. 506
(C "A" H-292)

Bill "An Act To Prevent HIV Transmission from a Pregnant Mother to a Child"
H.P. 532 L.D. 702
(C "A" H-283)

Bill "An Act To Provide a Temporary License To Operate a Public Dance Establishment"
H.P. 645 L.D. 878
(C "A" H-299)

Bill "An Act Regarding Gas Utilities under the Safety Jurisdiction of the Public Utilities Commission"
H.P. 667 L.D. 908
(C "A" H-298)

Bill "An Act To Make Certain Synthetic Cannabinoids Illegal"
H.P. 673 L.D. 914
(C "A" H-293)

Bill "An Act To Limit the Use of Social Security Numbers by State Agencies"
H.P. 744 L.D. 1008
(C "A" H-303)

Bill "An Act To Amend the Motor Vehicle Laws"
H.P. 835 L.D. 1123
(C "A" H-291)

Bill "An Act To Help Maine's Employers To Recruit Skilled Workers by Expanding the Availability of the Educational Opportunity Tax Credit"
H.P. 872 L.D. 1174
(C "A" H-267)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate As Amended

Bill "An Act To Amend the Laws Governing the Maine Health Data Organization Relating to Retail Pharmacies"
S.P. 164 L.D. 572
(C "A" S-138)

Bill "An Act To Reduce Fines for Certain Trucking Violations" (EMERGENCY)
S.P. 211 L.D. 722
(C "A" S-114)

Bill "An Act To Allow the Repayment of Improperly Awarded Workers' Compensation Benefits"
S.P. 389 L.D. 1268
(C "A" S-124)

Resolve, To Encourage Reciprocity between Maine and New Hampshire in the Reporting of Rabies Vaccinations by Veterinarians
S.P. 406 L.D. 1309
(C "A" S-141)

Bill "An Act To Amend the Sanford Sewerage District"
S.P. 464 L.D. 1483
(C "A" S-140)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by President Pro Tem
DEBRA D. PLOWMAN of Penobscot County.

Off Record Remarks

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

Senator **SHERMAN** of Aroostook was granted unanimous consent to address the Senate off the Record.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by President Pro Tem
DEBRA D. PLOWMAN of Penobscot County.

Senate at Ease.

Senate called to order by President Pro Tem
DEBRA D. PLOWMAN of Penobscot County.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/12/11) Assigned matter:

Bill "An Act To Make Disputed Ballots in State Elections Public"
H.P. 225 L.D. 277
(C "A" H-178)

Tabled - May 12, 2011, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**, in concurrence

(In House, May 10, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178).**)

(In Senate, May 12, 2011, **READ A SECOND TIME.**)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Madame President. Ladies and gentlemen of the Senate, this bill, I think, needs to be amended. I've talked with the Secretary of State's Office as recently as this morning and it probably should be because as it reads right now, it says that any disputed ballots in a recount would be made public before the race has been settled. I do not think that is the intent of the committee or the bill itself. I've talked with Julie Flynn about this. I've talked, again, with the Secretary of State's Administrative Assistant this morning. I think in order to correct this so that it will do as the committee intended and as the Secretary of State intended we should have an amendment. It was my understanding, Madame President, that they were contacting you and that amendment would be drafted for you to present. Thank you.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/18/11) Assigned matter:

Resolve, To Streamline the Laws Governing Small Slaughterhouses

H.P. 682 L.D. 922
(C "A" H-114)

Tabled - May 18, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **SHERMAN** of Aroostook to **RECEDE** and **CONCUR**

(In Senate, May 10, 2011, **FINALLY PASSED**, in concurrence.)

(In House, May 17, 2011, **RECALLED** from the Governor's Desk, pursuant to Joint Order H.P. 1158.)

(In House, May 17, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-114) AS AMENDED BY HOUSE AMENDMENT "A" (H-270)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **SHERMAN** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

The Chair laid before the Senate the following Tabled and Later (5/19/11) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Change the Coyote Night Hunting Law"

H.P. 687 L.D. 927

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-246)** (4 members)

Tabled - May 19, 2011, by Senator **TRAHAN** of Lincoln

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 19, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-246) AS AMENDED BY HOUSE AMENDMENT "A" (H-290)** thereto.)

(In Senate, May 19, 2011, Reports **READ**.)

Senator **MARTIN** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. I believe that the motion that the Senator made was to accept it with the House Amendment. I don't think that was reflected in the statement made by the Senate President.

On motion by Senator **MARTIN** of Kennebec, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-246) **READ**.

House Amendment "A" (H-290) to Committee Amendment "A" (H-246) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-246) as Amended by House Amendment "A" (H-290) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/23/11) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Conform Maine's Estate Tax to the Federal Estate Tax"

S.P. 347 L.D. 1147

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-133)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 23, 2011, by Senator **TRAHAN** of Lincoln

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 23, 2011, Reports **READ**.)

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Madame President. Ladies and gentlemen of the Senate, I stand here this afternoon as we're trying to get the work started again a little lethargically, it seems like, in the Body. I think this bill essentially is something that really comes down to priorities, priorities of this legislature. We are faced with a budget and times in our economy that are very tough. What this bill is proposing is to match our estate tax with the federal government, \$5 million. I would suggest that is aggressive. I would suggest that is a challenge in this economy and a challenge in this budget. When we start looking at a budget just in Health and Human Services or other parts of the budget it is just very difficult for me to understand why a \$5 million estate tax, a stand-alone bill, would be here in front of us. I started thinking to myself, "What have I heard this session coming from the good Chair of Taxation?" A lot of times he talks about bills coming before the Body that he can't support because it's not comprehensive enough, that a stand-alone bill won't, essentially, do what it needs to. We need to do a comprehensive reform. I would argue that this is not a comprehensive bill in front of us. We're looking at one part of the tax code and that part of the tax code has to deal singly with the estate tax. It disturbs me that we would be putting this bill in front of the Body to try to pass it and even put it on the table. People in Maine are hurting. People in Maine are taking cuts. What we are doing is taking one very small group of people and saying that if their estate is over \$5 million they will be exempt. I would argue in front of this Body that this won't drive any of the probably 200 to 300 families that don't make Maine their permanent home to stay here anyway. My grandfather did not make Maine his home. He spent his majority of time in Florida. Why? Because their entire tax code

was better than Maine's. Maine's tax code right now is not comprehensive at all. If we want to go and try to look at how we're going to bring the 200 to 300 families back to Maine than it's got to be more than just this bill. I also know that it is part of the budget, maybe a possible increase to the estate tax. I would argue and I would suggest that today we defeat this Majority motion and let the Taxation Committee move something much more comprehensive to address this singular issue. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Madame President. Women and men of the Senate, the Senator from Cumberland, Senator Alford, makes some very good points. What I'd like to say about this bill is the degree to which Maine is an outlier from other states and from the federal government and why I think that moving this forward is so important. To give you a sense of that magnitude, Maine taxes at least twenty times as many estates as the federal government under the current differences and exclusions. Not a few more. Not 50% more. Not twice as many. At least twenty times as many estates. Not only that, due to a cliff effect in Maine's law, the initial tax rate that Maine taxes estates above the exclusion amount is a rate of 41%. These two issues have got to have behavioral effects. This bill does two key things. It conforms the exclusion amount to the federal exclusion amount and it eliminates this 41% cliff tax rate and makes some other fixes. Those are the key things. Why does this matter? Wealthier retirees, whether we like it or not, have great flexibility in deciding where to spend their retirement. Quite frankly, as we all know, many choose to divide time between a warmer climate in the Winter months and a cooler climate in the Summer months. We truly have many, a substantial number of people who have been Mainers but who decide, in their retirement, to be here six months minus a day as non-residents. This has economic costs, whether it's the direct spending that these individuals would spend here in Maine, the taxes that they would pay that they avoid by being residents elsewhere, banking relationships, relationships with financial advisors, and so forth. Relationships with charitable organizations, boards, and hospitals. Much of this is lost from people, these retirees, who make the decision to reside somewhere else.

In the Taxation Committee we heard from a number of estate planners who came to share their experience and their conversations with their clients. What I took from these conversations were two, what I think are important, things in forming the vote here. One is that they felt a strong fiduciary responsibility as financial advisors, estate planning advisors, to advise their clients the magnitude of the difference that is what it was costing to be a Maine resident as compared with another place. It was their fiduciary responsibility to make that very clear, in a sense to advise people not to die as Maine residents. The second thing that really struck me was them describing these as really heart wrenching conversations from people who really felt Maine in their core, that felt a strong lifelong attachment, in many cases, to Maine. Yet they were analytical people who just couldn't justify staying as Maine residents given the financial difference. These were very emotional, heart wrenching conversations that were described. That is why I feel this change is so important.

The last thing I want to emphasize is again returning to the notion that Maine is really a substantial outlier not just from the federal government but from other states, specifically more than 30 states, and I've forgotten the exact number, it might be 35. More than 30 states have no estate tax. At least half of those that have an estate tax, the remaining ones that have an estate tax, have an exclusion amount that is above ours. Putting these things together, we've made it very hard, I think, for wealthier retirees to decide to stay in Maine. Some certainly still do, but this is an important law that can help to retain them, bring them back, and make Maine the attractive retirement destination for these people that I think is important. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Madame President. Ladies and gentlemen of the Senate, if I had a stock portfolio that was worth \$3 million I could become a Florida resident overnight. My money would go with me and when I got ready to pass it on to my children, my family, there would be no estate tax. If I have a farm, how would I move that to Florida? If I have a logging business, how would I move that to Florida? If I have a construction business, how do I move that to Florida? A million dollars in logging equipment is not what it used to be. I can remember when you could buy a brand new piece of logging equipment for \$15,000. Some of those pieces of equipment now are \$500,000. If you're family has been working with you for a long time, you've accumulated some assets, you've got a business, you've got some employees, and the owner passes away and they want it to go to the family, what do they do? They pay the estate tax, borrow the money on the equipment, and now you have changed the operating margins for a lot of those businesses so they don't make it. The employee is out of work. A dairy farm, their margins are so thin now and we're going to ask the family member that inherits that to go borrow money, take on more debt when they can't cover the operating expenses now. Then we wonder why we don't have jobs enough to go around. Let's say that it's not \$3 million. Let's say it is only \$900,000 that the farm is worth. That family has to hire an accountant. They have to hire lawyers. They have to hire appraisers. My neighbor had to do that when his dad passed away. He spent thousands and thousands of dollars so that he could prove that he didn't need to pay income tax, and he didn't need to pay it. This is a jobs bill. This is the ability to pass on what we've worked for, what families have worked on for so long. I think it's a good bill. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Madame President. I think I and a lot of folks who may be opposed to this particular bill are not opposed to the concept of reforming our estate tax. I think there are legitimate issues with being an outlier from other states. I think we do want to be competitive. I do think it's important that we look at all of our taxes. I think this ought to be part of a comprehensive tax reform proposal that makes sure that we're not just giving a great tax break to folks at the very top of the wealth distribution but that we're also making sure that as part of that reform we are providing equal opportunity for reductions for people in the lowest and the middle. I think that is what is

disconcerting about this bill on its own. Also I think jumping from \$1 million to \$5 million is extraordinary. It's one thing if we were to look at the numbers and go up from \$1 million to \$2 million or \$2.5 million, something that really would protect most of our farms and small businesses. If we could do that, that's a reasonable approach. Again, doing it as a stand-alone measure, to me, just doesn't make sense in this climate, at a time when we are asking people to do more with less, we're making cuts to services that the poorest among us rely upon, and at the same time we're passing a stand-alone bill to give a tax break to the best off in the state of Maine.

I'd also like to pose a question through the Chair, if I might.

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **BARTLETT:** Thank you Madame President. Would this bill track the federal government in the event that they make changes to the estate tax or is it simply adjusting it to current levels?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Bartlett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Madame President. It would adjust it to current levels.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Madame President. Ladies and gentlemen of the Senate, colleagues and friends, I guess I'd start off with here we go again. I can't say that I disagree with, over time, changing it from \$1 million to \$5 million. I think the \$2 million in the budget is the way to go and changing the whole tax system is probably a way that we are going to have to eventually go because the way our system is I would have to say, according to a lot of states, is broken. What this bill would do is actually benefit the probably 1% or less if we go to \$5 million. I know I represent the 99% who I wouldn't even say have the \$1 million let alone the \$2 million. If I was a guessing or betting man, I would say there probably isn't any community that reaches the \$5 million. What this bill is going to do, again, is going to be another tax break. I guess I must be confused because I think the taxes we bring in, once again, is the revenue needed to run this state. Time and time again, especially this session, it seems like we expedited tax breaks to a high degree. One of the things we are doing is we're hacking and gouging the social safety net. I know there is going to be thousands, if not hundreds of thousands, of people's lives that are going to be totally negatively affected by this. What is this going to do in two years to the structural gap? Is the structural gap going to be \$800 million, \$1.2 million, or is it going to be \$2 billion? I have no idea, but all I know is each time you cut the revenue for this year or next year down the road it keeps getting less and less. To me, doing it in one swoop like this is a shift and shaft. It's shifting the revenue to the rich and shafting the average people. Although the folks may have earned the money, I really think, at this time, the way the system has run over the last 200 years is different from other states. We're at the end of the rainbow without a pot of gold because we are one of

the northern most states in the continental United States. Our electricity costs are high. Our transportation costs are high. Everything is different compared to the southern states. I'd love to be in Tennessee, in the belt where you have all kinds of businesses fighting for one another, where we could give tax breaks to just lure people here. We can't afford half of what we've got now, let alone giving a lot more to the rich. As much as I even hate to say it, I can understand moving into \$2 million. That wouldn't get us in compliance. I think, for me, it probably be .05% of my constituents, but if it would help them to some degree, whether it be the farmers or what. I don't think the farms in my area are worth the same amount as the ones around Sebago Lake because an acre of land in Sebago Lake is probably worth as much as a farm in Oxford County. I just hope that sooner or later a group of Senators here in this Body will come together and find a way where we can all come together to change the things that we need in the tax structure in a fair and equitable manner where every citizen of the state of Maine can be extremely happy and everyone in the state of Maine can benefit by the actions we take here. Although I would like to see that 300 or 400 people not go down to Florida with their money, I don't want it to go on the backs of those that are suffering from the standpoint of the social safety net and I hope you vote with me against this. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I did want to rise to correct something said by the first speaker, the Senator from Cumberland. I don't know if it was just an error, but he had said that the exemption applied to outside of \$5 million. The exemption goes up to \$5 million and then beyond \$5 million it would be susceptible to tax. That is the language that the Senator from Oxford, Senator Hastings, spoke of, which would be a much more progressive system. Secondly, I would like to, just in astonishment, get up and thank the speakers from the Minority who talked about going up from \$1 million to \$2 million on the estate tax exemption because this is the first time I've heard the support for it. There was great opposition in our committee but I'm very pleasantly surprised to hear now that folks are more receptive to that and I look forward to working with you. Passage, as we all know, of any bill that is going to end up on the Appropriations Table becomes that which is negotiated. I'm so glad to hear that there is so much support and I would be glad to work with you. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you Madame President. I wish it were only 200 or 300 hundred families that are leaving the state of Maine because of this. Even with this bill the very wealthiest of this state will probably still decide to move to Florida because they are still going to have to pay an estate tax. That's just human nature. They probably have a house in Florida anyhow, so they just decide to live there six months and one day as opposed to five months. What do we lose every time one of these families leaves? Most of these people are people who have worked all their lives in Maine, often have created a business, built it up, and then discovered, much to their surprise,

although they have worked hard, lived hard, and not lived a high life that suddenly they are told that they are worth several million dollars, be it in logging equipment, manufacturing equipment, or something like that. If we force them, not force them but if they leave by their own volition because of our estate tax, what do we really lose? These people leave in their 60's, often. We lose year after year after year of their income taxes, often from the very wealthiest tax payers in this state. This bill we ought to look at as being selfish. We want them to stay here and pay income taxes. Many of them were willing to stay here and pay income taxes, but we hear from the estate planners that when they sit down and tell them that on top of that they've got this Maine estate tax that is the straw that breaks the camel's back and that is when they make that decision. Once they've made that decision to move to Florida, we've heard it said, what do we lose? They are told they had better not be making any charitable gifts in Maine because the Maine Revenue Service may call that an admission that they are still a Maine resident. They stop doing that. There was a time, up until a bill that has just gone through, that if you kept your bank accounts in Maine that was held to be an indenture of residency so they are moving all of their assets out of this state. The state is becoming impoverished by it. Those wealthiest people, whether you like it or not, that is where our income tax comes from. I've heard numbers that the thousand top income tax filers pay a huge disproportionate amount of the income tax. That's fine. That's the way it should be. A progressive tax. You know what, we need those wealthy people here to pay that progressive tax. If we give them a reason why they are going to pick up and go to Florida we have lost that. We have lost that income tax from maybe 20 years. We've lost their charitable donation. We've lost their energy that they have given to their communities over their lifetimes. It's a terrible loss to the state of Maine. In the short run you can say we should stick it to them with an estate tax, but look at the long run and we're going to be better off having them here, paying all the rest of the tax that goes to the package. This bill, to me and I fully agree with the Senator from Cumberland, Senator Woodbury, is a very, very good bill. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Madame President. Men and women of the Senate, as I sort of look at this a little bit I am concerned. I think we have a really good system within the committees that when Appropriations sends their report back to the committee and they say to report back to them and if we decide to keep proposal X and proposal X has a price tag to it of \$500,000 we're expected to explain not only why we want to keep it but how we're going to pay for it. I really feel when you have a bill here and we have a fiscal year that, as it expands out, goes to \$29 million, \$35 million, and \$37 million that we're beginning to talk real money here. My question would be, where are we going to get the money? We are now looking at cutting out safety nets for our most vulnerable. You know what people? Some of those people, the mentally ill and the elderly that have worked hard all their lives in the state of Maine and either they have an illness or whatever and they can't afford to pick up and go to a warm climate, are paying the burden. Maine, the way life should be. There is an expense to living here. The reason why these people from New York and every place else want to live here is because of the quality of life we have. We have a lot of real estate and we

have very little population. It's going to be expensive. I'm all for this and, quite frankly, no one asked my opinion. I guess I probably know the reason why. I'm not even going to go there. The fact is I think if you're going to do this, and I'm willing, I think it should be graduated. You can't go from a very low level and jump to the very top level. It's got to be graduated up. I'd be willing to talk about that, but like I said, no one has asked for my opinion and I'm very shy about giving it. I just look at this fiscal note, \$29 million, \$35 million, and \$37 million. I think maybe conforming, if we're going to conform, let's conform with all of them. It's like coming up with a system that works well and you say, "The system, it works perfectly." I don't think we can afford to do A and we can't afford to do C and all of a sudden you start pulling from the system. You are doing that same thing. Let's conform with everything in the federal law. Certainly, if we're going to put this in, let's graduate it so that it ramps up slowly. My last thing is I really would love to see Taxation be able to come up with how they are going to pay for this because I referred to it last week, seems like a year ago now, as the killing fields. We've passed things up here that look really good. We send them down to the Appropriations Table. We know there isn't the money. It's a killing field to them. Boy, we feel good walking out of here saying what we've done. Let's see, from Taxation, what we're going to do. How are we going to pay for this? I'm all for that. If we're going to be fiscally responsible that means changing and ramping up if we're going to and making sure we know how we're going to pay for it. We need to do that. We have passed too many bills, they go downstairs, makes the papers splash that they passed unanimously or it did this, it gets downstairs and slowly, in the heat of the last of the session, it dies. I would love to see this. I would be less concerned if I knew how I was going to pay for it and let's not do it all at once. Let's ramp it up. Thank you very much, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alford.

Senator **ALFOND:** Thank you Madame President. Ladies and gentlemen of the Senate, a couple other things. As many of you might or might not know, I grew up in Dexter, Maine. In Dexter there are lots of family farms so I can appreciate the comment by the good Senator from Central Maine about family farms. What is odd to me though is that when the Maine Revenue Service was asked if there had ever been a farm or a family farm that couldn't pay for this tax they couldn't come up with one example. Not one. Zero examples of this actually being a problem that they have dealt with. It doesn't mean there couldn't be some out there but the Maine Revenue Service said zero. I guess I'm just trying to understand where the facts play in this discussion. At the \$2 million level the estate tax would cover 550 families. We have a population of 1.3 million people. If we graduate that to \$5 million it covers 600 families. We're talking about such a small piece of the pie of our population. If we did accept this Majority Report how many families would have to move into Maine to become income tax payers in order to pay for this fiscal note? A thousand? Two thousand? Three thousand? The number is 3,800 people would have to move into the state and start paying income taxes in order to just break even on this fiscal note. Again, I would argue that until we do a comprehensive review of our tax system we are just doing a patchwork and sadly that patchwork will not keep my grandfather or anyone who has significant amounts of money in the state. To the good Senator

from Oxford, I don't know how I could state it more clearly. My grandfather was not a Maine resident. I think that the state of Maine is dotted with his philanthropy. The idea that philanthropic giving will somehow go away because of this, to me, is a red herring. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Madame President. One of the things I have learned as I've looked at this bill is that the federal government will go back to an estate exemption of \$1 million in just two years. What that means is we are making a change now to conform with the federal tax law that's about to change in two years, at which point we will be way out of step with it. If the purpose is conformity let's conform and conform on an ongoing basis. Why are we conforming today when we know that there is going to be a change two years down the road? If it's really about being competitive, let's be in conformance with the federal government. It's also important to understand the estate tax is a major driver of charitable giving in Maine and around the country. If you make this change, first of all you've got to have 3,800 new income tax payers just to cover it and you have to look at what the impact is going to be on our non-profit sector. If it's the case that we don't have 3,800 new income tax payers in the state and our charitable institutions take a hit that is going to cost the people of Maine dearly, particularly during these economic times. Finally, what is unfortunate about having this debate here and now is that there are other discussions going on in this building where we might be able to get to yes as part of a package. It's a little bit distressing that we're cherry picking here or there, trying to lock people in on the record one way or the other, at a time when important discussions should be taking place about how we can come together on a more sensible tax policy. I think that is frustrating and I think it undermines a lot of good work that has been going on. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Madame President. Men and women of the Senate, I've thoroughly enjoyed the debate. One thing about a debate is sometimes when you get near the end of it you find out you're right where you were in the beginning. I've heard a couple of times mentioned from the good Senator from Cumberland, Senator Alford, about his grandfather. I want to talk about my grandfather. My grandfather drove a bus for the Portland Transit System and he raised 13 children and he lived on Sherwood Street in Portland. A lot of our grandfathers didn't have the opportunity to take their wealth and avoid paying taxes in Maine by living out of state. I understand, and no one would ever question the generosity of the good Senator's grandfather because that is unparalleled, but there are so many people that have that potential capability that just decide they are frustrated with Maine Revenue Service's hands always in their back pockets. They wash their hands of the state and they move. You talk to lawyers, you talk to accountants, and it's very clear that this happens. It's not antidotal, but it happens. It happens on a weekly basis. What the result of this has been is that we've driven wealthy out of Maine. We've driven them out by policies that the legislature has adopted over the last few years, or Maine Revenue has, with regards to relationships, with banking, with

accountants and attorneys, and even charitable gifts. I would suggest that we take a look at this. Let's keep the wealth in Maine. Let's make sure we all can have the opportunity to benefit from that wealth, not just through philanthropy, because I think we deserve more than philanthropy, we deserve an opportunity. Part of having opportunity for all the people in Maine is that we're going to have to have some wealth in the state of Maine. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Madame President. Ladies and gentlemen of the Senate, I think it's fair to say that the \$1 million estate level we have now is not sufficient and it should go up. I think that we have to be careful about putting this in terms of numbers. We heard there were 550 farmers that would be affected by this. If you look at the farmer him or herself in the eye when they are losing or are about to lose all of their hard earned income as opposed to someone who is very wealthy and it would make no difference, the farmer is different. I think we need to understand that \$1 million in property is not that much. I would hope that we would be able to remember the faces of the people we're talking about. We're talking about people who have worked their entire lives, probably have \$5 in their pocketbook, but their land is their wealth. That's what they give to their families and their children. A million dollars doesn't go as far as it used to. We need to increase it. In fact, I was hoping that we might be able to get this bill in a position to amend it so that we could maybe approach what the good Senator from York, Senator Sullivan, was talking about to at least start off with \$2 million. That's already in the budget but it also gives us a chance to underscore the value and the importance of moving from where we are to where we might be at a more reasonable level. Madame President, I hope that we can continue this discussion. I think it's needed. I think that we have real people, real everyday hardworking people, that need to be remembered here and we need to do all we can to make adjustments. It seems to me that a gradual up to about \$2 million would be a good place to end up. It coincides with the budget and it makes a pretty good statement from this Body. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Alford, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **ALFOND:** Thank you Madame President. This will be very short, ladies and gentlemen of the Senate. I want to make sure I'm clear. This is 550 individuals, 600 individuals. There are no farmers right now that have claimed to the Maine Revenue Service that they can pay or not pay for this. That's just going on the facts from the Maine Revenue Service. I just want to be very clear about my statement when I said 550 and 600. Those are families that would be affected at the \$2 million and \$5 million levels. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY**: Thank you Madame President. Very briefly. They will make that claim to Maine Revenue after they die.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Trahan to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#98)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-133) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/23/11) Assigned matter:

SENATE REPORT - from the Committee on **MARINE RESOURCES** on Bill "An Act Regarding the Saltwater Recreational Fishing Registry" (EMERGENCY)
S.P. 60 L.D. 210

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-136)**

Tabled - May 23, 2011, by Senator **SNOWE-MELLO** of Androscoggin

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 23, 2011, Report **READ**.)

Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-136) **READ**.

On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "B" (S-147) to Committee Amendment "A" (S-136) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO**: Thank you Madame President. This amendment restores the exception in current law that allows a resident to fish on July 4th, Memorial Day weekend, or Labor Day weekend without registering on the Saltwater Recreational Fishing Registry. This, I believe, is a really good amendment and especially good for the tourist industry. It allows tourists to come to Maine to fish in our waters for free, and also Maine residents, which I think is even more important. By doing this it will help our tourist spend their dollars at our local establishments and attend our parks. It's great for our recreational industry. Our tourists will eat out at our restaurants and attend our beautiful parks. It's just overall a really good thing for Maine. This also is a win-win situation because it's approved by the federal government and the Maine Department of Marine Resources. I hope you can join me in support of this amendment. Thank you.

On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "B" (S-147) to Committee Amendment "A" (S-136) **ADOPTED**.

Committee Amendment "A" (S-136) as Amended by Senate Amendment "B" (S-147) thereto, **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/23/11) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property"
H.P. 207 L.D. 254

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-160)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 23, 2011, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Requested)

(In House, May 19, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-160).**)

(In Senate, May 23, 2011, Reports **READ.**)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I did just want to rise briefly to talk about the importance of this bill. I think this is what I would frame as a peacekeepers bill. In this past this issue of stopping ATVs on private property has been extremely controversial. It has taken a long road of changes and changes in the road, no pun intended. Why this is important, I think, is because this brings into conformity ATVs, similar to stop powers for boats and snowmobiles. More importantly, the conflicts that ATVs have created on private property has been tremendous. Landowners have had their properties damaged significantly by ATVs and really, in order to keep the peace amongst the users of property, it is essential that we do what is in this bill. I hope that this Body will accept this report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Madame President. Men and women of the Senate, I understand the very significant policy reasons why the good Senator from Lincoln and others want to see this passed and the long history of conflict that has led us to this place. I will listen to that further discussion with great interest. My question is, when looking at this bill, where has the 4th Amendment gone? It's not there. It's just not in the bill. The 4th Amendment to both our federal and our state constitutions, which I think we all would agree are pretty important fundamental rights, says the people shall be secure in their persons, houses, papers, and possessions from all unreasonable searches and seizures. It's a basic tenant of our lives as Americans that you don't need a day of law school to begin to understand. It's simply that the police or the game wardens or any other representative of government cannot stop us without a reason. It doesn't matter if it is a city policeman or a State Trooper. It shouldn't matter if it's a game warden. The reason for stopping is one of articulable suspicion. Let me just talk a little bit about that because there are a bunch of different standards of law that we're involved with here. I just want to let you know where articulable suspicion, from my perspective, stands. I think we are all familiar with the concept of proof beyond a reasonable doubt, which means, in this situation if this were the standard, that a game warden would have to be almost certainly positive that someone was doing something wrong before they could stop them. That's not the standard here. It's not even preponderance of the evidence which says it's more likely than not that someone is doing something wrong. That's not the standard here. It's not even probable cause, which means it's likely that someone is doing something wrong. Game wardens, right now, don't have to meet that standard. It's only articulable suspicion and that means, basically, what it says, that there is a suspicion and you can articulate, you can say, a reason for that suspicion. When lawyers bring motions to suppress in court, trying to attack the

foundation of articulable suspicion, you have a difficult road to hoe. I have to make a personal confession here, if you promise not to tell anyone; I haven't won one of these motions in over a decade because it is so easy to show articulable suspicion. Again, you are worried that maybe somebody is operating an ATV drunk, they are weaving a little bit down the trail, that's enough. You've got some suspicion that maybe they are doing some damage. You see them going through an area and you see a little bit of damage where they've been. That's enough. That's all it takes.

How does this bill even pass that test? Let's imagine John Smith in three separate situations. John Smith is driving down Interstate 95. John Smith can't be stopped by the police unless there is some suspicion that the officer can articulate why he ought to be stopped. Let's take the second scenario. John Smith is now walking down Water Street in downtown Augusta. He can't be stopped unless the police have some articulable suspicion about why he should be stopped. Now John Smith is driving an ATV on his own land. All of a sudden the 4th Amendment right that John Smith had on I-95 and walking down Water Street is gone. He can be stopped for any reason or for no reason. All of a sudden John Smith, just because he's on an ATV, has lost his constitutional rights. It makes ATV riders, at least for the time they are on their ATVs, second class citizens. They are singled out from all other citizens for special government intrusion.

I know that the Maine law court has taken a look at this issue a number of years ago and decided in a 4 - 3 vote that the arguments I'm making are wrong and found that this law was constitutional. I remind you of a couple of things. One, it was a 4 - 3 decision. One of the justices who voted in the majority isn't there any more. Maybe it's just me, but I like the reason of the minority better than the reason of the majority. It says that this law is, "One that flunks the 4th Amendment rights of ATV drivers and sends a message to Maine citizens and the legislature that this court tolerates regulations that plainly infringe upon individual's 4th Amendment liberties." I know part of the argument is that we don't have to worry because we can trust Maine game wardens. Frankly, most of the game wardens I've meet I do trust. I think they are among the finest people in the state of Maine. They are, by and large, good people. They are honest people and they are well intentioned. Our constitutional rights, in this particular case, in the 4th Amendment are there to protect us from a government which, from time to time, has not always been well intentioned and in the future might not always be well intentioned.

Just by way of full disclosure, constitutional law wasn't my best course in law school. If you saw "The Paper Chase", we had a professor that was like the guy in "The Paper Chase" and he once said to me, "Mr. Katz, you are suffering from deep analytical confusion." It is seared in my brain. I'm not a constitutional scholar but I do remember learning this in law school, that the 4th Amendment is one of the most important rights that protects us from government abuse. Every time we chip away at one of those protections, whether we think that ATV riders ought to be protected or not, we are all a little less safe. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I unfortunately knew I would have to

rise and speak in opposition to the previous speaker, which is never a pleasant place for me and I certainly don't enjoy this. Having been here a little while, now going on 14 years either on an advisory counsel with Inland Fisheries and Wildlife or on the committee, I can tell you that there is far more to this issue than the 4th Amendment. I will give you a little history of what's happened with this bill. It was the law of the land at one time that wardens could stop just exactly as this law would allow without articulable suspicion. There was a court case that was brought up and led to the decision the previous speaker spoke of. Low and behold, the people that wanted to eliminate this power came swooping in just before the Supreme Court would rule on it and passed a law to take this power away. Now we're in the struggling position of restoring the power that the court said we could stop. Whether it be a 4 - 3 or a 5 - 2 or a 6 - 1 report, once the court has ruled it becomes the law of the land and is the decision that is the precedent that we use in law enforcement. The courts did say that it was reasonable to stop and I think it was right in its ruling. I remind you that the 4th Amendment was drafted hundreds of years ago when things were a little different. You didn't have machines that could go 40, 50, or 60 miles an hour, tearing up and down streams, going over hills and rocks and mountains. I don't think our founding fathers envisioned things like snow machines and ATVs and boats. What happens is, over time, our courts have to come in and define what reasonable is, or unreasonable. I think it is unreasonable to expect that you can get on an ATV, tear out at 40 miles an hour across somebody else's property, out through their hayfield, out through their land, and expect that it's going to be okay. It's not. Landowners, historically, have seen very significant damage done by ATVs. Everything from taking a trout stream and using it as a trail to going in and robbing camps to going in and vandalizing logging equipment. You name it, it's done. An ATV gives you something. It gives you access. It takes a vehicle, which in most cases is four-wheel drive, that is small and light, and can go just about anywhere. Ladies and gentlemen, problems can occur when you have people taking this piece of equipment and going onto other people's property. I believe the courts had to weigh the damage that was done through ATVs and weigh it against the 4th Amendment. They decided it was reasonable to stop them. If we do not support this bill then I think, logically, we should go back and take this power away from all other stops, including snow machines and boats. If we can do that, folks, I'll guarantee you in two years we'll be back with this very same bill and we'll pass it because the havoc and the discontent that it will create will be astonishing. I do not rise here to speak against the previous speaker or against the 4th Amendment but I rise to keep the peace and I hope that this Body will do the right thing. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Madame President. Ladies and gentlemen of the Senate, colleagues and friends, I rise today in support of this bill which is in direct opposition to the Senator whose seat I now hold. Senator Bryant fought hard to get this passed. I had the great pleasure to decide to run for the Senate, which this Senate District is probably almost four times greater than my House District. Once I left the River Valley area a strange thing happened, for well over 200 property owners the number one issue, other than taxes and education and health

care, happened to be where I stood on Senator Bruce Bryant's ATV bill that will allow a game warden to stop somebody on their property. I think it was 224 landowners with thousands of acres of land and a bunch of them have already taken their land away from ATVs. They said if we can't get this reversed all of them were going to end up doing it, which to me is defeating the purpose of what ATVing is all about, as well as snow machining and boating, in the state of Maine. I was a snowmobiler. I sold my snow machine to Senator Bryant. While I had that snow machine I actually got stopped. Of course me not doing anything wrong, I didn't have a problem. He checked my registration and away I went. I didn't have a problem with that. I happened to be fishing up in the Allagash during the Muskie Tournament one time. A game warden happened to stop us there. I didn't have a problem with that.

Ninety percent of Maine's land is in private ownership so it is critical that enforcement officers can readily stop ATVs to ensure the rights of landowners are being respected. This bill is an important issue to large and small landowners who provide thousands of acres of access to ATVs. The landowner is responsible for the damage to their land others do and it is often costly. Initially ATVs were all well received by landowners but after the law was passed a landowner's permission there was a significant increase in the number of trails available to use for ATV use. Landowners have an expectation that law enforcement will do its part to make sure ATVs are operated where they have permission and to hold those accountable that operate on private land without permission. The change in the law passed two years ago has undermined that expectation, causing the deterioration of landowner relations. The law enacted two years ago made it virtually impossible to enforce the landowner permission requirement for ATV use. This outraged landowners, causing land to be posted to all recreation activities, not just ATVs. There are numbers of groups that support this and the Department of Inland Fisheries and Wildlife, ATV Maine, the Maine Farm Bureau, Maine Professional Guides Association, Maine Trappers Association, Maine Snowmobile Association, Landowners and Sportsman Relations Advisory Board, Sportsman Forest Landowner Alliance, Maine Tourism Association, Small Woodlot Owners Association of Maine, and Maine Forest Products Council are just a few of those who testified on behalf of this and I have gotten numerous landowner e-mails and letters saying to support this.

When I go hunting, if I have my blaze orange on, I'm fulfilling all my obligations as a hunter, it's awful funny, a game warden can come up and stop me. Do I have my license? If I'm on the water, can a game warden come up and stop me while I'm in my boat? Yes, they can. I don't see the big difference between this and all the other outdoor activities that we have. I know Bruce, if he were here, he'd be standing on this side arguing dead against me and I wouldn't have any problem with that. Another thing is that when I go to my employer's place of business I give up my constitutional rights. It's amazing how just one mile from my home, I can just cross over that place where I check in, my constitutional rights are gone because I'm on the employer's property. I don't like that but I accept it. I think this bill is fair and I think it's going to do what needs to be done for landowners, for the outdoor enthusiasts, because I want to see more trails open up. I don't want to see them closed. Part of the testimony that heard is about what's going to happen is that more and more people will shut down their property, thousands of mile of miles of trails will have great big holes in it so you're not going to be able

to get from here to there. I think that's going to do an injustice to the Tourism Bureau. That's why they testified in favor of this. If we cut our trails in half or even one-third who's going want to come to Maine to ride the trails? It's the same thing with our snowmobiling. We talk about who's going to go to our hotels, our restaurants, and spend their money in Maine. Well, it's not going to be here if we continue to stop the things that make it easier for landowners to open up their land. I would ask you for your support of this. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Madame President. Ladies and gentlemen of the Senate, I guess it's just my opinion but I think the problem that we have here is that the department, in the past, has been unwilling to stop people with this new law. I think that they are either confused or getting bad advice or something like that. I think the department has every right to stop people, as the good Senator from Kennebec, Senator Katz, mentioned, when every they believe that there has been a law violated. Maybe they don't think they are registered, they can pull them over. Maybe they know that landowner doesn't give permission, they can pull them over when they see them on that land. I certainly understand landowners. I'm a landowner. We allow ATVs across our land. I can understand landowners being upset with people that ruin their property. I get that. I understand it. I'd be upset also. Taking away everyone's rights, all the people that are riding ATVs responsibly, because of a few bad people is not the way to go, in my book.

You take someone that is on a dirt road that has a pick-up and they are going down that road, they can be stopped because they are in a motor vehicle. They can be stopped but the assumption is that they have to have a reason to stop them. You turn around with that ATV and go down that same road, under this law they can be stopped. It makes no sense. It's the same road and it's the same landowner. The motor vehicle could do as much, if not more, damage than the ATV. Because it's an ATV we're just going to allow them to pull people over without having any reason, any suspicion, at all. That makes no sense in my world. A lot of this has been driven by laws that we put in back, I think, eight or nine years ago that said that you had to have permission to be on these lands with ATVs. That probably, overall, was a good thing but in my area it actually caused where the largest landowners in the state of Maine wouldn't allow ATVs anymore because we passed a law that said you had to give them permission. They felt that by giving permission they were opening themselves up to liability problems. They quit allowing ATVs on their land. The largest landowners in the state. We had to come here and do some, you know, getting down and making a law that would actually take away their concerns about that so they would start letting ATVs back on their land. I just think that we have a law that gives game wardens articulable suspicion that something is going wrong to pull people over. It doesn't seem to be as easy a thing as it used to be in the past but certainly I think it's wide open for them.

We have another law here in the state that I tried to repeal that you have to have articulable suspicion that someone is hunting on Sunday because they have a rifle in the fields or forests. The department doesn't feel that this is a problem. They testified that there was no need to take away the articulable suspicion that if you had a rifle in the fields and forests on Sunday

that they can stop you and ask you if you're hunting. I don't understand why this is any different. If you have an ATV in the fields and forests then they should be able to stop and ask you if you are registered or if you have permission. If they find that you are drinking then they can catch you. The other thing that I think is really a problem with this bill is it's a big reach because it takes in everything; private landowners and trails. With the trails, because the State approves them and the State puts money into these trails, permission is already implied on those trails so there is absolutely no reason, if you are on an ATV trail that the State has put money into, for the department to pull you over and ask if you have permission. It's already implied because the State has put the money into the trails and that means they have already gone to the landowner and gotten permission. I would say that somebody here is reaching a lot further than they need to for reasons I'm not really sure of. I know in the debate last year, and I don't know if it's really worth it to say it or not, when that argument was brought up by one of the people in this Body that is no longer here said that it was true but it's just really hard and there are a lot of acres and few game wardens. That is true, game wardens have a tremendously hard job and I respect them greatly. This is in no way a slight on game wardens or the department. I said last year, whenever we are going after that Constitution and you talk about all the rights that people have and when you get to the bottom it doesn't say that if it gets too hard just disregard everything written about it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you Madame President. Again I use that phrase, I wasn't about to get up. I have just three points to make. With regards to the good Senator from Kennebec, Senator Katz, I, like him, didn't save my law school notes but I did take Constitutional law. At the time we were talking about the war in court. Some of you may be old enough to know that. There was a gentleman who said Eisenhower said it was the worst mistake he ever made to appoint Warren McCormick to the court. The jest of the court was, for the criminal law folk, that you increased the rights of criminals over and over and over again until the pendulum swung one way. It seemed to me, looking back, that the criminals had more rights than the property owners did. In our own little document here, if I'm allowed to read that, in Section 1 of Article 1, Declaration of Rights of the Constitution of the State of Maine, all people are born equally free and independent of certain natural inherent and unalienable rights among which are those of enjoying and defending life and liberty and acquiring, possessing and protecting property. This is as much about property rights for me as anything else. We're losing property rights, in my mind, in a hurry. In some areas people talked about suing over diminished rights.

Two other points. I've listened to the good Senator from Lincoln County talking about articulable suspicion. Don't need it because they see the ruts, they see the grass mowed down, and all those things are articulable suspicion. The examples he cited were where you had damage done, all those things. To me, that is articulable suspicion and, whether it's on the books or not, you have some reason to stop someone. I guess the third point is the issue of if I'm on a highway, which is owned by the State, I have to have some sort of thing, a seat belt thing, or any number of those, at least on the highway you have to have some suspicion to stop an individual. It seems to be that property rights are

getting, no pun intended, run over in a great way. The last point, I have grandchildren. I confess I own some property. That's probably something you shouldn't say these days. My grandchildren can use that property. It's along the side of the road. I would not want someone to go by, it's on old farm of about 60 acres in one spot that you can see from the road, and say, "Look at those kids out there. I'd better go get them." That's what I live with. I don't live with the woods part of it. I live with the fact that you do have private property and it should be respected.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Martin.

Senator **MARTIN:** Thank you Madame President. Ladies and gentlemen of the Senate, I don't want to belabor this point. I just would like to make a couple of quick points myself. This is a landowner rights bill. To respond to the good Senator from Kennebec, Senator Katz, and the good Senator from Aroostook, Senator Sherman, this is about chipping away at landowner rights. They had the rights and they were taken away. Now we're hearing rebuttal that we shouldn't take away the benefits of ATV drivers who are riding on private property. If I have property, and I'm sure there are many people in here that feel the same way, and if there is somebody on my property and the warden service or the local police want to stop them I feel they should have that right. They are protecting me. That's why we support them. We fund them. To give that right back to the landowners, I think, is the just thing to do. With that, I hope you support the report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Madame President. Last year I was on this committee when this controversy all started again and actually it was on the committee before. I just revisit the history first. When I first got here, in the first legislative session ATVs were a big issue. A lot of people were very concerned about them. Farmers and forestry people made it very clear they were about to kick them off their land. It was a very similar issue to snowmobilers, if you go back 20 years. In fact, at that point the gentleman who was then sitting on the second floor convened a stakeholder group and he brought everybody together and said to resolve this problem because, from an economic standpoint, we were talking hundreds of millions of dollars. That stakeholder group came together and this is one of their suggestions. They said, "If you want to be on our land," as my good seatmate said, "you need our permission." As this reasonable and articulable suspicion comes up my answer to that was you have to have my permission. It's not like snowmobiles. Snowmobiles are allowed on the land and they are assumed to have permission. The reasonable and articulable suspicion is if you have permission to be on that land. They need to check that. That's why they have the right to stop you. If we don't do this and don't pass this we will have great difficulty because the people have been so kind to all of us to let them use their land over the years and we may, in fact, lose that privilege. Thank you very much, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Madame President. Men and women of the Senate, if you like an expansion of government power than you should vote in favor of this because there is no question that is what is going to happen under this law. It's taking away the individual rights that we have under the 4th Amendment. At the bare minimum it is an expansion of government power. I find it a little bit ironic given how much the constitution is brought up and how we value it that it's so easy to forfeit the rights that we have under the constitution. I know there are some people who don't think that this is correct. I think the Senator from Kennebec, Senator Katz, has done an admirable job at articulating why it is just that. I would submit that I think that this, regardless of how many good intentions there are in the things that we want to do to try to help landowners, which I want to try to help landowners as well, not the way to do it. I don't think giving away our constitutional rights is the right path to getting there. I hope that will you vote against the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I feel compelled to rise and correct the previous speaker. This is not a violation nor would it be a violation of a person's 4th Amendment rights. That has been settled by the Supreme Court of the State of Maine. They have said that it is reasonable to stop somebody without articulable suspicion on private property. I want to make sure that is clear for the record. Secondly, the Senator from Aroostook made a point about articulable suspicion. I just want to give you an example, in the Chamber, of how that does not apply. I did not intend it to be damage that was done the same day or the same hour that a person calls for help. People who own property can often own hundreds of acres. They go to work every day, they come home and their back forty is all torn up with donuts by a four-wheeler or part of a building has been vandalized. That vandalism occurred while they were not there. They then call a game warden and say that damage has been done to their property by ATVs and could they please watch their property and if they see somebody on an ATV on it to please stop them and make sure they have their permission. I just wanted the record to clarify that I didn't mean it, the very intent, as the Senator from Aroostook implied. This is for landowners who have seen damage and notified a game warden and they can then stop them on their property. I just wanted the record to reflect that. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Madame President. I believe strongly in landowner rights and that is a big part of why I oppose this bill. Imagine a landowner who owns 100 acres who is out on his own property on an ATV and gets stopped. He doesn't have his ID on him. He's going to truck back across 100 acres to prove that he is on his own property. Imagine how angry that person is going to be and how quickly they are going to be contacting their legislators and everyone else they can find complaining that they are not allowed to use their property as they see fit. When you think about this you've got to think about the full implications. In the state of Maine people take a lot of pride in the land they own and pride in their right to use that land and be on that land. It's simply not right that a landowner could be stopped for no reason

and forced to prove themselves simply because they happened to have an ATV. Thank you Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Madame President. I rise in support of the Majority Ought to Pass Report. I have watched this unfold for years, trying over and over again to protect the rights of our property owners. Time and time again we're put laws in place, hoping that this would solve this situation that we have. I decided to stand up and give my opinion because I have a few constituents that own farms and large tracts of property in my district. I can't tell you what damage and harm has been done to their property and animals on their property due to ATVs and folks that enjoy ATVing. In my opinion, the right of the property owner is utmost. Anyone that goes onto someone else's property without permission is absolutely wrong. People should feel right and secure and safe on their own property. They should feel that their possessions are safe. I think it's wonderful, the sport of ATVing is great, but I think it comes with responsibilities. There are places for them to go and there are places for them not to go and certainly not onto someone's home where we do, and should, feel safe and secure. I believe that after all these years this is the only way that we're going to protect the rights and privileges of the property owner. I hope that you will vote in favor of the Majority Report which, I believe, is constitutional. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Madame President. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **SAVIELLO:** Thank you Madame President. Does anybody know of any landowner that has been stopped on their land and has complained?

THE PRESIDENT PRO TEM: The Senator from Franklin, Senator Saviello poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I'd love to answer that question. It's just the opposite. I've been involved in this discussion a long time. In the taskforce that met on ATVs the landowners that we questioned that had been stopped were glad that the game wardens were out there protecting their land. Not on one occasion, not even one, in all the public hearings and all the meetings I've been in has a single landowner said they had a concern with a game warden stopping them on their own property. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN:** Thank you Madame President. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose her question.

Senator **CRAVEN:** Thank you Madame President. I would like to know, for landowners who are experiencing damage to their property, why they don't post their property and certainly they would be under the jurisdiction of somebody coming and stopping somebody that is causing damage.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Craven poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I'd love to answer that question. That is just the issue we are trying to avoid. There are hundreds of millions of dollars in this ATV economy that is at risk. If this damage done by ATVs is not a comfort level that landowners feel is address with a law like this I believe that very posting that you have concerns about will occur in a great way, much more significant than anything we've ever seen. That is what we are trying to avoid by passing this law. Thank you for the question.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Madame President. I'd like to also answer that question in part. A couple of years ago we passed a landowner assistance program that had an individual who actually helped those questions when they occurred and we have worked very carefully and closely with the ATV clubs to help that problem be taken care of so the landowners still has confidence that his land will be respected if people go on there. Thank you very much, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Whittemore.

Senator **WHITTEMORE:** Thank you Madame President. I didn't really intend on speaking on this issue but I'm feeling kind of left out here. I actually want to make a little confession. I'm probably partly responsible for this debate because I do sell ATVs. I promise I'll make it very short and very sweet. Just bear in mind the economic impact that not passing this bill might have on our industry. Thank you.

Off Record Remarks

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Madame President. I'd also like to take a crack at answering that question for a while ago. I certainly know that landowners could post their land and that would be a right of theirs at any time, as it would be my right. I would hope that they wouldn't. One of the things that I think

would an easy thing is that if you have given permission to a number people to ride on your land, or maybe you haven't given any permission but you don't have your land actually posted, you could talk to the local game warden and say, "Look, there are these people that I have given permission to but anyone else you see on my land I want stopped because they don't have permission. I'm telling you right now that there are five or six people, ten or twenty, or whatever it is or maybe the ATV club you've given permission to anyone of those guys that's a member but anyone else you see on my land I have not given them permission and you have the right to stop them." I believe the game warden already can do that but if it's such a problem of them not knowing for sure if the landowner has given permission or not, I would say the landowners that are concerned or are having issues, let your game warden know that you haven't given permission to these people and that certainly, I would think, would make it solid with the court that the landowner told the department that they had given permission to X, Y, and Z and they have the right to stop anyone else that is on the land. I think the question that the Senator from Androscoggin, Senator Craven, posed, I certainly hope that isn't any posting but I think there is an easy answer under the current law for landowners and that is to let your game warden know that some people have it and some don't and those that don't can be stopped.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Madame President. Men and women of the Senate, I rise today in opposition to this motion and to state that articulable suspicion basically and simply is basically anything more than a hunch, in simple terms. It's very easy, much to the chagrin of defense attorneys, to pull someone over and stop them. If the trail is allowed to go across landowner's land and there are markings, or it is understood by the warden that people have to stay on that trail, if anyone is off that trail that means they don't have permission. They can be pulled over. That is articulable suspicion. Protecting the constitution is frustrating at times, it's challenging, and often it's adverse to many of our constituent's requests but it's necessary in this case. We cannot have an erosion of constitutional rights. Yes, there is a disagreement but it is definitely not clear with a 4 - 3 opinion, one with a strong opposition in a descent. Lastly, I just want to point out, and thank my good friend from Lincoln, that he accepts and approves of a living document called the Constitution because the Constitution evolves over time.

On motion by Senator **BARTLETT** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Trahan to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#99)

YEAS: Senators: BRANNIGAN, COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HILL, LANGLEY, MARTIN, MCCORMICK, PATRICK, RAYE, RECTOR, SAVIELLO, SNOWE-MELLO, SULLIVAN, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DILL, GERZOFKY, GOODALL, HOBBS, JACKSON, KATZ, MASON, ROSEN, SCHNEIDER, SHERMAN, THIBODEAU, THOMAS, WOODBURY

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-160) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Out of order and under suspension of the Rules, the Senate considered the following:

RECALLED FROM GOVERNOR'S DESK

Resolve, To Authorize the Exchange of Interest in Certain Lands Owned by the State

S.P. 341 L.D. 1132
(C "A" S-55)

(In Senate, May 16, 2011, **FINALLY PASSED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (S.P. 510).)

On motion by Senator **FARNHAM** of Penobscot, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill **FINALLY PASSED**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-55)**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-55).

On further motion by same Senator, Senate Amendment "A" (S-152) to Committee Amendment "A" (S-55) **READ** and **ADOPTED**.

Committee Amendment "A" (S-152) as Amended by Senate Amendment "A" (S-55) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-152) AS AMENDED BY SENATE AMENDMENT "A" (S-55) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Timber Harvesting on State Land" S.P. 102 L.D. 340

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

In Senate, May 18, 2011, on motion by Senator **RECTOR** of Knox, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

Senator **RECTOR** of Knox moved the Senate **INSIST**.

Senator **JACKSON** of Aroostook moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **COURTNEY** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#100)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, ROSEN, SCHNEIDER, SHERMAN, SULLIVAN, THIBODEAU, THOMAS

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, RECTOR, SAVIELLO, SNOWE-MELLO, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **JACKSON** of Aroostook to **RECEDE** and **CONCUR**, **PREVAILED**.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements" (EMERGENCY)

H.P. 105 L.D. 123

Reported that the same **Ought to Pass**.

Signed:

Senators:

MASON of Androscoggin
GERZOFISKY of Cumberland
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham
BURNS of Whiting
HANLEY of Gardiner
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

BLODGETT of Augusta
CLARKE of Bath
HASKELL of Portland
LAJOIE of Lewiston

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Madame President. Men and women of the Senate, I know we've been in here for a while today so I won't belabor this point for very long. This bill, quite simply, would give a little boost to those seasonal businesses who cannot afford onerous requirements that are outlined in Title 25. This bill would simply let businesses that are opened less than 50 days out of the year, commercial businesses, to be exempt from certain public safety requirements. I would urge the members to vote with me on the Ought to Pass Report. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Madame President. Ladies and gentlemen of the Senate, there comes a time in every legislator's career when they have to stand up and say, "Opps." This is my moment. There is a time between January when you hear a bill and May and June where you are now going to vote on it in the Senate. You not only hear new information but you also get appointed to boards and commissions. I am now on the Maine Fire Commission. I am now going to be voting against this motion. I'm standing in front of the Body to say, "Opps." Thank you very much, Madame President.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Madame President. Men and women of the Senate, I guess I would pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **COURTNEY:** Thank you Madame President. In regards to the previous speaker's comments, I understand the "Opps" part but I have a little difficulty understanding how being on the commission affected the change in position.

THE PRESIDENT PRO TEM: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Madame President. I think that question was directed towards me. It has to do with public safety and public safety trumping private property rights. I hope that answers the question of the good Senator from York.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Madame President. I very much would love to find a way to help our seasonal entertainment facilities but I'm not sure this is the way to do it. Public safety is a concern. What this bill does is prohibit the requirement of sprinkler systems in commercial places of assembly that are opened for no more than 50 days per calendar year. Commercial places of assembly include bars with live entertainment, dance halls, nightclubs, assembly halls with festival seating, and restaurants. The reason we have sprinkler requirements, particularly in facilities of this nature, is that there is a great opportunity for something bad to happen. We saw with the Rhode Island fire what can happen in a nightclub when there are not adequate sprinklers and people can't get out of the facility. These are exactly the kinds of establishments you want to make sure there are sprinklers in. If you have a restaurant it may only be seasonal but if you're eating dinner on the night kitchen catches fire that sprinkler system is going to be mighty important to your survival. That's the issue at hand. We need to protect people. We are a state that is known as a great tourist state. I think the last thing we need is a great tragedy because we didn't have sprinklers in a nightclub or restaurant on that one night in the Summer when it caught fire. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Madame President. I said I wasn't going to belabor this but apparently I was wrong. I would just like to address the fact that these seasonal businesses, the ones that we are attempting to exempt, cannot afford sprinkler systems and it would be very long down the road before they could realize a profit because they would have to install, from one example from the public hearing, a \$35,000 sprinkler system. I believe that this is just a little too onerous. I think, yes absolutely, we should be concerned about public safety but if the business can't survive then there would be no need to address public safety. We need to make sure that these businesses can survive and I'm sure they will abide by every other public safety requirement, which includes many of the other fire regulations that will keep patrons safe. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Hobbins.

Senator **HOBBS:** Thank you Madame President. I'm, on its face, very sympathetic with the good Senator's bill. However, there is an unintended consequence that could occur and that is with insurance carriers, liability insurance carriers, that insure

restaurants and places such as the one that was described in the bill. There could be the consequence of everyone's insurance, those individuals who have sprinkler systems or, in the ironic part, those who don't have sprinkler systems could find that their insurance premiums could go out of the roof. That's what happened when the Rhode Island fire occurred that killed over 100 people. It was a lack of systems that was one of the blames for that fire. The insurance pool of money that is set aside by many companies was significantly depleted which cause, if you look at the history of it, a surcharge, essentially, on many establishments such as nightclubs and other place, most of those places, because of the significant loss of life. Again, how do you measure a \$35,000 cost for a sprinkler system versus some life you might save. I think, although it sounds good, this bill not only could be a life and death situation, but it also could have the secondary effect of increasing insurance premiums. Just don't believe me. If anyone here who has liability insurance coverage, fire insurance, on their buildings or owns restaurants and the like, you will find that there is a significant premium that is attached because of the possibility of fires. That is why we have situations where dance halls, for example, have capacity requirements and also have sprinkler requirements, because of the possible tragedies that occur, whether it was a supper club in Kentucky 20 or 25 years ago or the tragedy that occurred 9 years ago in Rhode Island. The consequences are significant. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Madame President. Ladies and gentlemen of the Senate, I was hoping to get away with "Opps". It didn't work. Now I have to stand up and explain further what brought that on. In January, when we heard this bill, I was thinking of very small ranges in the very rural parts of the state, establishments that really didn't have many people coming to them, that were very seasonal. As the Winter grew and I started looking more at that vote and I started looking more at that issue and I started talking to more and more people, I started realizing that this takes in much more, much bigger, issues than what I was thinking about in January. I've always taken my role in Criminal Justice and Public Safety very seriously and this Body knows that. Being a member for multiple terms of the Maine Fire Commission, I've always looked at the concerns of firefighters going into buildings and what they were facing going into those buildings. I was also looking at what the cost is of a human life, whether it's a firefighter or whether it's a patron. I wasn't planning on standing up and debating this bill tonight. I was thinking I could get up and just say I made a mistake and I was going to change my vote from January to now because of information I received, because of positions I've been appointed to. Really it's because I started thinking about those firefighters going into those buildings and people that were in them, whether they were having dinner or dancing, it didn't much matter when the smoke started pouring in and when they started realizing that they really had no protection. I just couldn't stand here today and keep that vote. I had to stand here tonight and explain to you why. It has to do with public safety. It has to do with people's lives. It doesn't matter what the cost is. It's the cost of a human life that far outweighs the cost of a sprinkler system. I'm sorry I've caused this trouble tonight. I'm sorry I have had to debate but I just feel so compelled that I had to stand up. Thank you very much, Madame President, for allowing me to do that.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Madame President. Men and women of the Senate, my seatmate got the bill out and I was looking at it. First of all, it's only for 50 days a year. I'm not sure what business could survive on being open 50 days. If it's a dance club then that's one night a week, with two weeks off, I guess for vacation. I'm not sure, by the time you put the cost into everything, you'd make a profit anyways. I also see it's for capacity of 100 to 300 people. Let's say 50% of capacity are injured or killed in a fire, in trying to get out. Let's assume some of this might be for small children and they are caught, at a very young age, trying to get out of a building. At 150 people, that's half the capacity from low to high. I would agree, what is the cost of a life? We hear about somebody being killed in a car accident and we're going to have recalls and lawsuits going on. We're talking about creating a law that goes against what public policy says about public safety and we are here to create laws that protect our citizens. When I go into a restaurant I hope that I'm going to be safe. We're telling people now who are building homes that they need to put in a \$4,000, and I question the cost of the sprinkler system, sprinkler system for a private home because the State of Maine thinks that their family is worth \$4,000. It's public policy. That's why we have public safety. That's why we pay good money for that. If a business wants to exist I don't think we exempt them just because they are only open 50 days a year, or less than 50 days a year. This is not a small business; 100 to 300 people. I maintain a lot of you will eat in a restaurant tonight that will hold fewer than 100 to 300 people. That's a lot of people. We've done away with smoking in restaurants because it was dangerous for your health. I think this is pretty dangerous for our health. We set the public policy. I feel families are more important, everybody's more important, than the cost of a one-time investment in a business for a sprinkler system. Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Mason, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **MASON:** Thank you Madame President. I would just like to point out in this bill that it's not like we're making leaps and bounds. There are already exceptions in Title 25. The law currently says automatic sprinkler systems may not be required in existing non-commercial places of assembly. Non-commercial places of assembly include those facilities used for such purposes as deliberation, worship, entertainment, amusement, or awaiting transportation that have a capacity of 100 to 300 persons. My belief is, Madame President, that the reason that this exception was put into place was because those buildings typically cannot support, as I mentioned before, a \$35,000 sprinkler system. It's a very big load to carry for a small organization. I would ask the members of the Senate to take that into consideration before they cast their vote. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alford.

Senator **ALFOND**: Thank you Madame President. Ladies and gentlemen of the Senate, some of you might know, or might not know, that I own a bowling alley that is all year round. We had to install sprinklers for what appeared to be every two feet. I have more sprinklers in this bowling alley than I can even count. We have sprinklers over the lanes where all that happens over the lanes are balls going down, crashing into pins. I'm concerned about what I'm hearing today for a couple of reasons. The marketplace, the economy, and everything is based on risk. You take a risk when you open up for 50 days or 365 days. You take a risk. You are putting your money at risk. You do a good job, you make money. You don't do a good job, sometimes you lose money. Sometimes you break even. If the viability of a business, new or existing, is about the cost of a sprinkler system then I would suggest maybe that business plan might not be the best business plan. Secondly, dance halls, bars, restaurants, or nightclubs, all of them usually introduce a concept called alcohol. When we have alcohol and typically things that you are cooking bad things can happen. Very bad things can happen. I would suggest that this is not a pro-business, this is not an anti-business, this is smart public policy. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY**: Thank you Madame President. Men and women of the Senate, at the risk of extending this debate, I reluctantly rise. I rise in support of the motion by the good Chair. I think the intent of this bill is to help a business, an existing business, have the opportunity to stay in business. While the good Senator from Cumberland has outlined some of the crazy laws that are out there, such as needing a sprinkler every two feet on top of a bowling alley, I think that when you start to factor a little common sense, if you have an organization that has been around for 20, 30, 40, or 50 years then maybe we ought to allow them to still have the opportunity to do business in Maine. With that, thank you, Madame President. I apologize for extending the debate.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS**: Thank you Madame President. Just quickly. This has focused me on sprinklers for longer than I've ever focused in my life. I was just looking up here and noticing how well the sprinklers in this Chamber were concealed. Thank you, Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN**: Thank you Madame President. I wish to pose a question, but I'll just talk and people can answer if they want. First of all, if this a new regulation or are these new businesses or have they been flouting the law for the last few years?

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON**: Thank you Madame President. I think this is the most I've ever stood up in one session of the Senate. I will attempt to answer that question from the Senator from Cumberland, Senator Brannigan. From what I understand, existing buildings have an envelope of time in which they can come into compliance with the fire code. Some of those buildings have begun to start creeping up on that limit. I think that is why this bill got brought forward. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason to Accept the Majority Ought to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#101)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, LANGLEY, PATRICK, SCHNEIDER, SHERMAN, SULLIVAN, WOODBURY

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide Economic Incentives to Businesses for the Collection of State Taxes"

H.P. 896 L.D. 1205

Reported that the same **Ought Not to Pass.**

Signed:

Senators:
TRAHAN of Lincoln
WOODBURY of Cumberland

Representatives:

BERRY of Bowdoinham
BICKFORD of Auburn
BRYANT of Windham
BURNS of Alfred
FLEMINGS of Bar Harbor
PILON of Saco

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-256)**.

Signed:

Senator:

HASTINGS of Oxford

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
HARMON of Palermo
WATERHOUSE of Bridgton

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-256) AND HOUSE AMENDMENT "A" (H-302)**.

Reports **READ**.

On motion by Senator **TRAHAN** of Lincoln, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by President Pro Tem
DEBRA D. PLOWMAN of Penobscot County.

Divided Report

The Majority of the Committees on **ENVIRONMENT AND NATURAL RESOURCES** and **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Adjust Composting Limits for Farms

H.P. 713 L.D. 969

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-196)**.

Signed:

Senator:

THIBODEAU of Waldo

Representatives:

NASS of Acton
AYOTTE of Caswell
HAMPER of Oxford
PARKER of Veazie
LONG of Sherman
GIFFORD of Lincoln
FOSTER of Augusta
EDGECOMB of Caribou
TIMBERLAKE of Turner
CRAY of Palmyra
BLACK of Wilton
DILL of Old Town

The Minority of the same Committees on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-197)**.

Signed:

Senators:

SAVIELLO of Franklin
SHERMAN of Aroostook
SCHNEIDER of Penobscot
GOODALL of Sagadahoc

Representatives:

WELSH of Rockport
DUCHESNE of Hudson
KNAPP of Gorham
HARLOW of Portland
INNES of Yarmouth
KENT of Woolwich
O'BRIEN of Lincolnville
McCABE of Skowhegan

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196) AS AMENDED BY HOUSE AMENDMENT "A" (H-233)** thereto.

Reports **READ**.

On motion by Senator **SHERMAN** of Aroostook, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-196)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-196) **READ**.

House Amendment "A" (H-233) to Committee Amendment "A" (H-196) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-196) as Amended by House Amendment "A" (H-233) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Winthrop Utilities District Charter" (EMERGENCY)

H.P. 1160 L.D. 1577

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Modify the Regulation of Fireworks"

H.P. 406 L.D. 523

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-328)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-328)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-328) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Regulating Dealers of Agricultural, Light Industrial and Forestry Equipment"

H.P. 164 L.D. 187

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-324)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-324)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-324) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco Use" (EMERGENCY)

H.P. 1106 L.D. 1505

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-325)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-325) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Labeling of Maine Shellfish Products"

H.P. 1035 L.D. 1409

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-321)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-321)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-321) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Limit Interest Assessed against Municipalities"
H.P. 984 L.D. 1343

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-323).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-323).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-323) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Allow the Operation of Crematoriums at Oak Grove Cemetery and the Kelley Family Cemetery
H.P. 230 L.D. 286
(C "A" H-142; S "B" S-131)

On motion by Senator **FARNHAM** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Madame President. I opposed this bill in committee and will do the same today. As a member of the Health and Human Services Committee I learned that our current law addresses many issues regarding crematoriums. This bill and amendment focus on the location. Maine law places crematoriums in cemeteries of a certain size and the amendment asks for a waiver in the size of the cemetery. The bill, however, asks that the crematorium be located in an industrial park. Unless you've needed to use a crematorium you probably haven't given this much thought. I had to have my mom cremated. Although I didn't go to the crematorium during the time of her cremation I found out during the public hearings that a lot of

families do. At a minimum, a family member would have to pick up the cremations. In some states the crematorium is located in the funeral home. In Maine a cemetery has been identified as the location for our crematoriums. I hope that none of you are faced with having to use a crematorium. If you are, is an industrial park an appropriate place for your loved ones cremations? I hope you will consider this as you cast your vote.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Madame President. I rise in support of the pending motion for Enactment. This is a bill that is the product of a bi-partisan agreement and it provides a level of fairness for two entities that really, I think, deserve the support of this Body and this legislature to be able to proceed. Certainly with respect to the Kelley Family Cemetery, I can tell you that this is an important issue in terms of job creation and economic development and being able to provide a service locally for the people of Downeast Maine. I hope that you will join with me in casting your vote in support of Enactment.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Madame President. One thing I would add is that we currently have, I think, nine crematoriums that follow the law of the land that was put together by stakeholders from several of the funeral homes and others. Bangor was one of them that followed the law and crossed all the hoops and dotted the I's and crossed the T's in order to establish their crematorium in the proper place as stated by the law.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you Madame President. Men and women of the Senate, I, too, serve on the Health and Human Services Committee and listened to all the testimony for and against this bill. I've also been pleased to tour the area labeled as the industrial park in Gardiner. If you have ever been to that industrial park and seen how it's laid out and the businesses that have chosen to locate there it would rival my trip to the Lewiston/Auburn area to pick up the remains at a crematorium. I don't think this is in any way a disrespect of the process or the families in grief. I would urge your support for this bill. Thank you, Madame President.

THE PRESIDENT PRO TEM: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#102)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: FARNHAM, MASON

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with 2 Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Discourage Illegal Dumping in the State
H.P. 94 L.D. 112
(S "B" S-113 to C "A" H-97)

PASSED TO BE ENACTED and having been signed by the President Pro Tem was presented by the Secretary to the Governor for his approval.

An Act To Provide Sales Tax Exemption or Refund on Parts and Supplies Purchased To Operate Windjammers
H.P. 52 L.D. 59
(S "A" S-122 to C "A" H-72)

On motion by Senator **KATZ** of Kennebec, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

SENATE PAPERS

Bill "An Act To Amend the Lobster Promotion Council"
S.P. 509 L.D. 1579

Presented by Senator SNOWE-MELLO of Androscoggin.
(GOVERNOR'S BILL)

On motion by Senator **SNOWE-MELLO** of Androscoggin, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator TRAHAN for the Committee on **TAXATION** on Bill "An Act To Allow the City of Bangor To Replace the Bangor Auditorium and Civic Center at the Bass Park Complex"
S.P. 283 L.D. 895

Reported that the same **Ought to Pass**.

Report **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Requirements for Publishing Municipal Legal Notices"
H.P. 318 L.D. 392
(S "A" S-145)

In House, May 18, 2011, **PASSED TO BE ENGROSSED**.

In Senate, May 23, 2011, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-145)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

On motion by Senator **COURTNEY** of York, the Senate **INSISTED**.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator TRAHAN for the Committee on **TAXATION** on Bill "An Act To Amend the Sales and Use Tax Exemption for an Aircraft Purchased Outside of Maine by Nonresidents"
S.P. 292 L.D. 946

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-155)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-155) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require a Two-thirds Vote To Approve the Issuance of a Bond or Security by the Maine Governmental Facilities Authority
H.P. 728 L.D. 984

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-304)** (6 members)

Tabled - May 24, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Ordered)

(In House, May 23, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-304)**.)

(In Senate, May 24, 2011, Reports **READ**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Madame President. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **ALFOND:** Thank you Madame President. Could someone describe what this bill is doing as far as the changes that might incur?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Alfond poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Madame President. Just to respond to the question and let everybody kind of get their legs under them as we've shifted gears. It proposes amending the Constitution to require a 2/3 vote to approve the issuance of a bond or security by the Maine Governmental Facilities Authority.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Madame President. Thank you to the good Senator from York for reading the title. I very much appreciate that. This late in the day sometimes I struggle reading the title. May I pose a question through the Chair?

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **ALFOND:** Thank you Madame President. Why is this change being brought? Is there some reason that this bill is being brought forth?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Alfond poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Madame President. Let me try to answer the good Senator's question as best I can. I've been searching. There's a limit on this. The limit, I believe, was \$10 million. If there is a bond issued by the Governmental Facilities Authority over \$10 million it has to go to the public. If you read your handbook, the Constitution of Maine says that any borrowing by the State over \$2 million needs public approval. Time and time again we've tried to find ways around the Constitution so that we can borrow money, so that we can send the bill to our kids and grandkids, without the approval of the voters. There are a number of people in this Body and in the State that think that's wrong. That's what this bill is all about. Further, I think you can make the case that we have mortgaged the very building that we are in. Legally and technically we haven't but we owe close to \$200 million on governmental buildings that's all been borrowed without voter approval. This bill would change the Constitution so that we weren't able to do that if it was over \$10 million, I believe that was the limit. I'll look and see, but we did put a limit in it so that if it's a small amount of money to cover an emergency then it could be taken care of. The Constitution says \$2 million needs

voter approval. Why should any item be any different than another?

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Madame President. Men and women of the Senate, I was hoping I was going to be able to get away with this today and not have to deal with it. I'm obviously on the opposite side of my good Chair. It's not a place I really enjoy being at all. I do think it's important. We were sent here, elected by the people, we are their voice. Quite frankly, the framers of the Constitution, when they were working on the Articles of Confederation even prior to the Constitution, there an opinion written then that when you have a 2/3 vote on almost everything then you are really being run by 1/3 of the government. That was a concern that we had. If you look at the Ought Not to Pass, which is the Majority Report in this, another reason why we were concerned is that there are times when you need to have a decision made on a bond that is coming up because something has happened to a bridge or something has happened to whatever. We're in session for basically four months and five months, give or take, out of a two year period of time. There is also a fiscal note with this and it could be that every time we do another ballot or anything, depending on how many bond issues there are, the fiscal note came up to \$107, 250. Given the price, and we heard earlier people talking about the price of lumber and lumbering equipment, wood manufacturing equipment, it doesn't take very long to reach this. The \$10 million might be a little high but I can't really remember. I'm going to give my good Chair a lot of leeway on that because I can't remember either. The concerns are do you really want to keep doubling? We talked about making this more efficient. We talk about the government being more efficient. We pass something here. You have a public hearing. You work on it. You come out with Majority Reports out of the committee, or Minority Reports. Then you debate it in both Chambers. Now we're going to say we're going to send it back out and we're only here, and we really only vote on referendums twice a year, June and November. One of the problems is the bond securities only sell their bonds at different times. We don't always meet when they are selling their bonds. There are some very real reasons why we voted as we did. Very real reasons why the people dealing with the banks and the bonds came forward and said this is not good. We are limited by different times. It's different from when we work, we being the legislature. I maintain that it goes through the public hearing, it goes through the committee process, comes out as a Majority or a Minority, then it's debated down in the other Body, and then it's debated here in the Senate. That's an awful lot of votes. If we're going to put everything out for bond then I don't think we just make the other Body smaller, I would suggest perhaps we don't need either Chamber. I'm sure there would be many people, if we put that out to referendum, that might agree with us. I'm very concerned with this. We are allowing the government to be ruled by 1/3. You're also spending a lot of money and you're not streamlining this at all nor are you working with the bond banks as they have to actually put these bonds out. I would remind you the people on the Highway Fund are very aware of the bond banks because they actually travel, at least the Maine Turnpike Authority, to New York for these bonds. It's the selling of bonds. Very important. I would ask you please go with the Majority Ought Not to Pass. Thank you.

On motion by Senator **KATZ** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Permit Persons To Perform Simple Electrical Repairs under Limited Licenses"

H.P. 591 L.D. 784

Report "**A**" - **Ought Not to Pass** (9 members)

Report "**B**" - **Ought to Pass as Amended by Committee Amendment "A" (H-300)** (3 members)

Report "**C**" - **Ought to Pass as Amended by Committee Amendment "B" (H-301)** (1 member)

Tabled - May 24, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **RECTOR** of Knox to **ACCEPT** Report "**A**", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, May 23, 2011, Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300).**)

(In Senate, May 24, 2011, Reports **READ**.)

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **RECTOR** of Knox to **ACCEPT** Report "**A**", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Wednesday, May 25, 2011, at 10:00 in the morning.