

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

In Senate Chamber
Wednesday
June 8, 2011

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

Prayer by Reverend Jane MacIntyre, Pastor, South Parish Congregational Church, UCC in Augusta.

REVEREND MacINTYRE: Let us pray. Holy One, spirit that fills all of creation, we ask Your blessing upon these Senators and staff. We thank You that the work that happens in this Chamber matters and we are mindful of the economic challenges that face the people and the government of Maine and the programs that would be offered in relief. Help us find not the quick answers but the good answers. We thank You that this meeting place is filled with people excited to use their intelligence, experience, ingenuity, and commonsense so that they can make a difference in individual lives. We are mindful of the faces and stories of the people in our towns and cities. Let the lessons within those stories shape the conversations among these colleagues so that the voices that need to be heard are represented. We thank You that liberty and justice for all is the objective of all that is done here. Let that goal stay visible and acknowledged, especially when the necessary minute details threaten to become the trees that block the forest. As this day's work officially begins we pray for wisdom to fill all who enter this space and for patience to moderate the underlying urgency of schedules, for compassion to celebrate together the times of tears and times of joy, and regard for the trust that has been given to all who work here. Bless them all, Holy Spirit, we pray. Amen.

Pledge of Allegiance led by Senator Nancy B. Sullivan of York County.

National Anthem performed by Hannah Jabar of Waterville.

Reading of the Journal of Tuesday, June 7, 2011.

Doctor of the day, Dylan McKenney, MD of Portland.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 431

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

June 7, 2011

The Honorable Kevin L. Raye
President of the Senate of Maine
125th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Transportation has had under consideration the nomination of Honorable Daniel E. Wathen of Augusta, for appointment to the Maine Turnpike Authority.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Collins of York, Diamond of Cumberland, Thomas of Somerset
	Representatives	10	Cebra of Naples, Gillway of Searsport, Hogan of Old Orchard Beach, Mazurek of Rockland, Parry of Arundel, Peoples of Westbrook, Rioux of Winterport, Rosen of Bucksport, Theriault of Madawaska, Willette of Mapleton

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Daniel E. Wathen of Augusta, for appointment to the Maine Turnpike Authority be confirmed.

Signed,

S/Ronald F. Collins
Senate Chair

S/Richard M. Cebra
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **TRANSPORTATION** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125th Legislature, the vote was taken by the Yeas and Nays.

The Chair noted the absence of the Senator from Sagadahoc, Senator **GOODALL** and further excused the same Senators from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#191)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: GOODALL

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Daniel E. Wathen** of Augusta for appointment to the Maine Turnpike Authority was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 430

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

7 June 2011

The 125th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 125th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 340, "An Act Regarding Timber Harvesting on State Land."

"I do swear that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof. So help me God." This is the first oath I took upon entering the Office of Governor of the State of Maine. It is the same oath taken by yourselves as you swore in as the 125th Legislature of the State of Maine.

These are not hollow words. Rather, it is a sacred oath that we must adhere to as we faithfully discharge the people's business. As the Attorney General mentioned in his letter of 15 April to certain members of the Legislature, this bill runs afoul of the 14th Amendment to the United States Constitution as well as Article VI of the same. It may also be in violation of Article I of the Maine Constitution, our Declaration of Rights.

This veto has nothing to do with the policy outlined in the bill. Governor Baldacci vetoed LD 284 in the 121st Legislature on the same grounds. The Constitution is not a partisan document. It is the foundation of our Republic and we must ensure that every law passed is in accordance with it.

For these reasons, I return LD 340 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act Regarding Timber Harvesting on State Land
S.P. 102 L.D. 340

The President laid before the Senate the following: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Senator **JACKSON** of Aroostook requested a Roll Call.

The President informed members that the vote on an override is a roll call vote and it is not necessary to request a roll call.

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

Senator **JACKSON:** Thank you Mr. President. Sorry about that. I found out exactly what you said. We're going to have a roll call anyways.

I would like to have the Senate override this veto message and I guess I'd try and explain why. I'm sure a lot of people in this Body is thinking, "Oh no, here he goes again." I think it's an important issue. I know it's an important issue for my district. I

think it's an important issue for many people's districts. I think it's an important issue for the state because while we're dealing with the logging issue here you could make it apply to farming, fishing, or many of the occupations that we do in the state. I can tell you why it's so important for my district. When I first got elected into the other Body I was elected as the Representative from Ft. Kent. When the school closed in Allagash we moved to Ft. Kent because we had two young sons and we didn't want them to have to travel. Ft. Kent became my adopted home and I represented Ft. Kent later on when I got into the other Body. Ft. Kent is named after Governor Kent, when they built the fort at Ft. Kent, which is now Ft. Kent. They built the fort there. The Governor at the time was Edward Kent in 1841. They named it Ft. Kent for him. The reason why they built Ft. Kent was because of the problem of wood being taken into Canada by our friends to the north. Way back in 1841 the town of Ft. Kent got started on this very issue of lumber crossing into Canada. They thought it was so important they built a fort on the St. John River to watch what was going on. I don't think that ever has actually changed since then. Although we don't use that fort for those same reasons, now it's a historical thing, I think we could certainly see the lumber continuing to go over to Canada.

This issue, though, is a little different in the fact that it's hard to stop the trade going over into Canada when we can't even do anything to stop our friends from the north coming in and taking the jobs that are here in Maine, which I think is a travesty. There are people in this state that need this work. This land that we're talking about currently is State land that is paid for by their tax revenue, their tax dollars, and they can't even operate on the land that is in theory theirs. This veto message talks about the Constitution and how important it is. I think it is absolutely 100% important. The Constitution says we have to protect the people in the state of Maine and the people in the United States. I think that is what this Body did when we voted to support this bill. It was protecting Maine residents and it was protecting United States residents. This law doesn't have anything to do with saying, "You can't come here to Maine to work because you are a foreign resident." It doesn't say that. There is a huge mistake here in interpretation. All this law says is that you can't use the bonded labor program. It doesn't make any reference to anyone's nationality, which would be a violation of the Constitution. All this says is that you can't use the bonded labor program. It doesn't have anything to do with nationality.

This message also talks about former Governor Baldacci vetoing this bill in the 121st. He did, but I believe he did it for possibly the same reasons that we're here today. Not because it was unconstitutional, but because he had a lot of pressure from the industry to not allow this to happen. They don't want it to happen on State land because then they see it as a jump to their land. I remember very clearly when this bill was debated. There was very little debate actually. As I've stated earlier in testimony here, in the other Body it was 110 to 24 and in this Body it was 24 to 11 in support. I never heard anything from the second floor at that time until, right out of the blue, we had a message, a letter, that the Governor had vetoed it. I went down to his office and at that time Kurt Adams was a young opinionated upstart lawyer that told me, "That's unconstitutional, Troy. We can't do it." I said, "Where did you come up with that?" "The Attorney General's Office ruled that." I said, "Really." He said, "Yup, absolutely. The Attorney General's Office, unconstitutional." I ran right over to the Attorney General's Office and I met with Steve Rowe. Steve told me, "Absolutely not, Representative, I did not make

that ruling. As a matter of fact, I think I can defend this law but, regardless, the issue is that I did not rule it was unconstitutional." I ran right back over to meet with Kurt Adams. Kurt Adams said, "You are right. I ruled it was unconstitutional. That's that, basically. It doesn't matter. You caught me but there's nothing really that you can do about it." Here we have a case where the Attorney General's Office ruled that it wasn't unconstitutional. Since that time I've had former Attorney General Janet Mills look at the issue. She believed that she could defend it too. That it was Constitutional because of the fact that we weren't excluding people on their origin, we were excluding a program that the federal government has. The federal government, I'm telling you I've dealt with this a lot, says that the State of Maine doesn't have to participate in the bonded labor program. They actually have a clause in the bonded labor program that talks about federalism and the state's rights to not have to go through with this program and what the state's rights are. It's clear with the U.S.D.L. that the state doesn't have to do that. I would say that this is very much, I'm trying to be careful here, something that is not unconstitutional or a Constitutionality issue. If it had been unconstitutional way back then, I've sent you a paper, I sent it around, the bill that Governor Baldacci vetoed back then, L.D. 284. Because I made such a big stink about them ruling it was unconstitutional and about their subsequent lying about it, that the very next year of that same session they gave me another bill which was L.D. 1782, which was the exact same bill. We put that bill into the Department of Conservation's policy. It's the written policy right now. If it's the written policy of the department then it must not be unconstitutional.

Currently, it is the policy of the department that they don't allow bonded workers on State land, but the problem is that it's getting violated and nothing is happening. There are no teeth to it. That's why I introduced this bill. It's been documented that it's happening. That's why we passed this bill. It is not unconstitutional. I can tell you people with great certainty that if the Supreme Court of the United States ruled that this bill was not unconstitutional we'd still be here today with a veto message because this is an issue that the people in the state that has the power does not want bonded workers being exempted from working in Maine. We would be here regardless. I'll tell you what, people can get up and tell me or say that I'm wrong and all that. That's fine. I won't hold it against you. When we vote on this do not vote on the unconstitutionality of it, vote on the fact that you want bonded workers in the state because there is nothing unconstitutional about this bill. Thank you very much, ladies and gentlemen of the Senate.

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

Senator **KATZ:** Thank you Mr. President. I have a question to pose through the Chair to anyone who might choose to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **KATZ:** Thank you Mr. President. I wonder if the previous speaker might want to retract his remark that he was lied to by an Assistant Attorney General of the State? Thank you, Mr. President.

THE PRESIDENT: The Senator from Kennebec, Senator Katz poses a question through the Chair to anyone who may wish to

answer. The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON**: Thank you Mr. President. I don't believe I said that because Mr. Adams was not an Attorney General, he was the Governor's Council. If any man, regardless of if it's an AG, says the Attorney General told him that it was unconstitutional and then I go see the Attorney General and he says it isn't, I believe that is a liar in my book.

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

Senator **DILL**: Thank you Mr. President. Men and women of the Senate, I also have a question to anyone who might be able to answer.

THE PRESIDENT: The Senator may pose her question.

Senator **DILL**: Thank you Mr. President. If it's unconstitutional under the 14th Amendment to pass this bill because we're using nationality, I'm just wondering if it's also unconstitutional to restrict our welfare laws using nationality.

THE PRESIDENT: The Chair finds that the question is not relevant to the subject at hand.

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#192)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, THIBODEAU, THOMAS, TRAHAN

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: GOODALL

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being excused, and 16 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House of Representatives.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Concealed Weapons in the State House"

H.P. 692 L.D. 932

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-420)**.

Signed:

Senators:

MASON of Androscoggin
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:

Senator:

GERZOFKY of Cumberland

Representatives:

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

Comes from the House with Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **MASON** of Androscoggin moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I would just like to thank the members of leadership. This bill was brought forward by a Representative in the other Body, the Representative from Lisbon, Representative Crafts, who had concerns about the security of the State House. The leadership team that we have in our Legislature has taken these concerns to heart and have worked to improve the security measures around the Capital. Of that, I am thankful, Mr. President, and I would like to thank you, members of our leadership, and no longer feel that this bill is necessary. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you Mr. President. What has prompted the concern over security under the dome?

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Mr. President. I'd like to just offer that I can speak for myself and things that I have heard. I think we all know that this is a relatively open building with many access points. I know that in the House of Representatives it has been described as a fish bowl, if you will. There is only one entrance and one exit. I think it has to be noted that we live in an age that, unfortunately, things happen and I think that security does need to be made to an extent that we all feel safe; the members of the public, school kids that come here, as well as us, as Legislators, and the media and everyone who comes into the State House.

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

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, I rise in support of the pending motion,

however I would like to be on record as indicating in no way do I support the increased security that has been promoted for beginning in January. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Just very briefly. I, too, feel that if we're going to prioritize security measures perhaps we should be looking more towards our courts. I'm not in opposition to the pending motion, but I thought it was important to say that, for the record, we should look at all the needs for security if we're really concerned with that and start prioritizing those security issues a little bit with a more broad sort of scope of what perhaps we should put at the top of the heap as our concerns. I just wanted to say that for the record. Thank you very much.

On motion by Senator **MASON** of Androscoggin, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Senate

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Protect Municipalities That Host Wind Energy Developments" S.P. 387 L.D. 1266

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

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BERRY of Bowdoinham
BICKFORD of Auburn
BURNS of Alfred
FLEMINGS of Bar Harbor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-274)**.

Signed:

Representatives:

BENNETT of Kennebunk
BRYANT of Windham
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

Reports **READ**.

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

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

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require Vegetable Gardens at State Prisons" H.P. 513 L.D. 685

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-569)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569)**.

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

READ ONCE.

Committee Amendment "A" (H-569) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend Standards for Participation in Certain Public School Services by Students Who Are Homeschooled" H.P. 888 L.D. 1197

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-571)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-571)**.

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

READ ONCE.

Committee Amendment "A" (H-571) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Reduce Maine's Dependence on Oil" H.P. 436 L.D. 553

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-572)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-572)**.

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

READ ONCE.

Committee Amendment "A" (H-572) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act To Reduce Regulations for Residential Rental Property Owners" H.P. 889 L.D. 1198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-575)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-575)**.

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

READ ONCE.

Committee Amendment "A" (H-575) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Require a 24-hour Waiting Period prior to an Abortion" H.P. 98 L.D. 116

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

Signed:

Senators:

HASTINGS of Oxford
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:

BEAULIEU of Auburn
MALONEY of Augusta
MOULTON of York
PRIEST of Brunswick
ROCHELO of Biddeford
KRUGER of Thomaston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-469)**.

Signed:

Representatives:

NASS of Acton
FOSTER of Augusta
SARTY of Denmark
WATERHOUSE of Bridgton

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

Reports **READ**.

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

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 (#193)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MCCORMICK, RECTOR, ROSEN, SCHNEIDER, SULLIVAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: COLLINS, COURTNEY, JACKSON, MASON, PATRICK, PLOWMAN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE

EXCUSED: Senator: GOODALL

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Educate Women on the Medical Risks Associated with Abortion" H.P. 684 L.D. 924

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

Signed:

Senators:

HASTINGS of Oxford
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:

BEAULIEU of Auburn
PRIEST of Brunswick
KRUGER of Thomaston
MALONEY of Augusta
ROCHELO of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-467)**.

Signed:

Representatives:

NASS of Acton
MOULTON of York
SARTY of Denmark
WATERHOUSE of Bridgton
FOSTER of Augusta

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

Reports **READ**.

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

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 (#194)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SULLIVAN, TRAHAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: COLLINS, COURTNEY, JACKSON, MASON, PLOWMAN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE

EXCUSED: Senator: GOODALL

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Application of the Maine Human Rights Act Regarding Public Accommodations"

H.P. 781 L.D. 1046

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

Signed:

Senators:
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:
BEAULIEU of Auburn
MOULTON of York
PRIEST of Brunswick
KRUGER of Thomaston
MALONEY of Augusta
ROCHELO of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-452)**.

Signed:

Senator:
HASTINGS of Oxford

Representatives:
NASS of Acton
SARTY of Denmark
WATERHOUSE of Bridgton
FOSTER of Augusta

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

Reports **READ**.

Senator **HASTINGS** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-452)** Report, 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.

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

Senator **HASTINGS:** Thank you Mr. President. I want to spend a couple of minutes explaining what this bill is not and what this bill is. I know at the time of the public hearing and since then this bill has been given the short-hand title of "The Bathroom Bill," is commonly known as that, and has been, I believe, although inaccurately, commonly believed to be a bill that directs which restroom, shower, or locker facility a transgender individual in Maine must utilize. That is totally inaccurate. There is nothing in the report before you today that directs any individual to use any particular locker room, restroom, or shower facility. What this bill does is make it clear that a finding of unlawful public accommodation discrimination under the Maine Human Rights Act cannot be based upon a public accommodator having wrestled with the problem and made a decision and directed an individual to utilize a bathroom, locker room, or shower that takes into account the legitimate privacy concerns of all members of a biological sex, regardless of sexual orientation. Ladies and gentlemen of the Senate, what we heard at the public hearing was that this issue arises very rarely in the public accommodation field. The public accommodators involved are essentially schools and restaurants, and perhaps a hotel, but probably schools and restaurants are the primary public accommodators affected by this law. We have heard, and the testimony was clear at the public hearing, that those schools, when faced with these very difficult issues, have bent over backwards to attempt to accommodate, to often, competing interests.

The one case that's been pending in the school field is with the school district in Orono where a young woman, I believe it was a young woman, had a gender identity issue and wished to use the boy's room. The school initially allowed, I believe, that until it created some other problems with other young boys being young boys, which created its own problems. Then to accommodate the combined problem, the school district asked this young girl to use the faculty restroom. They had sort of a Hobbesian choice. They had to make a decision and they did that. That case was taken to the Human Rights Commission. That was claimed to be an unlawful private accommodation discrimination. Actually, in that case, the Superior Court of Maine, and that's as far as it's gotten so far, ruled that they did not find any precedent in Maine to require a place of public accommodation to reasonably accommodate a transgender person by specifically allowing that person to access and use the restroom facility of his or her gender identify. That case, I think, is on appeal now.

The other case was a restaurant. It had to deal with Denny's Restaurants. What we heard from the restaurant community was

that this was not an issue that they wished they ever have to deal with. They, in no way, want to direct people to any particular restroom. These are their customers, they want to accommodate them. It is not their goal to discriminate against anyone. Once in a while they find themselves in an almost difficult situation. They have to make a decision if confronted with the issue. They make the best decision they can, not with the goal of discriminating but with the goal of accommodating their customers. All this bill says is once they make that decision, which I took the testimony to be that the accommodators are acting in very good faith, that they should not be found to have committed public accommodation discrimination under the Human Rights Act. That's all this bill does. Any language in the bill that directs anyone or even suggests which restroom or shower facility a transgender individual should use has been stripped from the bill. All it does is take the public discrimination issue off the table. I have great confidence that our schools and our public accommodators in the restaurant field are doing their very best to treat all Maine citizens fairly and accommodating them as best they can. I do not believe that they should be faced with discrimination claims, which are often when they are confronted with those situations and make a decision which they believe is in the best interest, I don't believe they should face a public accommodation discrimination violation. That's all the law does. I urge that you support the Minority Ought to Pass Report.

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

Senator **BARTLETT:** Thank you Mr. President. I oppose this legislation because I believe it is unnecessary. I think it's mean spirited. I think it's unworkable. I think it will invite lawsuits against any business who tries to implement a policy under this law. First of all, this has been a non-issue. The issue of transgender bathrooms has been a non-issue. The law has been in place for years. There have been two cases brought forward and, as the good Senator from Oxford has pointed out, these cases have been resolved very effectively. The bill simply is not necessary. It would apply, principally, to businesses and to schools. Schools have been working it out with guidance from the Maine Human Rights Commission. Businesses did not come forward looking for this bill. They either testified in opposition to it or neither for nor against because they simply don't want to be in the business of trying to figure this issue out. They don't want to be thrown in the middle of it. There is no need to. Secondly, this bill is unworkable. If you carefully read the text, which is short, it starts by saying that one can restrict access to a restroom, locker room, or shower facility. To restrict access. What does that mean? Does that mean they can simply tell someone they cannot use a restroom based on the perception of their biological status? Does that mean you have to give them another option? What's required under the law?

It goes on to say that you can have a policy that takes into account the legitimate privacy concerns of all members of a biological sex. How could you do that? Someone who may be a transgender is also a member of a biological sex. It may be difficult to define, and the bill doesn't try to do that, but what does this mean? If you have to take into account everybody's privacy concerns it means you can't restrict access to anybody. At the end of the day you're not going to be able to use this policy. What this does do though is raise a great deal of uncertainty for businesses. Imagine being a business owner, a large restaurant

perhaps. One of your employees hears about this great new law out of Augusta that lets them set up a policy on their bathrooms. They take it upon themselves, your manager, to try to enforce the policy. Someone is walking into a restroom and they say, "No, you can't use that one. You have to use the other one because that is the one for your biological sex." They guess wrong. You are going to be open to lawsuits. Anyone who tries to go down this path will be inundated with lawsuits because what does it mean to restrict access and what does it mean to protect the legitimate privacy concerns of all members of a biological sex? This is a false promise to businesses that will create extraordinary havoc to anyone who tries to implement it. My guess is that most business owners of the state don't want anything to do with this. You just have to hope that they don't have any employees or managers who read the paper the morning after we pass this and get themselves into a whole lot of legal hot water. It will not work. What the saddest thing is about this legislation, as we were listening in committee, is that it seems to be brought forward out of hostility towards a very small group of people in the state of Maine. It is the last bastion, it seems to be, of bigotry and hatred towards a group. Why don't we just use commonsense. The current law provides a commonsense approach that balances the interests of everyone. We don't need to go down this road. It's not going to help any businesses. It's going to create more legal uncertainty for them. Let's stand up together and say that we said no. We said no to an attack on a group of our constituents, a group of constituents who don't want to be thrust into this limelight, and who are not out to make other people uncomfortable. Let's take a stand here today and say that we don't support discrimination against anyone. Thank you, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I'm harking back to what I said yesterday. Bumper stickers tell the truth, I've decided. If it ain't broke, keep fixing it and fixing it and fixing it until it is. Let's do what we need to do on this bill. Thank you.

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

Senator **WOODBURY:** Thank you Mr. President. Women and men of the Senate, I very much agree with the remarks of the Senator from Cumberland, Senator Bartlett. Under current law if you live your life as a woman you use the woman's bathroom, and the Maine Human Rights Act explicitly protects that right. If you live your life as a man you use the men's bathroom, and the Maine Human Rights Act explicitly protects that right. I think that's the law that we want. What this bill does is revolve around a term, biological sex. For most of us that is a reasonably unambiguous term. In the case of the transgender community it is a highly ambiguous term. What this bill, I believe, does, at its best, is create an ambiguity in the appropriate use of bathrooms for the transgender community, but at worst, and I think it is at its worst, it is highly discriminatory against this community. For that reason, I urge you all to vote against the current motion. Thank you very much.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wish to comment only on one point. The Senator from Cumberland, Senator Bartlett, indicated his opinion that this bill was based on motives of bigotry, hatefulness, and hatred. I wish to assure this Body that my motives in supporting the motion before you are not based in any way in bigotry, hatred, or a wish to discriminate against any Maine citizen. I trust that the Senator from Cumberland was not suggesting that because I spoke in favor of this motion that somehow my motives were based on bigotry and hatred. I simply wish to make that point clear to this Body. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Hastings to Accept the Minority 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 (#195)

YEAS: Senators: COURTNEY, HASTINGS, MASON, PLOWMAN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFOSKY, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, ROSEN, SCHNEIDER, SULLIVAN, TRAHAN, WOODBURY

EXCUSED: Senator: GOODALL

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-452)** Report, in **NON-CONCURRENCE, FAILED.**

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"

H.P. 1072 L.D. 1457

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

Signed:

Senators:

HASTINGS of Oxford
BARTLETT of Cumberland
WOODBURY of Cumberland

Representatives:

BEAULIEU of Auburn
KRUGER of Thomaston
MALONEY of Augusta
MOULTON of York
PRIEST of Brunswick
ROCHELO of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-468).**

Signed:

Representatives:

NASS of Acton
FOSTER of Augusta
SARTY of Denmark
WATERHOUSE of Bridgton

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

Reports **READ.**

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

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 (#196)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFOSKY, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, SAVIELLO, SCHNEIDER, SULLIVAN, TRAHAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: COURTNEY, JACKSON, MASON, PLOWMAN, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE

EXCUSED: Senator: GOODALL

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

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

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 (5/5/11) Assigned matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Municipalities To Restrict the Possession of Firearms in Certain Circumstances"

S.P. 170 L.D. 578

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

Minority - **Ought to Pass** (4 members)

Tabled - May 5, 2011, by Senator **MASON** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 5, 2011, Reports **READ**.)

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, as my good friend, the good Senator from Cumberland, Senator Gerzofsky, says, there is nothing new under the dome. That's something I learned quickly when I got here. I'm not going to stand up here to read the Constitution to you and I'm not going to wave around any props because that's allowed. I believe strongly that anywhere we restrict the use of firearms we create a place where law abiding citizens are at a disadvantage when it comes to protecting themselves. When we try to create a safe zone we are actually doing the exact opposite. What this bill would attempt to do is to allow municipalities to restrict the possession of firearms in their local legislative council chambers or selectman room or whatever it is in that town. As much as I'd like to be all about local control on this one, because that seems to be what people like to do in these situations, I just think that our 2nd Amendment rights should be interpreted as strictly as possible. I feel like if somebody wants to bring a weapon into those council chambers, and it is prohibited, that they are going to do it anyways if they have a motive that is strong enough to them. Criminals will break the law and law

abiding citizens will obey the law. I feel like if this bill were put into place and these towns adopted these ordinances that we'd be punishing the law abiding citizen that wants to practice their 2nd Amendment rights. I would hope that folks would join me and vote for the Majority Ought Not to Pass Report. Thank you, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I want to tell you a story about two buildings here in my hometown. This magnificent State House where a sign stands at the door which says that firearms are prohibited from this building. The other building is not as grand. It's across the river. It's the City Hall. I spent four years there as Mayor and we had a similar sign. It said, "Firearms not permitted in the Council Chamber." Sometimes good things don't go well together. Guns, if used properly, are a fine idea. Vigorous, passionate political debate is a good idea. One could argue that they don't mix well. I suspect that someone in the Legislature realized that some years ago when the policy was passed to ban firearms from this building. It's sort of like alcohol. Alcohol is a fine thing if used properly and driving is a fine thing, but they don't go well together.

Let me go back to that sign at the City Hall in Augusta. A year and a half ago I got a call from a gentleman in Washington D.C. who told me, as Mayor, I had to take that sign down. I said, "What do you mean?" He told me we had to take it down, that the citizens of Augusta had no right to prohibit anyone from carrying guns into the city council chambers. I thought, "Who are you to tell us we can't do that?" I checked and he was right. Amazingly enough, in a state which prides itself on local control, we had none. I discussed this with Bill Stokes, the Criminal Attorney General Chief, and he confirmed that state law, amazingly, does not allow local towns to make the decision for themselves. Then I realized what had happened. When I got elected to the State Senate in November I hadn't realized that I became a whole lot smarter and a more important person than I had been before. Apparently I'm now part of a group with the collective intelligence to decide whether there should be guns in this Chamber whereas only a few days before I was dumb. I couldn't be trusted to make that same decision in City Center in Augusta. I think that's wrong and that's why I sponsored L.D. 578.

All this bill does is allow local towns to make their own decisions whether to regulate the carrying of firearms within their own capital areas. Within this very narrow scope, this bill would reverse the Legislature's to substitute its own judgment on this important issue over the judgment of local legislative bodies at the municipal level. It is all about local control. If we had the chance in Augusta I know we would ban firearms in the council chambers because we have seen tragedies in council chambers and school board chambers in the south and in the mid-west. The town council or the town meeting in Fryeburg or Benton or Searsport or in Lisbon Falls might come to a different conclusion. They might decide that these ordinances would do little good. That if someone is going to be crazy enough to bring a gun and use it in a council chamber that no ordinance is going to stop that. Let's leave that decision with the residents of each community. Let the West Gardiner town meeting, the Houlton town council, or the Waldoboro selectmen debate the benefits and concerns associated with any proposed ordinances at the local level. This Legislature has decided to regulate the carrying of firearms within

the Capital. This bill simply enables our very capable constituents to decide the same policies for themselves in the communities that we all represent.

This is not an assault on the 2nd Amendment. It doesn't talk about registration or background checks or restrictions on what kind of ammunition one can possess. Mr. President, the chairs in the Augusta City Council Chamber are not nearly as comfortable as these are here, but I think the people who sit in them are every bit as wise to make rules for themselves. In a state which does pride itself on the concept that local decisions are best made at the local level, here is our chance to stand up for that principle. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, rise in opposition to the pending motion. To allow another legislative body to make the same decision that we have done here in the State House is not wrong. To allow our elected officials in our municipalities to make decisions whether to allow firearms, concealed, in their chambers is not wrong. It's the right thing to do. We gave our courts that option not that many years ago. It wasn't that many years ago when you could take a concealed weapon into a court and this Body voted to change that to give the judges more discretion. We certainly should do that same thing for our municipalities. Those elected officials, and don't forget they are elected by their constituents, should be able to make those decisions. They know their municipalities far better than I. I would hope that the members of this Body will oppose the pending motion so we can get to the Minority Report which will allow our citizens to make the decisions through their elected officials that they elected them to do. Thank you very much, Mr. President.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I just wanted to point out a couple of things. When you are a kid, if you are in the kitchen with your Mom or Dad and you are near the stove your Mom would usually say to you, "Don't touch the stove." It's not that the stove is inherently wrong, you don't understand the stove. Is the solution to remove the stove? No, it's to teach the child not to touch the stove when it's on. That's kind of how I feel about these gun laws.

The second thing I'd like to point out is that we don't need to look very far to notice what can happen in these council situations. The Bay District School in Florida. A man who was upset about the termination of his wife's job walked into the council chamber and was wielding a weapon. The people who did not have weapons had purses. I would just put that in front of you before you vote on this. Thank you, Mr. President.

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

Senator **DILL:** Thank you Mr. President. I just rise briefly to also state for the record that I'm opposing the current motion. I had the privilege and honor of serving on the Cape Elizabeth Town Council. I think one more point that might be relevant to the discussion is that generally municipalities and cities have councils

that are non-partisan. The decision makers are not driven by any sort of political ideology or worrying about the next election. They are making decisions based on their own community and they don't take into account some of the things that we take into account here. I think they are clearly in the best position to make a decision about what's best for their community. I'm glad that the Senator from Androscoggin, Senator Mason, pointed out that what took down the shooter in Florida was in fact a pocketbook, not another gun. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Now everything was nice and quiet. We talked in a nice and quiet manner. Bad people do bad things and we make laws to punish bad people for doing bad things. Nobody is Quick Draw McGraw that's going to know that person that comes into any building with a concealed weapon with the intent of hurting other people and be able to play Quick Draw McGraw. That's silly. There is nothing new under the dome. I've been saying that for years but we need to give our municipalities the authority to be able to try and make their own regulations on who can carry where and in what situations when it comes to municipal buildings. We're not doing it for the local store. That's later today. Right now we're talking about municipalities. Please vote for your municipalities. Vote for your elected officials and vote this motion down. Thank you.

Senator **SNOWE-MELLO** of Androscoggin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. I rise in support, strong support, of the pending motion. Let me just say simply the Maine State Constitution, in its provisions, has this very stance. It says every citizen has a right to keep and bear arms. This right shall never be questioned. That's Article 1, Section 16. Thank you.

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: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, in every court house in the state of Maine there is a sign that says that weapons are not allowed. Yet, when they pass through security, Chief Justice Saufley reported to us that knives and guns are taken off people on a regular basis as they pass through security. Believe it or not, bad guys don't care what the sign says. Unless the sign is bulletproof, and you give one to each council member, I'm pretty sure there is no protection in a

sign. I tell you what, when someone is walking through a room and shooting person after person after person as they hide, beg, and plead for their lives I'd like to think someone, a good guy in the room, would have more than a pocketbook. I'm pretty sure if you pointed at the sign and said, "You know you weren't supposed to bring that gun in here," that's really not going to help either. Some people have a very good reason for carrying concealed weapons. They are being stalked. They've been threatened. You probably hear that there is a protection order out there too, but that piece of paper hasn't stopped any bullets either. When I try to put myself in the place of someone who is trapped in a room, under a desk, with nothing between them and a bullet but their hands, I'm pretty sure that I will find no comfort in the fact that there was a sign out front that said don't bring it. I will be voting against this report and hoping that some day someone will take down somebody before they manage to wipe out seven, eight, three, or even one person who was sitting defenseless in front of a crowd of people knowing that bad guys really don't care. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. I'd like to agree with the previous speaker that bad guys don't follow rules and they don't read signs. However, if you have a rule or law that prohibits someone from having a gun in a particular place and someone walks in and you have probably cause to think they are carrying a gun, either you see it or you see the bulge of the gun or have some idea that they are carrying a gun, you can have them arrested immediately and thrown out. You don't have to wait for them to open fire before they are violating the law. That's the issue. If someone comes into a council chamber and there is some indication that they are packing heat you can call the police and have them arrested, have them thrown out. If you allow people to carry guns in you can have three people sitting there, obviously carrying guns. They are people you may be a little concerned about, what their motives are, you haven't seen them before, maybe they are doing something you think is a little suspicious, but you're not going to be able to take action unless they abuse that gun. I'd rather be able to throw the person out when I see the gun than have to sit by and wait. I think that's much better for public safety than having everybody in the room packing heat. Thank you, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I've listened with interest to the comments of my good colleagues from Hampden, Portland, and Lisbon Falls. I suspect that the decisions that their local selectmen or council might make would be different than the decisions the Augusta City Council might make. I respect that. We should be allowed to decide for ourselves as well. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason 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 (#197)

YEAS: Senators: COURTNEY, HASTINGS, JACKSON, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, SNOWE-MELLO, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HILL, HOBBS, KATZ, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SULLIVAN, THIBODEAU, TRAHAN, WOODBURY

EXCUSED: Senator: GOODALL

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

The Minority **OUGHT TO PASS** Report **ACCEPTED**.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-143) **READ**.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, this amendment simply provides that if a legislative body of a municipality adopts an ordinance that restricts the carrying of firearms in the city council chambers or other key offices that the municipality shall post in a prominent location outside the effected areas notice of that restriction. Thank you, Mr. President.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-143) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-143).

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/25/11) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Law Enforcement Officers from Out of State To Carry Concealed Weapons"

H.P. 339 L.D. 446

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-331)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 25, 2011, by Senator **WHITTEMORE** of Somerset

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 25, 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-331)**.)

(In Senate, May 25, 2011, Reports **READ**.)

Senator **WHITTEMORE** of Somerset moved the Senate **ACCEPT** the Majority **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.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand in opposition to the current motion of Ought to Pass on L.D. 446. Just handed out a piece of salmon colored paper to explain that there really is no reason to pass this bill today. It's already covered in federal law, which trumps ours. Law enforcement and retired law enforcement can currently carry concealed weapons in the state of Maine. That law has been on the books for quite a while. We know it well in Criminal Justice and Public Safety. We had a rather open debate on this. We saw no reason from either prosecutors or from the DAs or really from anyone else to put this in State statutes. It is covered under federal law, which we all know does trump us. We found that there was no problem. There was absolutely no problem. No cases with law enforcement or retired law enforcement coming in from another state on vacation or found any problems with the current law. I'm certainly going to stand up and oppose the motion. There really isn't a reason to do it. We ought to find a reason to do something before we do it. I would hope that the members of this Body will follow my light on Ought Not to Pass.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I rise obviously to support. This bill simply matches U.S. code. I have a testimony from the public hearing from Lieutenant David Bowler from the Maine State Police. Right now an outside law enforcement officer can presently fill out the application to carry a concealed weapon at the Maine Criminal Justice Academy. They must provide proper documentation. This bill just simply does two things, actually. It conforms us completely to the federal law. Second of all, it also eliminates something that we've noticed in Criminal Justice lately, it changes the language of concealed weapon to concealed firearm, which narrowly scopes what you are actually allowed to carry. Thank you, Mr. President.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think that this is one of those gun bills that really seems to make sense. I don't see any reason why we wouldn't vote for this, why we wouldn't pass it. We've had this issue before us in various committees in the past, committees that I've been on. I think the former speaker, the good Senator from Androscoggin, Senator Mason, pointed it out quite nicely, the two reasons. I don't think there is anything we need to be concerned about. These are law enforcement people. We're simply saying we're expressing our agreement with reciprocity. I would urge you to vote for the motion. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Whittemore 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 (#198)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFSKY, HILL

EXCUSED: Senator: GOODALL

27 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-331) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Relating to Locations where Concealed Weapons May Be Carried" H.P. 988 L.D. 1347

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-530)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - June 7, 2011, by Senator **MASON** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 7, 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-530)**.)

(In Senate, June 7, 2011, Reports **READ**.)

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** the Majority **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.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, okay, guns in State parks. I can't imagine concealing a weapon in a Speedo but that's what we're going to talk about. Last year we debated guns at Acadia National Park. We wanted to welcome our visitors here, that love to go to our parks, with a sign "Maine's Open for Business, Speedos selling well." I can just imagine a mother sitting at a beach with her children, taking out of the basket the little shovels for playing in the sand, beach blankets, tanning lotions, 44 Magnums. I think that that is a great ad that will do well on TV. I think that is going to be our leading advertisement program. Welcome to Maine, where the bears come out of the woods and try to bite you or you've got to argue over a parking space. By God you've got to be packing when you do them both. I see absolutely no reason to put guns in State parks that haven't been there before. We have State parks that have guns now, but it's called open carry because they are hunters. You can go to State parks during deer season and you're going to hunt in certain parks. Bradbury State Park, down my way, doesn't have that. We don't have open carry and we don't have concealed weapons. This bill, though, promotes hiding a gun in a purse, hiding a gun in your jacket, hiding a gun under your bathing trunks, remember that Speedo, and going to the beach, or going to the park, going to have a nice quiet day recreating out in nature. For some reason we're afraid of something that we have to go packing hidden guns. It's not about open carry. It's not about the Second Amendment. This is about hidden guns. When we invite people to come here from away and we invite our families to go out to our parks we're going to have big signs that we're open for business and we're open for packing. We want them to know that

they are going to be safer in our parks because some of the people are going to be hiding guns. You don't know which ones, so there will be no arguing over parking spaces because, God forbid, you should argue with somebody with a gun that you can't see. God forbid that there's going to be a bear that's going to come out and bite you. All the bears that I've ever seen in the woods have been at a long distance and if I make enough sounds they run even faster. For some reason we're afraid in the state, the safest state in the country and has been for a long time. We're afraid of each other all of a sudden. This year we've seen more gun bills come into Criminal Justice and Public Safety because we're afraid. We're afraid of people coming into the State House. I don't know. I'm not afraid of legislators. I'm not afraid of lobbyists. I'm not afraid of the kids that come here. We've got this long tradition of not shooting each other, but we have to have that bill. We had to have a bill now to bring guns into our State parks. I thought they were fairly safe. I thought that we, in our State parks, have Forest Rangers to help direct us to where those trails are. I didn't think we had to have Forest Rangers in the forests in our parks and on our beaches to defend us from either each other or wildlife. Let's start thinking of what we're doing here. Let's start thinking of what kind of a message we're sending to our visitors. Let's start thinking about the message we're sending to each other. We're, all of a sudden, in the safest state in the country, but we're afraid and we want to have concealed hidden weapons on us in places that we haven't ever had any reason to before. I don't know of anybody that's been attacked by Bambi yet. It's usually the other way around. If they turned half of these concealed weapons bills into open carry I might go along with them because then at least you are saying, "I'm wearing a gun, I'm packing my pistols, and I'm armed and dangerous and don't mess around with my parking space." Instead we're trying to send a message that we need to be armed in the state of Maine when you go to a park. Come on, let's not send that message out. Let's not tell people from away, let's not tell our families that they have to be packing or that they need to be packing. Let's get a grip. We had an election. There were consequences from that election. We had an election that really dealt with the economy, that really dealt with jobs, that didn't really deal with a lot of the social issues that have come to the floor. Ladies and gentlemen, please vote your commonsense. Vote that we live in the safest state in the country for a reason, because we all like each other, we all get along well with each other, and the most disgusting thought I can think of is me in a Speedo with a 44 Magnum. Thank you very much, ladies and gentlemen, for putting up with my little tirades.

Off Record Remarks

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

Senator **MASON:** Thank you Mr. President. I don't know how I'm supposed to follow that. Men and women of the Senate, this bill was originally a much larger bill that would have encompassed a lot of other areas in the state, but we, as a committee, took a lot of it out. One thing that I would like to point out is that I don't think that guns are a social issue. I have complete confidence in the

Legislature that we can handle more than one subject matter at a time. I think that we're all adults and I think that we can all handle more than just jobs and the economy. I'd also like to point out that in national parks, in Acadia National Park, you can carry concealed weapons. I don't know about anyone else, I mean if I see someone who is not wearing a badge carrying an open carry weapon in their holster and then I have the option of having somebody else carrying a weapon that is concealed, if the issue here is the appearance of guns then I think that we would rather see the guy that has a concealed weapon because you wouldn't know it was there. I think that this is just commonsense. I don't think that anyone is scared. I don't think that anyone is in fear for their life all of a sudden. I just think that if you want to have a concealed weapon, and you want to carry a weapon that is hidden, I just don't see the problem with it, Mr. President. Thank you.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, in my town we have three State parks, and we're very lucky. We also have other parks. In my district there are several parks. It strikes me that I can't take my dog to Crescent Beach. I can't walk my dog on the beach. I can't take my dog to Kettle Cove. I can't take my dog to Two Lights. I'd like to and maybe some people would like to have a gun at the State park. The community that I live in doesn't want people to be carrying concealed weapons, so I'm failing to understand what the issue is. If the issue isn't about fear, if the issue isn't about safety, if the issue is just that some people want to carry a gun, I guess to quote the Rolling Stones, "Sometimes you just can't always get what you want." I can't walk my dog and I think it's reasonable to expect that you can't hide your gun. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to comment on my good Senate Chair of Criminal Justice and Public Safety, the comment on where this bill started off. Boy, would I like to have stood up here and debated the original bill. It would have been fun, but I can only debate this amended version of it. It tends to show the mindset since the election of some people that have been elected to the Body and some of the bills that they have brought in that shows me that there is fear; fear of the unknown, fear in what I don't know, but it's fear. I have several State parks in my district that do not allow open carry or concealed weapons because they are family recreation areas and we don't want to have people coming from away or coming from here having weapons. Don't forget that we have reciprocating laws so that people that come from away can be at our facilities or our State parks with concealed weapons and our law enforcement don't even know that and don't even know who they are. I think that this bill is far more serious than some might think. I think I made light of some visual things that maybe we don't want to go back there, but we want to remember that the mothers with their children, from here or from away, sitting at the beach or at the park, unloading her bag doesn't want to worry about the people next to her unloading their bag with things that might lend them not to want to be in our State parks. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd just like to have people think a little bit differently about this issue. Not every State park in Maine is Daytona Beach setting. We have a State park in my area; it's called the Allagash Wilderness Waterway. It's a 93 mile stretch of the Allagash River which a lot of people in the state want to keep the very remote nature of this park intact. You currently can't carry firearms in that park. The problem with that is that the road, maintained by the landowners, sometimes goes through what is actually the park so it becomes a real problem for people that are hunting, it becomes a problem for bear baiters, and it becomes especially a problem for bear baiters on Sundays because we have a provision in the law currently that you can't carry firearms in the fields and forest in Maine on Sundays. It's evidence of hunting, so you can't have open carry on Sunday. These people still have to continue to bait bears on Sundays. For some of the previous comments about the safety issue, I tell you I want a gun with me whenever I go to a bear site. I think that everyone that does bait bears certainly carries a weapon for a very good reason. While I understand some of the previous people's comments and problems with this bill, there is also another side to it that is also a problem. It goes to show that Maine is a big state. I am supporting the Ought to Pass because of the issue that I see with some of the State parks we have in Maine.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to rise to tell you a story so you might have a better understanding, those that oppose this bill, as to why I'm going to support it. Back when I was a House member I was traveling home after a long day at the State House. I was turning onto the road on which I live and a car came out of nowhere and struck my vehicle. We both careened into the ditch. It was a young lady. We got out of our vehicles and assessed no injuries. Obviously both vehicles were disabled. I, out of courtesy to this young lady, offered to let her use my calling card to call her family and get some support. She didn't call her family. She called some friends. Four people showed up. To make a long story short, a road rage incident occurred. I was threatened, personally, with a jack. A man walked up to me, a foot from my face, and told me he was going to cave my head in with the floor jack. Before it was all said and done, five people were arrested. All of them spent time in jail. From that moment on, until the court case was settled, and probably a year later, I was scared for my safety and for the safety of my wife. After I got thinking about how that situation played out for me, I did seek a concealed weapons permit. I carried it with me for a long time. I no longer carry it. I didn't carry it for my safety, I carried it because I cared about my wife and I wanted to be able to protect her if I ever saw one of these five individuals again. Now imagine that you are a woman who has been assaulted, who was stalked, and you want to go out and find some way to make the playing field even. The only option you may have is to seek self-defense. That might be mace, it may be a taser, or it may be a pistol. I will tell you that you don't feel safe just because you walk over a borderline that says it's a State park. Your safety is always a concern. When

you are in these situations, I think people need to be able to defend themselves. That is why I'm going to support this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason 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 (#199)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, WOODBURY

EXCUSED: Senator: GOODALL

27 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-530) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **COURTNEY** of York 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.

Off Record Remarks

Senator **ROSEN** of Hancock was granted unanimous consent to address the Senate off the Record.

Senator **COLLINS** of York 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 the President.

ORDERS OF THE DAY

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

SENATE REPORT - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management"

S.P. 52 L.D. 159

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-139)**

Tabled - May 23, 2011, by Senator **SAVIELLO** of Franklin

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 23, 2011, Report **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 Chair noted the presence of the Senator from Sagadahoc, Senator **GOODALL**.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#200)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, the **UGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-139) **READ**.

On motion by Senator **COLLINS** of York, Senate Amendment "B" (S-276) to Committee Amendment "A" (S-139) **READ**.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, as you all know from the amendment, the language, it states that the set-back around vernal pools will be 75 feet, providing you all agree with me. It was not that many years ago that most folks weren't even aware of vernal pools, didn't understand them. Then we put in a set-back of 250 feet and I heard from my constituents saying, as I was campaigning last Summer and last Fall, that 250 feet was just too restrictive and it encumbered on their property rights. I had numerous meetings with constituents and some business owners as well. They just couldn't understand why it was 250 feet. In some instances the property owners said they had numerous vernal pool areas on their property and lost a lot of acreage. At that time they were very restricted and couldn't do much with the land. However, they were still required to pay taxes on it. It was really a hardship for a lot of large property owners. My original bill, which was presented a couple of months ago, was 75 feet because that is what my constituency back home wanted. I agreed with them. I'm digressing just a bit. We all remember that vernal pools weren't understood by anybody. The name wasn't familiar with many people at all. All of a sudden, now, we have a set-back of 250 feet under current law. This is very restrictive and it's got to be changed. People in Maine want it changed. When I presented my initial bill a couple of months ago I had pretty widespread support for 75 feet from Maine's DEP and IF&W. They agreed. As things change here and ideas get compromised, folks came to me and said that perhaps 150 feet would be the better course of action. I had an amendment in not too long ago, two days ago, for 150 feet. Over the past weekend, the last few days, up until even last night as a matter of fact, I received phone calls and other correspondence from my constituency back home. They said, "What happened to the 75 feet? Why are we back to 150?" I honestly didn't have a good

argument for them. I produced this amendment to bring it back to the original bill that I presented to the Maine Legislature of 75 feet.

Seventy-five feet is not the answer for everybody. Some people want it completely abolished, any kind of set-back. However, I'm not part of that group. There are some folks who think 250 feet is not enough, they want 500 feet. I respect the property rights of folks back home. A lot of vernal pools are only there for a short time during the Spring and the beginning of the year, they dry up. Nevertheless, I think you have to respect property rights, property values, and what can happen to a person's property rights as these restrictions become more cumbersome to deal with. In my belief, 75 feet is right. Thank you for your attention.

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: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. The committee I serve on as Chair with my good friend, the Senator from Sagadahoc, Senator Goodall, and others heard the hearing. In the hearing there were about 17 people who came in and testified to change the buffer or the consultation zone. Let me make it clear. The consultation zone. Not a set-back, not a non-development zone, a consultation zone. Fourteen of those people, as we weaved through to try to understand the issue, found out it was high and moderate value wading bird habitat. As my friends who have sat through the committee know that I have affectionally called that duck habitat. In fact, that is often the maps that you have seen around that show all these big zones around it that you can't do anything in. Actually in L.D. 159 we're going to address that and begin repairing it. The second thing is that, yes, the commissioners came down and did testify in favor of 75 feet. This is a policy decision, not a biological decision. The literature is very clear; 250 feet is an appropriate distance to protect, and I want to make sure I say these words, a significant vernal pool. A significant vernal pool has to have four special criteria. It has to have blue potted salamanders, yellow spotted salamanders, wood frogs, and shrimp fairies. If it doesn't have those things it's not a significant vernal pool. So far in the state of Maine we have approximately 222 of them. As we weaved through this and tried to understand why vernal pools were getting in the way, we found out things about straddling vernal pools, whether on my property and your property, and that the department had made the decision those were going to be significant when in fact they weren't. They made that decision. We fixed that. We found out that if it was on your property and not on my property, but the buffer came over to my side, I was going to be restricted in what I could do. We fixed that. For my good friend, the Senator from Somerset, Senator Thomas, we fixed the artificial man-made skidder ruts. Skidder ruts cannot be significant vernal pools. We even fixed the dates to make sure when they were dry that they would no longer be considered significant vernal pools.

Let me step back to how come this is important. I think it was in about 1986 the Clean Water Act, section 204, said that we shall have no loss of wetlands. Vernal pools are considered to be wetlands. They are not classified as vernal pools by the federal

government. At that time the President, who happened to be the other Bush, decided that, in fact, there would be no net loss of wetlands in the United States. No net loss. He didn't care whether they were significant or not, it just mattered if they had certain criteria. He charged the Corp of Engineers with that responsibility. That Corp of Engineer group has decided that 100 feet is the line of demarcation, that if you do any disturbance within that zone they will be a significant player. Many of you, I think, have seen the memos that have been out there about perhaps what was said and what wasn't said. All I can tell you that start to change this consultation zone you will have the Corp of Engineers playing at all the developments in the state of Maine.

Let me just close with this concept. I am also a property rights individual. It's very important to me. However, this does not take away property rights. It's a consultation zone. It means that if you have one of these 222 vernal pools on your property you need to sit down with the State and you can actually change 25% of it with a permit by rule. In fact, you can destroy the whole thing with a permit. It doesn't take away property rights; it just makes you recognize that you have something of significance that is critical for our wildlife, for our tourism, and for things that I also think are important to the state of Maine. Thank you very much, Mr. President.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, there are a couple of things I neglected to mention. When you are looking at neighboring states here in New England, the set-back or the consultation zone, as it is being called now, is also in proposed legislation. These zones in the set-backs, I'm going to call them set-backs, vary from state to state. Some have nothing. Some have 50 feet. It's all over the gamut of numbers of feet for a set-back. It does affect property rights. I beg to differ with my colleague from Franklin County. When you are dealing with an agency of state government, and in some instances the federal government, it's pretty overwhelming for the average person to deal with. You and I in this Chamber, we help constituents all the time dealing with different agencies here in state government because they are overwhelmed with trying to work things out through the bureaucracies here in Augusta, so they need our help. If there are as small a number of vernal pools that we are talking about, so called significant vernal pools and there aren't that many, let's make it 75 feet. Thank you.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I believe that both of the good Senators are right, but there is a problem. The previous Department of Environmental Protection went to all the towns and all the planning boards and said, "You will have a 250 foot set-back." Most towns read that as meaning you can't do anything in that 250 feet. It's not consultation zone. It is, in fact, a set-back. A lot of these set-backs are called resource protection zones. There is a misunderstanding with the local communities and the planning boards. As long as the 250 foot description remains on the books that is what they are going to go by. We need to change it to something that these planning boards and towns can understand

so that they know that that's not a set-back, so that they know that that's not a place where you can't do anything, and so that they know that we can use that land, that it hasn't been taken away from us by a shore land zoning law. I'm going to support the motion. I know it causes all kinds of problem, but if we just change the problem by changing the rules and don't change the 250 foot language we've solved nothing and landowners in most towns still won't be able to use their property. Thank you.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today not to go over or rehash the facts that my good friend and colleague from Franklin stated, because he outlined the committee process and many areas that we fixed. I ask you to think about, in its entirety, the legislation that has come through this Body as well as the other and how we've addressed many concerns, and rightfully so, that have been voiced by property owners across the state. In its totality, we have made a great difference and we have struck a much better balance. One of the reasons why we should not be like other states is because of our recreational industry, our way of life, and that the fabric of our environment depends on small things such as vernal pools. Frankly, the Senator from York, Senator Collins, is right. People are very unfamiliar with the term and it creates pause when anyone starts realizing that they may have a potential vernal pool on their property, but it must be significant. Of the 16 applications, zero were denied. We have made progress and I believe we will keep reviewing this area, as well as many other areas such as resource protection and shore line protection, but we have to strike the right balance. We have to strike the right balance in terms of property rights. We have to strike the right balance in regards to our wildlife, as well as our economy. I believe the underlying law does that and I would ask you to vote against this motion. Thank you.

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

Senator **SAVIELLO:** Thank you Mr. President. Just quick on three things that were said. First, other states. You are actually correct. Massachusetts has a 100 foot buffer. It's a no development zone. In fact, in Massachusetts they do not exempt forestry operations. You are restricted about what you can do around those forestry operations. They went one step further. They said to the towns; guess what, you can have your own restrictions. When I talked to their DEP I found out most towns have an additional 400 feet around that and they don't designate them as significant. It's just basically a vernal pool, which means it's a wet hole during the summer. The second thing is that some of the other states do not have buffers. That is correct. They treat them as wetlands. You have to carefully look at their wetland regulations, which create all kinds of buffers and restrictions before you can operate, including no forestry exemptions. The third thing is that my good friend, the Senator from Somerset, Senator Thomas, was correct. One of the problems has been the towns. In fact, I shared with you a letter that we are sending to the department that says we have a problem. The problem is that the towns are misinterpreting this information. How are we going to get that out to them so they stop that, because that, in fact, has been some of the situations?

I would welcome your suggestions as to how we might be able to do that in an effective manner so that when you walk into the town they say you can't do anything. That's not the intent, but that is what we've tried to fix. I think I'll end with that. Thank you very much, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Collins to Adopt Senate Amendment "B" (S-276) to Committee Amendment "A" (S-139). 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 (#201)

YEAS: Senators: COLLINS, COURTNEY, MASON, PLOWMAN, SHERMAN, THOMAS

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THIBODEAU, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

6 Senators having voted in the affirmative and 29 Senators having voted in the negative, the motion by Senator **COLLINS** of York to **ADOPT** Senate Amendment "B" (S-276) to Committee Amendment "A" (S-139), **FAILED**.

Committee Amendment "A" (S-139) **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-139)**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/6/11) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Create a 5-year Statute of Limitations for Environmental Violations"

S.P. 87 L.D. 281

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-239)** (6 members)

Tabled - June 6, 2011, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, June 6, 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: The Chair recognizes the Senator from Lincoln, Senator Trahan.

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

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you Mr. President. Could somebody get up and explain, and I apologize for not being up to speed on this bill, what it does?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, it is my pleasure to explain what this bill does. First, the title is a little deceptive because it talks about a 5 year statute of limitations for environmental violations. In fact, what the bill does, and the amendment before you, is create a 6 year statute of limitations for environmental actions. When this bill started off it has really morphed tremendously since it started. The bill started off as a 5 year statute of limitations for any environmental action. What the amendment before you does is this, in the case of a violation of one of the myriad of rules and regulations regulated by the Department of Environmental Protection, once this is passed, the department and the State of Maine will have a 6 year period to enforce the regulation. Six years from when, because one of the objections made and one of the points raised in committee was that it's hard to discover environmental violations. They are often underground. Once you discover them it's hard to figure out who did it. That might allow polluters to escape scot free. The Majority Report listened to those concerns.

Now, this is what the Majority Report says. The State will have 6 years from the latest to occur of the discovery by the State, either via the Department or the AG's Office, of the violation and the identification.

THE PRESIDENT: The Senator will defer. For what reason does the Senator from Cumberland, Senator Dill, rise?

Senator **DILL:** Thank you Mr. President. I apologize profusely to my good Chair. This is the Minority Report, not the Majority Report. Just for clarification.

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

Senator **HASTINGS**: Thank you Mr. President. I am speaking to, for everyone's clarification, Committee Amendment "A". To tell you the truth, I don't have the report in front of me. It is the Minority Report. Thank you for the clarification.

The Minority Report, 6 years from the time the department discovers that there has been a violation, which might be years after it happened. Then they have to discover who did it. It's 6 years from the latter of discover and who did it and 6 years from the last date on an ongoing violation, many of which our environmental violations are ongoing until corrected, day to day. What can stop the 6 years from running? Of course starting a lawsuit would do it, but simply having the commissioner propose an administrative consent agreement to the violator is sufficient to stop the 6 years from running.

We have statute of limitations in virtually every violation that we create in our statutes; 6 years being the general civil statute of limitations. There is a reason for a statute of limitations. It becomes very difficult to defend yourself after too much passage of time. Records are lost. Memories are faded. The State, in most of our bills, have recognized that we should put an obligation on the State or the person who wishes to bring a lawsuit to commence it within a certain reasonable amount of time after the injury or the harm occurred. This bill, the Minority Report, the report before you with Committee Amendment "A", settles that at 6 years, 6 full years from the time the State and department note what happened and who did it.

The argument is that people are going to get away scot free. Well, I will draw your attention to the fiscal note that is now attached to this bill. Because of these changes that have been made, the fiscal note now points out that requiring enforcement actions for environmental law violations to be commenced within 6 years is not expected to have a significant impact on fine or penalty revenues to the General Fund. In sum, it has none. This will not allow people to get away scot free. It's not about that at all. It's about creating finality. We know that the Department of Environmental Protection has been known, and we may hear about this too, to stockpile minor violations. Then when they finally decide to file a claim they bring up things that happened 10, 15, or 20 years ago and throw them in, sort of the kitchen sink approach. It's not fair. If the State knows you've done something, to ask them to either agree that it's not worth going forward or bring their case within 6 years is asking very little. I think it's entirely reasonable and I urge your support of the pending motion to support Committee Amendment "A". Thank you very much, Mr. President.

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

Senator **SNOWE-MELLO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I stand before you in support of the pending motion and in strong support of L.D. 281, which is "An Act to Create a 5-year Statute of Limitations for Environmental Violations." They probably should have amended the title of this. Creating a 6 year statute of limitations for environmental violations dovetails with the Senate's goal to improve regulatory fairness, effectiveness, and impact on Maine's business climate. I want to ensure that Maine's environment is protected and that we are able to create jobs. These goals are not mutually exclusive. The bill establishes a 6 year statute of limitation for enforcement actions for civil or administrative penalties for all environmental violations. The 6 year period begins to run on that

date the Department of Environmental Protection or the Attorney General discovers the act or emissions that gives rise to the violation or violations. It does not put a time limit on the amount of time it takes to resolve or clean up the violation site. I think that is important and I'm going to say it again. It does not put a time limit on the amount of time it takes to resolve or clean up the violation site. This change is important for the following reasons. Number one, businesses and property owners need finality. Six years from the date of discovery will allow plenty of time to resolve the matter. Number two, 6 years will also ensure that all evidence and witness testimony is fresh. It will drive enforcement, adjudication, and clean up at a swift pace. Isn't that what we want? The change to a 6 year statute of limitations is a reasonable, responsible change that will give greater certainty to business while effectively protecting our environment. It's really a win-win situation. If passed, the State law will be a year more than the federal law. Most of Maine's statutes of limitations are 6 years or less. Simplified, and by example only, please consider the following. Personal injury - 6 years. Attorney malpractice - 6 years. Wrongful death - 2 years. Maine Tort Claims Act - 180 days to file a notice of claim and then 2 years to file suit. Medical malpractice - 3 years. As someone who enjoys the outdoors and is grateful to live in our beautiful state, I want to preserve and I want to protect our environment. Simply said, if someone pollutes the environment I'd want them held accountable. I'd want them to know that action will be taken by the State within 6 years and I want the clean up to begin as soon as possible. Thank you.

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

Senator **DILL**: Thank you Mr. President. Men and women of the Senate, I urge you to vote against the pending motion and move on to the Majority Report. Currently, as many of you know, Maine has a 10 year statute of limitations for only two types of environmental violations. That relates to air and waste water discharge enforcement actions. This bill is significant because it attempts to create a 6 year statute of limitation and what that does is transfer responsibility for paying for environmental clean up from the responsible party to the taxpayers of Maine. That is what distinguishes these types of statute of limitations from your general civil statute of limitations. If an environmental violation happens it's something that may take significant resources to clean up and it simply is not fair to the people of the state of Maine for them to be held responsible and let the responsible party off the hook. It's an important bill and I encourage you to think long and hard before you take this drastic measure to impose a 6 year statute of limitation when there has been none.

I want to point out a few more quick things. This statute of limitations would apply to every environmental law on the books and that is significant. The Assistant Attorney General who spoke to our committee said, "It is possible and likely that some cases will be lost due to statute of limitations." That's the nature of statute of limitations. What that means is it's possible and likely that the responsibility for cleaning up these sites will be borne by the taxpayers. I don't think that is a good idea. There wasn't a single specific example of any business, there wasn't a single business that came forward to the committee, and there wasn't a single landowner that came forward to the committee that gave us an example of why this particular bill would have helped them. There is just simply no support for this by individual Maine businesses or individual Maine landowners. By passing this bill,

we'll be taking a very important tool away from our department for enforcing these kinds of violations. These are not like other cases where evidence becomes stale. This isn't like who ran the red light. This is environmental violations occurring. They are damaging our environment. They are endangering our children. They are polluting our air and our rivers. Usually there is not a lot of he said - she said about it. These are important and significant problems that we, as a society, simply have to make sure that the responsible parties pay their share. This is about corporate responsibility. I urge you to reject the pending motion. Thank you.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, of course I do not know the intimate details of the workings of this bill, not serving on the Judiciary Committee, but having served two terms now on the Joint Standing Committee on Natural Resources, which is now with Environment, this issue has yet to ever come up, nor has anyone ever raised it with me, personally, that our statute of limitations needs to be 6 years or any year. Environmental problems and enforcement actions are unique. What we need to do is to make sure we are working collaboratively with the departments and, at times, change the culture. One of the issues with environmental actions is that often they aren't discoverable because they are on people's properties and an individual, a person, has not been harmed, per say, so they don't get reported. This just goes down a very slippery slope and, frankly, I think we're trying to solve something where there is not a problem. I will join with the good Senator from Cumberland's remarks as she spoke more eloquently about the details about what she heard in committee, but I would ask for everyone to oppose the pending motion. Thank you, Mr. President.

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

Senator **SAVIELLO:** Thank you Mr. President. I guess I'm a living example because I'm going to give you some real ones. Unfortunately, I've had to do this. Let me start first by saying some of you know, the good Representative Bob Deschaine and I actually went over and met with the DEP this year, sat down with them for almost 8 hours. We let them unload on us; tell us what their issues were. It was interesting because we had at least a couple of people say they wanted to be alone with us so that they could have a conversation. They said, "You have to change this. We're tired. We're chasing after stuff that's 25 and 30 years old, that we have no idea whose they are. We can't do anything about it. We need to focus on the last 5 to 6 years." That came from them, not from us. That is the first point I want to make.

The second point I want to make is that I want to put it in perspective for you, because this is real. Think about it. Nobody in here I know drives too fast, but I do. Every once in a while the red light goes on and they pull me over and they give me a warning. Not in the last 10 years because my plate is a different color, but prior to that they would give me a warning. Now let's suppose I'm driving down the Interstate and this time I'm going really a little too fast. They give me a ticket. They say, "Oh, by the way, we've looked at your last 10 years of your driving record and we see you've got a number of warnings, so we're going to

have you pay for each one of those because we never exempted you from that warning, but we see that you've done that. We need to make this fine a little bit bigger so that you get the message." Let me also lay out to you that in the Clean Air Act, something that I've dealt with a little bit, there is a 6 year year limitation on any violation that can be enforced against at the federal level. The Clean Water Act is 3 years. In fact, in our licenses we're required to keep records for that long on those particular items. On hazardous waste, so you know, there is no limitation because you're responsible for that from cradle to grave.

Let me give you a real example. In a place where I, at one time, worked every once in a while you have a smoky stack. They call it passive. You all have that if you have a woodstove. You don't get enough air or oxygen into your stove and it's a little smoky. We have a short window of time that we're allowed to have that, like 6 minutes. You're talking a very large boiler. You react as fast as you can. Your allowance is usually 6 minutes, but sometimes, unfortunately, it creeps over. I'll just give you an example. When I first got to the facility I worked in, we used to have about 56 of these a month. I shouldn't say this because now it's going to happen; they haven't had one in years because we figured out how to manage our business. At the end of the quarter we send in a letter. We say, "During the quarter we had this number of incidents. This is what happened and this is what we did to correct it and this is the final corrective action." We'll get back a letter about a month later that says, "We read your report. Thank you very much. These we do believe, stuff happens. We give you the exemption. However, these we are not sure about." At that point it enters the black hole. We have no idea what's going to happen with them. We don't have an idea until there is an incident of bigger magnitude; driving a little faster or one might walk in and say, "It's the end of the year, I might have a few incidents from last year, I'd like to clean up my record and start off clean," only to have your file come out and they lay out your file and say, "Geez." Just so you know, I've been there when they've did it for 10 years. They went back 10 years to find out every little incident that occurred that they never got back to us. I don't think it will happen under the present administration and I don't think it will happen any more if you have this working relationship with the DEP, but it did happen. That is why this bill is necessary.

There are some key words because what I've heard in here is a conversation about, "What about if I find this today?" I think the good Senator pointed out, it's at the point of discovery. This doesn't stop an action from taking place. What it does is means that if I've got all these things that are added up I'd better do something about it otherwise it's not important enough to go forward. You may not have heard from anybody, perhaps they didn't want to come and talk to you because they were concerned about it, but this is a real issue. Thank you very much, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. I'd like to pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER**: Thank you Mr. President. I'll give you a scenario and hopefully somebody will be able to answer this. If somebody has been dumping something on a property for years, and the period of 6 years has expired, and there is a large environmental issue that needs to be addressed; who is responsible for the cost of cleaning that environmental problem up?

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO**: Thank you Mr. President. There is no statute of limitations in that particular case. It would depend if the person is still in business. He would be responsible because, obviously, under this bill it's at the time of discovery. If the person went out of business and, sadly many of us are dealing with this now, it becomes the responsible party. I sent that waste to that facility. I, then, am responsible. Some of our school systems are paying for some of the oil clean-ups sites that we have in the state of Maine because it's cradle to grave and it's forever for hazardous materials.

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

Senator **DILL**: Thank you Mr. President. I also would like to chime in and try to answer that question. My answer is a little bit different. I believe that, yes, under the federal statute of limitation that would be the case. Under the current motion, the current bill that's before us, the answer would be that the taxpayers of the state of Maine would pay for the clean-up.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **ALFOND**: Thank you Mr. President. When L.D. 281 was heard in front of the Environment and Natural Resources Committee could someone tell me or answer the question if any business testified in support?

THE PRESIDENT: I believe L.D. 281 was heard in front of the Judiciary Committee.

Senator **ALFOND**: Thank you Mr. President. Excuse me. In front of the Judiciary Committee. Did any business come and testify in support of L.D. 281?

THE PRESIDENT: 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 Oxford, Senator Hastings.

Senator **HASTINGS**: Thank you Mr. President. Ladies and gentlemen of the Senate, my notes show that yes, the Maine Pulp

and Paper industry did appear and the Maine Energy Dealers did appear, both in support of this legislation.

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

Senator **GOODALL**: Thank you Mr. President. Men and women of the Senate, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **GOODALL**: Thank you Mr. President. To anyone who wishes to answer, my question is; is there a phase-in period for this law, meaning what about potential enforcement actions that have not been commenced or about to lapse that have been discovered in the past or have yet to be discovered? Was that considered at the time in the committee?

THE PRESIDENT: The Senator from Sagadahoc, Senator Goodall poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO**: Thank you Mr. President. In response to the question. One, federal law always trumps. We cannot be less restrictive than the federal law. I would disagree on the interpretation that hazardous waste would become the people's problem. In fact, we actually have an oil clean-up fund that sits out there, for those of us that use oil. On the other question that the Senator asked, good question, but I suspect we have 90 days. In fact, if there is pending action out there, I'm assuming that if it is pending then they will find a way to resolve it pretty quickly.

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

Senator **SCHNEIDER**: Thank you Mr. President. My apologies, Mr. President, but I do have another question I'd like to pose through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER**: Thank you Mr. President. Under federal law, hazardous waste, is that only considered a certain type of environmental problem? In other words, if it's not considered hazardous, but it's still a problem for our ground water supply or the air, by our environmental regulations would we, then, be responsible, the taxpayers of Maine, for addressing it if we impose this and the time period has expired?

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO**: Thank you Mr. President. The hazardous waste rules and laws are very specific about what is hazardous or not. However, in the State of Maine we define all chemical spills as a reportable issue. If you have a spill, and we actually define it as inside a building, we aren't like the feds where it has to be to the environment. If I have a spill inside my building I'm

responsible for cleaning it up. The spiller is responsible, not the people of the state of Maine.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, if we have a federal statute of limitations that is great and that will protect us, then why do we need a state statute of limitations? If we don't need a state statute of limitations we shouldn't pass the bill. I would simply say to the good Senator from Franklin, Senator Saviello, in his hypothetical, by passing this bill if we were to stop the Senator from Franklin, Senator Saviello, and find out that he was, in fact, indebted to the State with criminal fines amounting to \$100,000, but the statute of limitations had passed, then the State of Maine is out of luck. If we leave things the way they are, and we were to use the Senator from Franklin, Senator Saviello's hypothetical, then we could collect it from him, the responsible party. This is about holding people accountable. It's about having the person responsible for the environmental damage pay to have it cleaned up. I simply do not understand why we want to let someone who pollutes our land, pollutes our air, pollutes our environment, our Maine brand, why we want to let them off the hook. There were two lobbyists for associations. The Senator from Oxford, Senator Hastings was correct, I certainly show that the lobbyists for Maine Pulp and Paper and Maine Energy Marketers Association did testify in favor of the bill. There was not a single individual business or landowner who testified in support and gave us a specific example as to why this very, in my view, damaging bill is necessary. Thank you.

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

Senator **HASTINGS:** Thank you Mr. President. There seems to be concern that people are going to get away with something under this bill. Look at the fiscal note. Not only do these make the responsible party responsible for the clean-up but they are responsible for fines. They go hand in hand. Both the department and the Attorney General have told us that they anticipate no significant impact in fine or penalty revenue. What that means is that they also anticipate no inability to pursue the responsible party within their 6 year gap from the time they learn who that person is. Remember, it's 6 years from when they learn it happened, which may be years after it happened, plus the 6 years doesn't start until they know who it is. The gears of government may grind slowly, but 6 years is a long time to get things moving and I think to suggest that this is going to allow people to escape responsibility is, to me, simply an unreasonable assertion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Hastings to Accept the Minority 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 (#202)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, WOODBURY

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-239) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

On motion by Senator **ROSEN** of Hancock, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife
 S.P. 155 L.D. 563
 (S "B" S-237 to C "A" S-154)

Tabled - June 7, 2011, by Senator **ROSEN** of Hancock

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, June 3, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-154) AS AMENDED BY SENATE AMENDMENT "B" (S-237)** thereto.)

(In House, June 7, 2011, **FAILED FINAL PASSAGE**.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

The Chair laid before the Senate the following Tabled and Later (5/24/11) Assigned matter:

HOUSE REPORT - from 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

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-316)**

Tabled - May 24, 2011, by Senator **ALFOND** of Cumberland

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 23, 2011, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316)**.)

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

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-316) **READ.**

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-275) to Committee Amendment "A" (H-316) **READ.**

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

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, just real quickly. This bill was put in after we had a number of hearings after we inherited the bottle bills from the Environment and Natural Resources Committee. We were trying to address small wine stores that sell boutique wines. They could not enter into the co-mingling agreements, which allows everything to come together. We passed the bill. Unfortunately, the way we wrote it, all of the deposits that you don't take back, the Senator from Hancock, Senator Rosen, takes to put into the budget. When they read it they read it as if we were going to exempt 50% of that, which is about \$6,400. We have now modified it so it clearly addresses those small wine distributors, wine stores, that have these boutique wines. Again, let's hope that they take it all these bottles back because the \$6,000 won't be there anyways. I hope that made a lot of sense. That's what we had to do. Thank you very much.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-275) to Committee Amendment "A" (H-316) **ADOPTED.**

Committee Amendment "A" (H-316) as Amended by Senate Amendment "A" (S-275) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-316) AS AMENDED BY SENATE AMENDMENT "A" (S-275)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/6/11) Assigned matter:

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Concerning Fees for Users of County Registries of Deeds" (EMERGENCY)

H.P. 1100 L.D. 1499

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-503)**

Tabled - June 6, 2011, by Senator **THOMAS** of Somerset

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, June 3, 2011, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503)**.)

(In Senate, June 6, 2011, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-503) **READ.**

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-280) to Committee Amendment "A" (H-503) **READ.**

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this deals with the registry of deeds and there has been a problem with the charges that these registrars have been able to charge for copies. After hearing this bill the committee set the charges that these registrars would be able to charge and we set the electronic copies at 50¢ per copy and the paper copies at \$1 per copy. We did not address, in the committee bill, bulk copies or the people who want large quantities. In the original bill what we were trying to do is just cover the costs so that the tax payers aren't burdened with the costs of running the registry of deeds. There are bulk purchases and those have a significant cost and they needed to be addressed. This amendment addresses those and it charges 5¢ a piece for all copies of 1,000 or more digital abstracts of consecutive records. Also we did not address the big copies, the plans. Those need to be addressed. We addressed those in consultation with all the interested parties and came to a cost of \$5 per copy. Everyone has agreed with that. At the same time we've carried over a bill that addresses this same issue and it addresses the fees for recording these documents. We're going to address that in the next legislative year. We put a sunset in this amendment so that we have time to address the whole issue comprehensively and take a look at both sides of the issue, make sure that we've done this properly. There are other people looking at these same issues because of the Freedom of

Information and the access to public information. Let's have this temporary fix so that registrars have breathing room and then we'll fix this in the next legislative year. Thank you.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, very briefly. I want to thank the Senator from Somerset, Senator Thomas, for putting in this amendment. The Judiciary Committee, as you may know, deals with the Freedom of Information on a regular basis. The registry of deeds records, there is no question, are public documents. The records of the Secretary of State are public documents. We are now dealing with, and we've got to face it head on, are the requests for bulk purchases of public documents, often for commercial use. How do we deal with that? How do we price that? How do we take into account that, on the one hand, it is a public document and it being made available for the public is a good thing but on the other hand recognizing that government does invest a good deal of money in producing and preserving these documents. It's a major issue. It's got to be faced by every state in the country right now. This is one instance where it's come up. It's come up, we've had it before, on the Inland Fisheries and Wildlife and the hunting and fishing licenses. There are myriad problems we have with this. I am in hopes that the Freedom of Information Advisory Committee will agree to take this up and bring the stakeholders together and see if we can come up with some sort of comprehensive policy on the bulk sale of our state, county, and town records that protect all interests involved; the interest in the right of the public to know and the interest of government to at least have its costs covered. I very much appreciate the Senator from Somerset, Senator Thomas' amendment. I just wanted to let you know what was behind all this and accommodations to all the concerns. Thank you, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I would whole heartedly agree with this as a member of this committee. We are extremely concerned with the cost to our county workers. It's huge. Also we're paying for somebody else to use something for commercial use. We need that breathing time to be able to figure this out. This is a stop gap measure for the time being and then minds much brighter than mine need to figure out a way to make it work. I would fully support this.

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

Senator **SCHNEIDER:** Thank you Mr. President. Just pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you Mr. President. I'm just wondering if it makes sense that we're passing something that clearly doesn't seem like it's really been flushed out. What is really the best solution here? It just seems to me that this is something that probably should go back to the committee for a

more thorough investigation, especially given what the Chair of the Judiciary Committee just said. Perhaps this is something that should be held over and looked at more carefully. It just seems like figures and amounts are just sort of being picked out of the air and that this is an issue that should be more carefully addressed. That is my concern, that we are just sort of plowing ahead. There was no public discussion, for example, on the bulk piece. I have concerns about that. My question is, perhaps this is something that might be better off held over. That's my query.

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, there was a lot of public testimony. Most of the county clerks were there, the head of the clerks. We talked about this particular piece. When it went to the Judiciary for their review we needed to make some prices. This was full public hearing at a time when we were not stressed. Well, we're always stressed to make deadlines. We were not overly stressed. We did work on this. These were not figures taken out of the air. They were figures based on what the county clerks, the deed clerks, believed they were spending to do this and what it would cost. I'm very comfortable with this. I think it was fully vetted. I think there are 13 members of the committee that were very comfortable with it, both sides of the aisle. Thank you.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, in preparing this amendment we worked very carefully with all the interested parties. These were definitely not numbers snatched out of thin air. We worked with the register of deeds to best determine their costs. This is a temporary measure and we have held a bill over and we will take a look at this next year, when it will be even further vetted. We vetted this in committee with the register of deeds and all of the interested parties. We worked with those interested parties to craft this amendment. The concerns of the good Senator from Penobscot have, in fact, been addressed and we will address them further next year.

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-280) to Committee Amendment "A" (H-503) **ADOPTED.**

Committee Amendment "A" (H-503) as Amended by Senate Amendment "A" (S-280) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY SENATE AMENDMENT "A" (S-280)** thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Ensure Accountability in State Contracts"

S.P. 468 L.D. 1492

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-262)** (4 members)

Tabled - June 7, 2011, by Senator **THOMAS** of Somerset

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 7, 2011, Reports **READ**.)

On motion by Senator **THOMAS** of Somerset, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-262) **READ**.

On motion by Senator **ALFOND** of Cumberland, Senate Amendment "A" (S-278) to Committee Amendment "A" (S-262) **READ**.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to thank the good Chair from the State and Local Committee for moving the Minority Report because I think as more information came out from this bill, it became one that, I think, everyone could get behind around transparency of government contracts. Over 7,000 contracts every year go out for RFPs and what this bill is after is to shine a light on those RFPs. What became very clear is trying to have every RFP get put on the web was impossible; 7,000 is way too much. What we decided to do was to look at just those contracts over \$1 million, which now puts that select group of around 100 RFPs that would be put on the web so that the public and everyone can understand where their tax dollars are being used. I want to, again, thank the good Chair and the lead from State and Local for putting forth the Minority and for allowing this amendment to be put on. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, forgive me for not fully understanding the procedure when I first got up, but I knew the amendment was coming. I voted against this bill in committee, but the amendment that is offered by the Senator from Cumberland, Senator Alfond, changes what was a workable bill, a great idea but an unworkable bill, into a great idea with a workable solution. Thank you.

On motion by Senator **ALFOND** of Cumberland, Senate Amendment "A" (S-278) to Committee Amendment "A" (S-262) **ADOPTED**.

Committee Amendment "A" (S-262) as Amended by Senate Amendment "A" (S-278) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-262) AS AMENDED BY SENATE AMENDMENT "A" (S-278)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Preserve the Integrity of the Voter Registration and Election Process"

H.P. 1015 L.D. 1376

Majority - **Ought to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-352)** (6 members)

Tabled - June 7, 2011, by Senator **FARNHAM** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 6, 2011, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, June 7, 2011, Reports **READ**.)

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT 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 PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Mr. President. Women and men of the Senate, if there is one absolutely core principle of our democracy it is the right to vote. Same day registration, I believe, is an essential policy in assuring that citizens have the greatest opportunity to exercise that right. If there are issues of voter fraud we should identify and prosecute the fraud, not take away the rights of legal voters who want to exercise their legal right to participate in the democratic process. I urge my colleagues most emphatically to reject this motion. Thank you.

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

Senator **ALFOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, I also, too, rise in opposition of L.D. 1376. You might not have heard these words come out of my mouth because I usually don't look at and talk about the U.S. Constitution or the Bill of Rights very much but they are not merely guiding principles, they are law. Perhaps there is no right more valued than our freedom of speech. Voting is the best way for our voices to be heard. Before I tell you why I think L.D. 1376 is harmful to our voting rights, I'd like to do a quick history lesson. The Legislature, in 1973 under the leadership of Senator Elden Shute, a Republican from Farmington, passed same day voter registration with bi-partisan support. Same day voter registration has been the law in Maine since that day for more than 38 years, longer than I have been alive. We see that L.D. 1376 could be a dramatic departure from the way voting has been conducted in Maine for the last 38 years. By eliminating same day voter registration, L.D. 1376 is introducing an extra stumbling block for people to get out and get to the voting booth. In 2008 more than 60,000 Mainers registered to vote on Election Day. Who were these 60,000 people? Well, it is hard to say but we know that L.D. 1376 will have the effect of keeping some Mainers, particularly people with disabilities, young people, and people who are more mobile, including the homeless, from exercising their legitimate right to vote. If this bill passes we're asking for trouble and confusion.

How many in this Chamber know the difference between a challenge ballot and a provisional ballot? Let me give you some answers. A challenge ballot is when an election official or a voter in that municipality believes that a person is not eligible to vote. This mostly occurs due to residency. For me, if I move from Portland to Falmouth many people would probably know. When I went to go vote on Munjoy Hill, where I go to vote, an election official or even a resident could challenge me voting in Portland. Under this law if I did not register before voting day in my new residency in Falmouth then I would be shut out of voting. In my example, like I said, I would not be allowed to vote in Falmouth or Portland. As many people know, it takes time to get a utility bill or any other documentation that proves residency. What is a provisional ballot? A provisional ballot is used when a person who is registered in that municipality does not appear on the voting list. Using the previous example, let's say after I registered in Falmouth I somehow did not get on the voting rolls. In this case I would be allowed to cast only a provisional ballot. The problems here are these; first provisional ballots will only let you vote on federal races. You will be completely shut out of all local and state races. Your friend, your neighbor, who wants to vote for you for a statewide race, or for someone voting for a town council or school committee, they won't be able to vote on that provisional ballot. Second, every provisional ballot will take time, money, and will be scrutinized by both parties. I ask the Body this question, how will this save money?

After all of this I find myself asking the same question. Why is this bill necessary? It's not solving any problems at the municipal level. We heard that same day voter registration is not a burden to municipal clerks, in fact I've heard the opposite is true. Having a system where people show up at the polls, provide the necessary identification, register, and vote all in one step, all in one stop, actually saves time and effort on the part of clerks and other election officials as well as the voters themselves. What else could it be? I've heard some say, especially our Secretary of State, that L.D. 1376 is necessary to secure the

integrity of Maine elections. I bring to your attention something; the Secretary of State, on January 18th, came before the Veterans and Legal Committee. The Secretary of State annually needs to report on the administration of the central voter registration system. He said that the system maintained by the Department of the Secretary of the State, containing over one million voter records, was regularly accessed and updated over the internet and real time by municipal clerks and registrars from over 500 municipal jurisdictions. Not only did the central voter registration help election officials smoothly administer a very busy and closely watched election, it also facilitated the use of innovative on-line citizen services with access through the Maine's E-Democracy website. He went on to say, the Secretary of State, that in 2010 CVR was put to the test. Clerks and registrars across the state were able to efficiently process 50,761 new voter registrations, 75,136 registration changes, and was used successfully to process 39,264 absentee ballot requests in the primary and 148,984 absentee ballot requests in the general election. Finally, the Secretary of State said, "I have confidence that we have met and exceeded the goal of the CVR system and we have begun to enjoy many additional benefits of using CVR." On January 18th apparently the system, the integrity of the system, was fine, but then when this bill was put forth in front of the committee he is now worried about the integrity of the system. I'm not really sure what has changed but again I don't see there to be a problem.

As you all know, Maine elections are already held in high esteem among other states in our nation. We consistently have high voter turnout and participation. Our citizens, and I want to thank them all, take the civic duty of voting very seriously. Unfortunately, L.D. 1376 is not solving a problem. There is no problem. I urge you to vote Ought Not to Pass on L.D. 1376. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN**: Thank you Mr. President. Men and women of the Senate, Title 21 allows and provides that provisional ballots do include local and state elections. As for the CVR, the CVR cannot be opened and used or amended electronically on Election Day. All through the year it is available except for on Election Day because we can't take the risk that we would move one person, the wrong person, from one town to another. What you are relying on on Election Day? The CVR is not available. If you want to check Title 21, I'd be glad to get you the site. If you've ever voted a provisional ballot you will know that that was an inaccurate statement and I'm pleased to be able to correct the record. As for what the clerks get to do that day, there is an awful lot that has to get done that day. When you are asking someone to sign an affidavit and bring their paperwork in to show that they are indeed a citizen, the clerks are supposed to, by law, follow up to ascertain whether they are indeed someone who is in that town. With all that we ask clerks to do, the clerks have testified in past legislatures before the Legal and Veterans Affairs Committee that they never get to that. The people who refer voter fraud to the Attorney General's Office are the clerks through the Secretary of State. The verification is supposed to take place by the clerk and the clerk sends the information to the Secretary of State and the Secretary of State sends it to the Attorney General's Office for an investigation. The reason you are told there is no fraud in Maine is because that step at the clerk's level is rarely, if ever, done.

After the statute of limitations had passed, one young man bragged to me that in 1992 he and a car load of six young men voted in six towns. They drove around, found addresses, and were able to register in six different towns. That's quite an accomplishment. They just did it for a lark. There are actually people who do it for more nefarious reasons. In order to say there is no fraud that means that someone had to do all the check ups, cross the T's and dot the I's. Our clerks, with all that we ask them to do, just don't seem to have the time to do that. I reject the notion that there is no fraud. As a poll watcher one day in Hampden I had a very angry man have to vote a provisional ballot because someone came in that very morning and got a ballot in his name. It happens. We were appalled. Two check-off lists both showed that this man's ballot had been taken by someone else. You know what, he proved who he was and he had to vote a provisional ballot. It is important. There are 247 other days a year you can register in person. Outside of the 10 day, I believe it's a 10 day, limit you mail a postcard. You mail a postcard. You don't even have to prove anything. If you move, you have 30 days to change your driver's license. I suggest you register to vote while you are there. It's very simple. They offer you the card. There are voter registration drives on every campus in the state of Maine and in every high school where we sign up 17 year olds so that they can vote in the primary. Same day registration is allowed in eight states. It is not allowed in 42 states. Forty-two states believe in integrity and accessibility. There can be a balance. This seeks to find the balance. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first of all, this was a good piece of legislation that passed 30 years ago and I want to commend those who actually did improve our voting system back then. For 38 years we've had this same day voting law in place to increase voter participation. Now we have better technology but we're being told that it's more difficult than it was before. The technology should be making this job less difficult not more difficult. I would submit that it is less difficult today. This is an attempt, I believe, to reduce voter participation, not to help it. I don't believe that anybody in this Body should be working to reduce voter turnout, which is clearly what will happen here. The evidence supports that because 60,000 people turned out and registered that same day. We know people get busy and they forget and they will be excluded from participating. That's absolutely clear. I would hope that you'd voted against the pending motion. Something that a Senator keeps repeating applies absolutely here; if it ain't broke keep fixing it and fixing it until it is. That's what we are doing here today. We're breaking something if we pass this, if we support this pending motion. We're breaking something that has really been working for a long time very effectively for no good reason. Thank you very much.

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

Senator **Craven:** Thank you Mr. President. Men and women of the Senate, I rise in opposition to the Ought to Pass motion because this bill will make it harder for Maine's senior citizens to participate in the political process. Because of driver's license

renewal fees, driver test requirements, and personal choice, many of our older fellow Mainers do not hold valid driver's licenses. In fact, senior citizens are substantially less likely to have a driver's license than other voters. Sorry, Mr. President, I think I'm speaking on a different bill.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, this bill represents a radical departure from the way Maine has successfully run elections for more than 30 years. It imposes a new unnecessary and entirely unwanted set of burdens that will adversely impact several tens of thousands of voters in every election. Who are those people? Those are Democrats. Those are Republicans. Those are unenrolled people. In 2010 the day before the election, November 11th, 853 people totally registered to vote; 252 of those were Democrats, 84 were Green, 197 were Republicans, and 320 were unenrolled. Election Day 18,364 people registered; 4,468 Democrats, 1,732 Green, 4,405 Republicans, and 7,759 unenrolled. I actually think it's the unenrolled that probably win an awful lot of elections. I'll tell you one thing right now, I'm proud to stand here saying I'm going to be voting against this Majority Ought to Pass motion because I'm not going to disenfranchise a Democrat, a Green, a Republican, or an unenrolled voter for the state of Maine. It does this by making two sweeping changes. First it removed Election Day registration and, second, it recinds any reason or no reason required absentee ballot for three days preceding the election. These are three days most voters have historically found to be the most convenient, the most convenient for our citizens of the state of Maine. They chose the three days before the election to register, and I will respect that until the day I die, to be the most convenient time to absentee vote. While assuming the campaigns have fully played themselves out, in the 2008 presidential general election nearly 75,000 voters would have been impacted by these proposed changes. In the 2010 gubernatorial more than 45,000 would have been impacted. As I understand it, the two central arguments raised in favor of these measures are to prevent voter fraud and to ease the burden on election officials. Well, from what I heard, there must be an Al-Qaeda cell in parts of the state of Maine because everything that I've heard about voter fraud. I believe, I don't know if it was 2005 or 2006, that we were given some figures that in the United States of America, throughout the whole United States of America, there were 24 cases of voter fraud throughout the United States of America. That is a problem. Holy smokes, ladies and gentlemen. Neither argument holds up.

With the implementation of Maine's central voter registration system four years ago, state election officials gained the capacity to thoroughly monitor elections for the type of fraud that proponents of the bill argue Election Day registrations would permit and it wouldn't have allowed the problem and the potential voter fraud. When someone checks off the name of the person most of the time the problem is when that person checks off the one below or above and they make a human error. That's where most of the problem is. Out of more than 1.3 million votes in two elections only two instances of double voting were identified and prosecuted. Voter fraud is not a problem and with the checks and balances of Maine's current election process it will not become a problem. I probably can say for one time that I really agree with

the good Senator from Biddeford, if it ain't broke keep fixing it and keep fixing it and keep fixing it until it is. Had the new restrictions in this bill been in place during those same elections one of those two cases of fraud would not have been prevented. It's amazing. The voter was registered in both locations prior to Election Day. Approximately 125,000 voters would have had to change the way they registered and voted and a conservative estimate indicates that tens of thousands fewer citizens would have voted. To me, ladies and gentlemen, this is probably one of the biggest political issues that the citizens of the state of Maine are going to take seriously. I will say one thing right now, I will be proud to vote this bill down because when the people speak on the next election that's when the real issue is going to come to light. Are we right or wrong? Has there been some voter fraud? The actual documentation basically says almost none over the years. I will not go into hypotheticals because it almost got me in trouble one time and I apologize here presently for that. Ladies and gentlemen, this is not a problem, from my standpoint. This shouldn't even be a political issue. This should be an issue of how we can make it better. The good Senator from Farmington, in 1973 under the leadership of Senator Elden Shute, a Republican from Farmington, subsequently unanimously passed, unanimously so that must mean bi-partisan, same day voter registration. What is the problem? Is there a problem or is this just a political stand-off on one of the issues that we want to get changed? I'd like to talk on the other bill, and I probably will, because there are some things I'd like to say about that here and now but I'm not going to. Ladies and gentlemen, I would ask you to vote against the Majority Ought to Pass and move on and let's kill this bill once and for all. Thank you.

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

Senator **FARNHAM:** Thank you Mr. President. I want to be able to answer the question; have you done everything you could to remove any doubt, any doubt, about our election process? If you've had to ask people to run for office, how can you explain to them that you've done everything you could to make sure that this process was as clean and as transparent as possible. My father-in-law lost two elections in a row for House of Representatives by less than ten votes each. Less than ten votes each. How can you look him straight in the eye and say, "Yup, we were above board, everything about our process is clean." How about any of the candidates who have ever had a loss in a close election? Can we really answer to them that we have done everything possible to make sure every single person involved was registered and was correctly registered to vote?

The other thing I wanted to remind us of is if it is something that is as important as our right to vote then why would it be a problem to plan ahead? Why would it be a problem to plan ahead to register to vote? It was brought to our attention that our young people wouldn't be capable to plan ahead to vote. I have a young person, I have three young people actually, in my family and one of them became of voting age recently and he couldn't wait until the next day to get the city hall and be able to vote. He was so excited to do it. He didn't wait until the same day of voting. He wanted to march right down to city hall because he was of voting age and he was ready to vote and ready to register so that he could vote in the very next election that was coming up. Our young people are excited about the time when they are able to vote in our elections so I take exception to the fact that they

wouldn't want to do it. I was actually disappointed that there wasn't more fanfare when he became a new person and a new person able to vote in our country. I just would remind us that I want to be able to answer to candidates or anybody who wants to be involved in our process. I want to be able to say to them that I was able to make sure that the integrity and the process that we follow when we vote is as above board and clean as it possibly can be.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wanted to get up and voice my opposition to the pending motion. I would say that I lost an election by 1% and I never once felt that I got cheated by voter fraud or anything like that. I was extremely disappointed but I didn't feel like I got cheated. I don't know if it's so much about candidates as it is about the general public getting their opportunity to vote. I think if you are a candidate you probably know many of the rules of voting. I think that this proposal, it was said on an earlier bill that this is the biggest boondoggle on the state of Maine. I think that if we were to pass this it would move ahead and be by far the biggest boondoggle.

I also would say that if we did pass this I think I'd like to rethink my vote on the Senator from Kennebec, Senator Katz's bill this morning about guns at the municipal offices because I think you'd have an awful lot of people that would be awful upset when they came in on that Tuesday to vote and weren't able to vote. I think that's the biggest part of the problem with this bill, we've done it for 38 years. It's one thing if it had never been and we were sitting here debating it. Then I could say, "Ya, I guess this is okay because no one knows already if this is the way the process goes." To just take this after 38 years and say no more of that, you're not going to be able to come in on Election Day and vote is causing some real problems for a lot of people. I can see this playing out in my district where it's a lot of small registers, a lot of small clerk's offices. The town I live in the place is opened from 9 to 12. On Election Day it's open until 8 but on those other days before it's only open for three hours. You don't have very much time to even go there. Most of the clerks in Northern Aroostook County open on Saturdays so that they can take absentee votes for all the people that work in the woods that aren't available to vote on that Tuesday. This is going cause a tremendous burden for the people that are in my district because they think, they believe, that if they've changed addresses or they've moved to a different town that's close by, that they can just go in and register that day to vote. The people in those areas know these people, they know they're residents, but they're not going to allow them to be able to register. I'm telling you, this is going to cause a lot of problems and I want you to think about that on Election Day because you know for sure that you're going to have constituents that are going to be upset that they're not going to be able to vote. It's going to be people that you know that for whatever reason. They're going to look to us. Why did we do this? I don't know why we're doing it. I think that we're really making a big mistake here.

The last thing I want to say is that the other day I went and met with a veteran in the Crosswinds Nursing Facility in Fort Kent. That guy has been known as the man that fixes the U.S. flags in Fort Kent. All the tears and stuff like that, he fixes them. He's a WWII veteran. When he moved from his home, and sold his

house, and went to that nursing facility, that changed his address and he had to reregister to vote. If this had been in place this man, who is a WWII veteran and almost 90 years old, if he had been brought in to register he would be told no. After fighting in a war for us and doing everything he does he would be told no, that he can't vote because it's the same day. I just think that would be a travesty and I don't want to face those people and tell them that the men that fought for us and for these voting rights are going to be told that they can never vote unless they've gone in three days before. I think that would be a travesty here for the people of Maine.

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

Senator **BARTLETT:** Thank you Mr. President. As I think has already been mentioned, same day voting has been engrained in Maine public policy, in Maine culture, for 38 years. People know that they can vote on Election Day so if they move they don't worry quite so much. If they have a student coming home they don't worry so much about having that student registered in advance because they know they can do it on Election Day. It is an engrained part of our culture. We all go around and talk to voters on Election Day and you ask somebody, "Are you registered to vote?" They'll say, "No, but I'm going to go to the town hall on Election Day and do it." We have all had those conversations in our campaigns. What I don't understand is why we want to disenfranchise tens of thousands of voters because somebody might possibly engage in criminal activity. In 2008 60,000 people registered to vote on Election Day. That's Republicans, Democrats, Independents, and Greens. We're going to say that because of one of those 60,000 might have done something illegal, for which they can be penalized under criminal law, the other 59,999 are disenfranchised? It just turns good public policy on its head. We ought to be figuring out ways to enforce those laws if there is a problem, make sure that if someone votes twice that we do go after them, and enforce the criminal law instead of disenfranchising tens of thousands of voters. I can't imagine what my constituents would think back home if after voting to send me to Augusta to represent them they found out that while I was there I took away their right or the right of some newcomer to town or someone who turns 18 prior to the election to vote. It just doesn't make sense that because we're concerned about a remote possibility that somebody is doing something they shouldn't that we're going to disenfranchise voters.

When it comes to close elections you'll never solve the problem of close elections by taking people off the voting rolls. You are not going to overcome a ten vote deficit by disenfranchising a hundred thousand. If you are, then what kind of victory is that? We ought to be doing more to educate voters, to urge them to get to the polls, and to make the case for why we want to come and represent them. Nobody wins by turning people away at the polls. Remember that most of the people who are registering that day are doing it because they moved recently and didn't think about voting. After all, we're politicians and we think about campaigns and elections all the time. We love it. If you're like me you go home after a long day in Augusta and you turn on the TV and what do you watch? National politics to get caught up. I understand that I'm a little crazy, but we live it and breathe it. Most people don't. Most people think about voting on Election Day. It doesn't matter how many robot calls that they

get, people still forget until Election Day. Some people even forget to vote. A lot of us in our campaigns make calls with our supporters on Election Day to remind them to get out and vote. I can't tell you how many times I've had people tell me during my campaign at 6:00 or 6:30, "Oh my gosh, I almost forgot to vote." It happens because it's not on the front of most people's minds. When they move and they forget to vote or they are a student or young person who's just turning 18 and didn't think to register or someone coming back from overseas, let them walk in on the day of voting, the day they're thinking about voting, and register to vote. It's a hallmark of Maine voting. It's part of our culture. People expect it. Let's not disenfranchise our voters. Thank you, Mr. President.

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

Senator **HOBBS:** Thank you Mr. President. Men and women of the Senate, I have a unique situation that I think that only one other individual in the legislature has had and that was I voted for the initial law in 1973. It's very interesting to look at the evolution of the Maine Election Laws throughout the years. The reason why this all took off was because of the restrictions that were on individuals in the process, whether it was the issue of restrictions of registration, absentee ballots, residency issues, or the big box. Many of you, if I used the word big box what would you think? Well, up until the early 1970's a person could vote a straight party ticket and not even look at the candidates by putting an X at the top of the ballot. That was a troubling situation. Because of election law reform in those areas and with the idea of making sure that one of those cornerstones is the fact that we should participate more and allow people to participate in the electoral process, individuals like a former member of the Maine Legislature and a former Assistant Secretary of State, Deputy Secretary of State, Denny Shute from the Farmington area came up with the idea of many many of these reforms along with several other individuals. One of them was the big box issue. The other one was same day registration in order to provide a more democratic process. We shouldn't be tinkering with the reforms that were made unless there is real proof positive that those reforms haven't worked. Denny Shute was a pioneer in that area and I was very blessed and honored to have known him in his later years. His daughter bought my family home in 1986, my first house that I ever owned. I got to know him in a different vein and we reminisced about the old days of politics. He was proud to be somewhat of a pioneer when it came to looking beyond the big box and looking beyond the box itself to look at reforms. That was one of the reforms he put through. Please think twice about making it more difficult to participate in the democratic process. I know last night when I realized that I had not voted in the RSU 23 election for ballot validation I left a meeting and drove home and made it there with three minutes to spare. While I was rushing to get there I was thinking how privileged we all are to be able to have that opportunity to vote. Even though 6%, I believe, of the voters in RSU decided to turn out to vote, it was important that we have those types of democratic processes and the ability for someone like myself and others to be able to go to the polls on Election Day if they moved into the community and to be able to vote and not be pushed away. I hope you will consider your vote seriously and put politics aside because Denny Shute and the legislature in 1973 was Republican controlled.

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

Senator **SCHNEIDER:** Thank you Mr. President. I have been inspired to once again rise because I wanted to share a couple of things with you, one with regard to my own election. One election that I ran for as a City Counselor in Orono that I lost by either six or eight votes. Never once did it even cross my mind to blame our excellent voting system. I would blame myself for that loss. I didn't ask for a recount. That was an issue about my not fulfilling my responsibility of doing a better job. I think that anyone could look anybody in the eye and say that today we have a highly well run election system, it's known throughout the United States, which has incredible integrity. In fact, this bill implies that for the last 38 years we've been doing something wrong. It implies that we haven't had a system that has integrity. I just don't believe that is correct.

I also want to just share with you, briefly, that I turned on the television in my hotel room recently and the election was being held, I believe, here in Augusta, the local election. I panicked and I thought, "Oh my gosh, I forgot Tuesday was my election in my town." I was thinking all day about it. I mentioned it to leadership. I said, "I've got to get back to vote. How can I do it because the round trip time takes about three hours." I was very concerned about it. I called my town office, had this little feeling that I should call them to make sure how late they were going to be opened or if I was right, was it today. Thankfully, I found out that the election is next week but it also just made me think, once again, that I am registered but what about the plan ahead suggestion. People forget. It's human nature. I used to work in a travel agency many years ago and there were sales advertised endlessly for things. When did people show up at our door? At five minutes to five on the last day of the sale. That's exactly how it is for voting. Why would we want them not to be able to participate in our democracy? I would want them to show up. I'd rather have them show up at five minutes before closing time than not be able to participate. We're the envy of the United States. Why on earth would we want to change that? Another thing is the people who are proponents of this, one of the things that we have complaints about most of all is changing our regulations. Here we are changing a regulation that was bi-partisanly passed, that's been in place for 38 years, that is a wonderful thing, and actually has made more simplified because of technology.

One last thing is I'd like to be able to thank the clerks in my Senate District because they are phenomenal people. When I called and I said that I had forgotten you know what they said to me? They said, "Do you want us to send you an absentee ballot?" They want us to participate. I don't believe that they would want us to trade a voter because it's more difficult for them to process ballots. I just don't believe it because I know them. I really hope we defeat the pending motion because it just is not improving anything. We did it right 38 years ago. Let's keep it that way. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, people that have been here for a session or two certainly know that I started stuffing envelopes for Adlai Stevenson and I'm quite proud of it. The thing I gave up

most when I got elected to office was not working the polls. I absolutely loved going out and registering voters. Went out with my mother when I was young. I grew up in it. It was a great experience. I loved working at the polls and handing out ballots. I absolutely loved doing recounts and I still do. You can't have a recount in the state of Maine whether you are in the Senate or the House without seeing my chubby little face in the background someplace. I met a lot of the people in this Chamber doing recounts. I sat with my past seatmate during his recount this year. There isn't a state in the United States of America that does it better. There isn't a state in the United States of America that does it cleaner. We're number one, two, or three every single election for getting out to vote and for getting our people to the polls so they can participate in elections. I think there is no higher duty for a citizen than voting. I think everybody in this room thinks that and I don't think there is a person in this room that should ever think that cutting down the number of people that are going to be at the polls voting is a good idea. We shouldn't restrict voting and that is what this bill is going to do. We should be encouraging voting. I'm so proud to be in Maine, so proud to be a Senator in Maine, where we do so well at getting out to vote and getting people to the polls. My community is at 80% to 85% of the vote on Election Day. We take pride in getting our citizens registered and a lot of them do it on the last day because, unless registering your car and unlike inspecting your car which we all know we do early, some of us don't register to vote until the last day. We have something to be proud of in the state of Maine and something we are proud of, the involvement we have in it.

Believe me that everybody here would benefit by going to a recount. This is not Florida. We don't have hanging chads and we don't have foolishness. We know how to do recounts because it is the intent of the voter, as I have had several Secretary of States explain to me in the past. When I was in the other Body I was the House Chair of Elections. We brought different outcomes into the legislature, into the Legislative Council, and we looked at ballots. Not only did we count them at the State Police barracks at one time and then over to the Public Safety Building but we did it here in this building. We didn't have any problems. One of my best friends to this day lost a vote by less than ten votes, Walter Ash. Some people thought we looked alike. We never spoke alike but we looked alike. I had to tell Walter that at recounts you can't grow voters. You're going to count every vote. We had problems when we had counted a town checklist and found that there were more ballots, four or five. We had problems where there were less ballots than we had on the checklist by four or five. We found, through careful study and a lot of questioning, that those were honest simple mistakes made by a town clerk. It had nothing to do with the outcome of an election.

I have been involved in every election in the state of Maine since I got here at one level or another. Certainly, as Chair of Elections in the other Body, I was intimately involved with how we do it and the instructions that we've had from the courts, from our Secretary of State, and most importantly from the people that get elected to office or the people that lose. On Election Day there is always a winner and a loser. Sometimes you lose by two or three votes. Well, it's still majority rules and you're going to have a winner and a loser. It's too bad. You should have shaken more hands. You should have knocked on more doors. You should have been at the polls longer. You should have worked harder. It's your responsibility. I've often said about my elections if I can't win by a couple of thousands votes I did something really wrong. You have to work for them. You work for every vote you get in

this state and every vote in this state is counted and so is every voter. I won't stand here in this Body, Mr. President, and have anybody try to say that there is any blemish on any election in the state of Maine because we don't have any. Thank you very much, Mr. President, for your time.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I'd just like to put a couple of my thoughts on the record as hopefully this debate is nearing the end. Just one thing, this bill does not take away anyone's right to vote no more than it would in any of the other states that have the same provision. From my perspective, I don't believe there is anything wrong with giving the clerks a couple of days to provide a current voter list and having that available at the various polling places. Finally, I just want to comment. We heard something a little earlier about veterans and their sacrifices for the right to vote. I believe that it really isn't too much to ask, if a veteran or somebody has sacrificed their life before in order that we can have this right, that somebody takes a couple of minutes out of their day and go down and register or send in a voter registration card. With that, thank you, Mr. President.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I really hesitated in getting up after this many speakers and I guess just about everything's been said but I'm so compelled to get up that I just felt that I could not leave today without putting my thoughts, as brief as they are, on record and before you, the men and women of this Maine Senate. As Secretary of State I became infected with this advocacy for voter turnout and for all we did to improve our democracy. By the way, it was a Republican/Democrat effort throughout my eight years because we did a lot of things with most, if not all, legislators around the state. It became so compelling after a while that, and it is so infectious that, we were setting aside day and night thinking of ways of how we could increase and improve and encourage people to go to the polls. As a result of the messages we sent through registering people at MacDonald's and having the kids involved, Maine, in 1992, had the largest voter turnout. This was not with the registered voters, this is VAP, voting age population, which is much harder to get a higher percentage. We led the nation or we were in the top five many times during those years. It's because of the message we sent and the attitude and the culture. It had become Maine's fabric. When I would go to the Secretary of State's conventions, as I'm sure all Secretaries before me and after me will do, it was always, "How do you do it in Maine? How do you get such large turnouts?" It was simply the Maine way and we did it because of all the encouragement including the most important part, same day registration. People could vote. I'm afraid that this bill is going to set us back nearly four decades.

In the next election when our neighbors and our friends and our constituents are told that they cannot register and vote on the Election Day, that we changed the rules, I don't think we want to be there and I don't think we want to have to look them in the eye and say, "Yes, we changed the rules. You can't vote." That may be hundreds in some of our districts but we know it will be

thousands across the state. Some of these voters will be miffed. Some will be shocked. Some will be outraged. Our answer is, the rules have changed. One of the things we did with first time voters during the 1990's in particular is that we would take advantage of Election Day, the excitement and the drama and meeting the candidates, and would bring first time voters and encourage them all to go to the polls on that day to register and to vote. The reason we did that was because the voting of 18 to 24 was the lowest age of turnout of voters. Why? We learned that there was intimidation. We worked hard to break that barrier. Ladies and gentlemen, I really would ask you to think twice about this. I understand the question of fraud, and if there has been fraud in the past. I'm sure that there has and I don't think anyone can stand here and say there hasn't been. I'm not sure this is going to make any difference. Certainly fraud has not been a primary condition that we've had to deal with in the state of Maine, it's something that we always have to look out for. I would ask you to think carefully about this. This is something very important. We are, indeed, changing a culture with this vote if we approve this motion. I would ask you very, very sincerely and strongly that you would reject this motion and keep our state the way it is and keep our culture and our fabric the way it is, the Maine way. Thank you, Mr. President.

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

Senator **FARNHAM:** Thank you Mr. President. Actually I think our culture is already changing with the change that was made to no longer needing a reason to request an absentee ballot. I think that is the direction our voting is becoming. In 2000 only 10% of the voters used absentee ballots. In the city of Bangor last year over 60% of the people voted absentee. That is the way of the new culture. People aren't waiting until the day of the election anymore. For convenience sake, they are now voting as soon as those absentee ballots are available. Then, consequently, they are either registered or they are registering at that time so they can request that absentee ballot and head on their way so they don't have to wait until that day of the election. The other thing to remind us of too is that we can register many, many days of the year, all but those last two. We can register by mail as well. I do think our culture of voting is no longer to wait until that Tuesday. We're now wanting to get it done as soon as those absentee ballots are ready. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, the facts my good Senate Chair just brought forward are 100% accurate. Bangor did have 60%. They also were part of a trial, pilot program. I will say one thing, in Bangor on November 1, 2010, 65 people registered; 12 Democrats, 5 Greens, 15 Republicans, and 33 unenrolled. On election day in Bangor, Maine 419 registered that day; 87 Democrats, 14 Greens, 112 Republicans, and 206 unenrolled. I'll tell you one thing right now, I don't want to disenfranchise any of them. Some of the best testimony at the public hearing was the clerk from Bangor. She stated inequitably that she does not want to disenfranchise anyone by taking away same day voter registration, as has every clerk in the state of Maine. No clerk has actually said that they want to take away

and disenfranchise anyone. I thank the Bangor clerk. I can't remember her name. Her testimony was just brilliant and I thank her for that. She did, however, complain about the amount of absentee voting and we were looking at doing something like that. I also brought up, from the stand point, that every business in the state of Maine, like my paper industry, takes a shut down every year. Why do we do that and what's going to happen during the shut down? You have a heck of a burden of the amount of work that has got to be done in that one week period. Basically this is what we're burdening our clerks and our town officials with once or twice a year. They are going to be burdened. I think they are very thankful for the opportunity to serve the great people of the state of Maine to allow and to make sure that we don't have an election like Florida and some of the other states that are terrible. Are they burdened? In some cases yes they are but overall I think the vast majority of them, even though they are overburdened, have actually said that one of the problems is that some of their towns and cities are too doggone tight to give them any finances to give them the extra help. Shame on those communities. That's what I say. Shame on the communities for not giving them the resources to make Maine have the best. It was stated that only eight states in the United States of America have same day voting. Those eight states across the county are the highest in the United States of America for voter turnout. The goal of the state of Maine ought to be number one. Never mind "I lead," let us lead as number one every single time. I'm proud of Brunswick, 85%. Boy, I'd like to get 85% in Rumford. I would be unbeatable. No matter where you are in the state of Maine, ladies and gentlemen, the town clerks have inequitably stated that they do not want to disenfranchise one voter, not 419 like in Bangor, not 167 in Brewer, 33 in Bethel, or 18,000 statewide. They don't want to disenfranchise one. Not a Democrat. Not an Independent. Not Unenrolled. Not Greens. Not Republicans. Ladies and gentlemen, let's defeat this bill and move on to something that should be of value to the people of the state of Maine. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Accept the Majority Ought to Pass Report, in concurrence. 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 (#203)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, PLOWMAN, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **WOODBURY** of Cumberland, Senate Amendment "B" (S-265) **READ**.

Senator **COURTNEY** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-265).

On motion by Senator **WOODBURY** 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 (#204)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, PLOWMAN, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-265), **PREVAILED**.

Senator **WOODBURY** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

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

Senator **ALFOND** of Cumberland moved to **TABLE** until Later in Today's Session, pending the motion by Senator **WOODBURY** of Cumberland to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

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 (#205)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBINS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **TABLE** until Later in Today's Session, pending the motion by Senator **WOODBURY** of Cumberland to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#206)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBINS, JACKSON, LANGLEY, PATRICK, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, PLOWMAN, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **WOODBURY** of Cumberland to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **WOODBURY** 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 (#207)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, PLOWMAN, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBINS, JACKSON, LANGLEY, PATRICK, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife

S.P. 155 L.D. 563
(S "B" S-237 to C "A" S-154)

Tabled - June 8, 2011, by Senator **ROSEN** of Hancock

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, June 3, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-154) AS AMENDED BY SENATE AMENDMENT "B" (S-237)** thereto.)

(In House, June 7, 2011, **FAILED FINAL PASSAGE**.)

On motion by Senator **PATRICK** of Oxford, 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-154) AS AMENDED BY SENATE AMENDMENT "B" (S-237)** thereto.

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-154) as Amended by Senate Amendment "B" (S-237) thereto.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-237) to Committee Amendment "A" (S-154) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "C" (S-284) to Committee Amendment "A" (S-154) **READ**.

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

Senator **PATRICK:** Thank you Mr. President. I want to thank the good Senator from Lincoln, Senator Trahan, for working with me on this amendment. This amendment changes the percentage of the sales tax revenue allocated for the protection of the fish and wildlife from 1.25% to 1.20%. It requires that 10% of sales and use tax revenues dedicated to fish and wildlife resources protection be allocated to the Department of Marine Resources to be used to protect, conserve, restore, manage, and enhance diadromous fish populations and their habitat in all waters of the state. It requires that 90% of the sales and use tax revenues dedicated to fish and wildlife resources protection be allocated to the Department of Inland Fisheries and Wildlife and provides that the Constitutional Amendment does not apply to additional sales and use tax revenues raised as a result of an increase in the rate of sales and use tax imposed after July 1, 2011. It also provides that the Constitutional Amendment applies to fiscal years beginning on or after July 2013. I'd like to once again thank the good Senator from Lincoln, Senator Trahan, for allowing me to put this amendment in. Thank you.

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

Senator **TRAHAN:** Thank you Mr. President. I do just want to rise and also thank the Senator from Oxford. He's been terrific to work with. Real quickly, this amendment and this bill that is before us, I'd like us to take credit if this thing passes, but this thing goes back 15 years. Many good Senators and Representatives have worked on this issue. Hopefully this will be a resolution to their incredible work. I just wanted to rise in support of this amendment and hope all of you will support it. Thank you.

On motion by Senator **PATRICK** of Oxford, Senate Amendment "C" (S-284) to Committee Amendment "A" (S-154) **ADOPTED**.

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

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

Senator **WOODBURY:** Thank you Mr. President. I've already made some remarks on this bill and how I think it's a dangerous slippery slope to begin to put items of the budget into the Constitution. I foresee that things like the 55% funding commitment to education could become a Constitutional Amendment, the 5% revenue sharing to municipalities could become a Constitutional Amendment, Circuit Breaker could become a Constitutional Amendment, or special benefits for veterans or seniors could become Constitutional Amendments. I just think this is opening up something that is really not the best approach to budgeting for our state. Thank you.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wanted to rise and let folks know that this water is already under the bridge. If you read our state Constitution, Inland Fisheries and Wildlife is already in the Constitution. Maine people have said that protection of our natural resources is a priority. They did it with a very strong vote and this legislature did it in the past. This just rectifies the problem that exists within the agency, a problem that I think the founders of that amendment did not foresee. Without getting into a long protracted debate, I just wanted to say that this has been done. If those folks want to go out, put a bill in, do the kind of work, and win the public support, that is our process. I will tell you that good people have done this and they've done the work and Maine people have endorsed it. I believe they will strongly endorse this action. Thank you.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (S-154) as amended by Senate Amendment "C" (S-284). 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 (#208)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, ROSEN, WOODBURY

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, Committee Amendment "A" (S-154) as Amended by Senate Amendment "C" (S-284) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-154) AS AMENDED BY SENATE AMENDMENT "C" (S-284) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

RECESSED until 7:15 in the evening.

After Recess

Senate called to order by the President.

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 **JUDICIARY** on Bill "An Act Concerning Tort Claims and Governmental Entities"
S.P. 377 L.D. 1256
(C "A" S-266)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-266)** (8 members)

Minority - **Ought Not to Pass** (5 members)

In Senate, June 7, 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" (S-266)**.

Comes from the House, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

On motion by Senator **HASTINGS** of Oxford, the Senate **INSISTED**.

Sent down for concurrence.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Provide an Internship Employment Tax Credit"
S.P. 413 L.D. 1336
(C "A" S-229)

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-229)** (3 members)

In Senate, June 7, 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" (S-229)**.

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

On motion by Senator **TRAHAN** of Lincoln, the Senate **INSISTED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

House

Divided Report

Eight members of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Amend the Laws Pertaining to High-stakes Beano" (EMERGENCY)

H.P. 418 L.D. 535

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-401)**.

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

CAREY of Lewiston
CHIPMAN of Portland
DAMON of Bangor
LONGSTAFF of Waterville
VALENTINO of Saco

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 "B" (H-402)**.

Signed:

Representatives:

CROCKETT of Bethel
JOHNSON of Eddington
WILLETTE of Presque Isle

Two members of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**.

Signed:

Representatives:

BEAULIEU of Auburn
RUSSELL of Portland

Comes from the House with Report "**B**" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-498)** thereto.

Reports **READ**.

On motion by Senator **FARNHAM** of Penobscot, Report "**B**" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-402) **READ** and **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Prohibit Enforcement of Federal Laws in Violation of the Constitution of the United States"
H.P. 870 L.D. 1172

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-516)** (4 members)

Tabled - June 7, 2011, by Senator **HASTINGS** of Oxford

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, June 7, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 7, 2011, Reports **READ**.)

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

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require Approval by a 2/3 Vote of Each Branch of the Legislature in Order To Raise a Tax or Impose a New Tax
S.P. 183 L.D. 603
(C "A" S-230)

Tabled - June 7, 2011, by Senator **ROSEN** of Hancock

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, June 3, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-230)**.)

(In House, June 7, 2011, **FAILED FINAL PASSAGE**.)

On motion by Senator **KATZ** of Kennebec, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

Resolve, To Study Allocations of the Fund for a Healthy Maine
H.P. 1144 L.D. 1558
(C "A" H-417)

Tabled - June 7, 2011, by Senator **PLOWMAN** of Penobscot

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, June 6, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417)**, in concurrence.)

(In House, June 7, 2011, **FINALLY PASSED**.)

On motion by Senator **PLOWMAN** of Penobscot, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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 Protect Public Safety in the Operation of Casinos
H.P. 473 L.D. 643
(C "A" H-547)

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

Emergency Measure

An Act To Permit Public School Online Learning Programs To Accept Nonresident Tuition Students
H.P. 698 L.D. 938
(C "A" H-537)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 3 Senators having voted in the negative, and 29 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, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Implement the Requirements of the Federal Nonadmitted and Reinsurance Reform Act of 2010
H.P. 993 L.D. 1352
(C "A" H-543)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Provide for a Method To Remove an Elected Municipal Official
H.P. 1125 L.D. 1533
(C "A" H-480)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with 6 Senators having voted in the negative, and 26 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, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Amend the Campaign Finance Laws
S.P. 491 L.D. 1541
(C "A" S-263)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Establish an Early Childhood Stakeholder Group
S.P. 160 L.D. 568
(C "A" S-259)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Creating the Advisory Committee on Maine's Health Insurance Exchange
H.P. 1165 L.D. 1582

On motion by Senator **PLOWMAN** of Penobscot, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Acts

An Act To Reduce the Time Period after Which a Member Municipality May Petition To Withdraw from a Regional School Unit
H.P. 121 L.D. 139
(C "A" H-548)

An Act To Require Criminal History Record Information for Licensure of Nurses
S.P. 111 L.D. 398
(C "A" S-249)

An Act To Establish Emergency Shelter Family Homes To Host Youth Referred by the Department of Corrections
S.P. 142 L.D. 509
(C "A" S-255)

An Act To Protect Legislative Intent in Rulemaking
H.P. 426 L.D. 543
(C "A" H-546)

An Act To Amend the Laws Governing Licensure Compliance
Methods for Camping Areas, Recreational Camps, Youth Camps
and Eating Establishments
H.P. 533 L.D. 703
(C "A" H-539)

An Act To End Homelessness for Veterans in Maine
S.P. 212 L.D. 723
(C "A" S-251)

An Act To Amend the Maine Juvenile Code
H.P. 774 L.D. 1040
(C "A" H-532)

An Act To Amend the Identification Requirements under the
Maine Medical Use of Marijuana Act
H.P. 857 L.D. 1159
(C "A" H-541)

An Act Regarding Payment of Medical Fees in the Workers'
Compensation System
S.P. 365 L.D. 1244
(C "A" S-250)

An Act To Improve Oil Storage Facility Operator Training
S.P. 371 L.D. 1250
(C "A" S-257)

An Act To Increase Health Care Quality through the Promotion of
Health Information Exchange and the Protection of Patient
Privacy
H.P. 977 L.D. 1331
(C "A" H-458)

An Act To Ensure Patient Privacy and Control with Regard to
Health Information Exchanges
S.P. 414 L.D. 1337
(C "A" S-261)

An Act To Align Maine Special Education Statutes with Federal
Requirements
H.P. 986 L.D. 1345
(C "A" H-536)

An Act To Address Certain Aspects of Bail
H.P. 1029 L.D. 1400
(C "A" H-534)

An Act To Improve the Coordination of County Correctional
Services
H.P. 1045 L.D. 1419
(C "A" H-531)

An Act To Amend the Laws Governing Self-service Storage in the
State
S.P. 442 L.D. 1428
(C "A" S-248)

An Act To Strengthen the Laws against Driving under the
Influence of Drugs
H.P. 1096 L.D. 1491
(C "A" H-535)

An Act Regarding Service Contracts
H.P. 1109 L.D. 1507
(C "A" H-544)

An Act To Allow the Board of Dental Examiners To Issue Dental
School Faculty Licenses
S.P. 480 L.D. 1519
(C "A" S-247)

An Act To Implement the Requirements of the Federal Patient
Protection and Affordable Care Act
H.P. 1140 L.D. 1554
(C "A" H-545)

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

An Act To Restore the White-tailed Deer Population and Improve
Maine's Wildlife Economy and Heritage
S.P. 502 L.D. 1569
(C "A" S-256)

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and
gentlemen of the Senate, I just wanted this aside to recognize the
important work that was done by the Inland Fisheries and Wildlife
Committee. Thank you, Mr. President, for sponsoring this bill. I
think with this bill, in combination of some of the things that we
have done in the committee this year, is going to go a long ways
towards restoring the whitetail deer herd in Maine, a very
important piece of our economy, especially in the rural parts of
the state. I just wanted to rise for a moment and thank everyone.

On motion by Senator **TRAHAN** of Lincoln, 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 **ENACTMENT**, in concurrence. (Roll
Call Ordered)

Resolves

Resolve, Directing the State Bureau of Identification To Continue
To Explore Contracting Options and Other Methods To Find
Efficiencies in the Fingerprinting System for Criminal History
Background Checks

H.P. 240 L.D. 296
(C "A" H-528)

Resolve, To Encourage School Administrative Units To Adopt a Mission Statement for Each of the Public Schools Operated by the School Administrative Unit

H.P. 321 L.D. 403
(C "A" H-538)

Resolve, To Examine Cyber Security and Privacy Issues Relating to Smart Meters

H.P. 563 L.D. 756
(C "A" H-521)

Resolve, To Reduce Opioid Overprescription, Overuse and Abuse

H.P. 1102 L.D. 1501
(C "A" H-542)

Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct Meetings To Review the Issue of Compliance with the Laws Governing Guaranteed Price Home Heating Oil, Kerosene and Liquefied Petroleum Gas Contracts

H.P. 1128 L.D. 1536
(C "A" H-526)

FINALLY PASSED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Resolve, To Create a Working Group To Make Recommendations To Improve the Efficiency, Accountability and Proper Administration of Municipal General Assistance Programs

H.P. 773 L.D. 1039
(C "A" H-540)

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

Resolve, To Enhance Agriculture and Farming

H.P. 1058 L.D. 1444
(C "A" H-533)

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **LANGLEY** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve the Delivery of School Psychological Services to Children"

S.P. 327 L.D. 1094

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-279)**.

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

READ ONCE.

Committee Amendment "A" (S-279) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create Innovative Public School Zones and Innovative Public School Districts"

S.P. 466 L.D. 1488

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-277)**.

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
JOHNSON of Greenville
MAKER of Calais
McCLELLAN of Raymond
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:

Representative:

LOVEJOY of Portland

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

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-277) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes"

H.P. 849 L.D. 1143

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-576)**.

Signed:

Senators:

MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:

BLODGETT of Augusta
BURNS of Whiting
CLARKE of Bath
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-577)**.

Signed:

Senator:

GERZOFKY of Cumberland

Representatives:

PLUMMER of Windham
HANLEY of Gardiner
HASKELL of Portland
LAJOIE of Lewiston

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)**.

Reports **READ**.

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)** 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 PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand in opposition to this motion, the Majority Report. I had a problem with it when it was in committee. A couple of small little issues, one being due process and the other one being taking samples of DNA on the accusation of a crime not on conviction of a crime. I think that there ought to be a thing called the judicial system involved someplace along the line. If you are going to accuse somebody of something that's one thing, but then taking his bodily fluids that can be used and misused in many different ways, as you've seen around the country, we had serious concerns in committee on this. Due process is a nice thing. We actually get to be Americans and have some certain freedoms. Due process under the law is one of them. We had problems in the committee with this. We've had it in the past where we took DNA samples of everybody that was convicted of a crime, everybody that was incarcerated. We did a great job of backing up our lab so that we actually had to go to the federal government and ask for some grants to try to get caught up. If you look at the note on this, that ought to scare you enough. I think that really the big problem is, and you're going to hear the debate today, that it is going to deal with DNA being a fingerprint. It's not a fingerprint. Fingerprints tell you who you are. DNA tells you what you are. It says a lot more about you and it can be moved where fingerprints can't be. I hope that we can get beyond this Majority Report and maybe talk a little bit about the Minority Report. I know we can't debate it, but I certainly hope we can get to it. Thank you, Mr. President.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **ALFOND:** Thank you Mr. President. I am wondering about the fiscal note for L.D. 1143. If there is anyone in the Body that can explain the fiscal note for this, please.

THE PRESIDENT: The Senator from Cumberland, Senator Alford poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I rise in support of the current motion. The bill before you is Katie's Law. Katie's Law has been enacted in 24 other states. When we had this bill in committee we had Jayann Sepich, who is the mother of Katie Sepich who was the tragic victim of a pretty egregious crime. Katie was on her way home from, I believe, a graduate course in New Mexico. She was raped, strangled, and set on fire. Her body was dumped in a landfill not too far out of town. She fought hard and she had DNA underneath her fingernails. After they collected the DNA under the fingernails from the person who had attacked her it pretty much stayed in a crime lab somewhere until three years later when a man had a DNA swab at a prison. The DNA was a match to the DNA that was recovered from Katie's body. The bill before you is a version of Katie's Law. Basically what this bill will do is require a DNA sample from anybody who is arrested for a Class A, B, or C crime and various other sexual charges and things like that. Like the Senator from Cumberland, Senator Gerzofsky, said, you will hear debate about fingerprints. We would collect this DNA just like we would collect fingerprints when you get arrested. From the experience from the other 24 states that have enacted this law we have found that for every dollar spent there is \$90 saved. That's the facts that were given to us in committee. I think anytime that we can spend \$1 and get \$90 back it's a pretty good deal. This is supported by the DAs. This bill was worked pretty hard in committee. We got a lot of testimony on this bill. I would just note that when New Mexico implemented this law, two hours after the law was implemented they did a DNA scan on someone who they had arrested on another charge and they found out that he was the culprit, a serial killer, of a murder of 11 other women in different states around the Southwest. This law does work. It's been proven to work. I hope that you will join me in passing the Majority Report. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you Mr. President. I'm going to get up in response to the question that was asked about the fiscal note. I have it down in 2012-2013 at \$648,000. I have it down in 2013-2014 as approximately doubling that amount and continuing on through 2015 and that's as far as this note goes. It's a substantial investment. This is one of those bills that came here from away. I have no idea what they did in those states previously. I have no idea, but I do know what we did here in Maine. I do know what we did in the Criminal Justice and Public Safety when dealing with DNA. We passed a law two sessions ago that took DNA from every person that we had our hands on. Everybody that was incarcerated in county jails and prisons. Everybody on probation. Everybody that the State had a leash on of any sort. We have been doing things in the state of Maine, especially in public safety. The Criminal Justice and Public Safety Committee, which I have been a member of, has been dealing with these issues as they come up and as technology advances. When we did that in Criminal Justice and Public Safety we didn't realize the burden we were going to put our crime lab under or the expense that we was going to put on the

State of Maine because we didn't have fiscal notes like we do today. We did go out and we did use some of the stimulus money. The Department of Public Safety was able to acquire some of those funds to try to pay for some of the labor and man hours. We did put some people on at the lab, the Maine State Crime Lab, where that work is all done to try to get us caught up. We are not caught up yet. Last year the director of the crime lab said it was his number one priority, to get caught up to what we did. By going and getting everybody that had been convicted of a crime and then going forward to anybody that's convicted of a crime, I think it's sort of like parking tickets. We really broadened it out so that we are taking in a lot of felonies, all A, B, and C, anybody that, in the last few years, has been arrested and convicted of any felony, and most of the serious misdemeanors are having their DNA taken currently. That's what we did two sessions ago. We also went to the extreme of approximately 7,000 people who were on probation, maybe 8,000 then, and 2,000 people that were incarcerated, whether they were getting out in a week or they were never getting out of prison, we took their DNA. We have a very substantial database. Now going and getting DNA from people that have only been accused, not convicted and not charged, just accused of a crime, I think, is a stretch. When I look at today's budget that we're trying to deal with downstairs, I think of the cuts that we are making, and I look at a bill that's going to cost this year alone \$648,540, knowing that that is going to at least double, at least double, in 2013-2014 and then again the following biennium. This is a very expensive bill. It was brought here from away and I have no idea, because I had no testimony, of what they had been doing in their states about getting DNA. If they were starting at zero, believe me, Mr. President, we were far ahead of them to begin with. I doubt very much that they've caught us yet. I thank you. I answered your question that was posed on the dollar value on this bill.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, when Katie's Law was passed in one state the DNA evidence was actually used to exonerate someone who had been in prison for a very long time. I'm sure he was very happy that day to find out that that DNA had been taken and entered into the double blind system where DNA evidence is stored. DNA evidence is not like fingerprints. It's not put into a system that can be accessed by a name or by a request by any law enforcement agency. It's put into a double blind system. There is no name attached to it. It has to be run through two different systems in order to match the person you took it from to the sample. That is the national registry, the DNA registry.

One in three little girls born today will be sexually assaulted in their lives. One in three little girls born today will be sexually assaulted sometime in their life. Sometimes by a neighbor. Sometimes by a friend. Sometimes by a stranger. We spend hundreds of thousands of dollars every year trying to talk kids into not starting to smoke because it's worth the investment. Girls are more likely to be assaulted than to start smoking. That hit me the day that I walked into my little girl's kindergarten class and there were three little girls in her class and ten little boys. I don't know the statistics on the young boys. I do know that the person they put down the street from me had 45 victims the day he was indicted. He had been assaulting children for over 25 years, so had his wife. If we can put money into all of the prevention that

we talk about for the health of our children, I would say that we can put something into the prevention end of this. It's a double blind system. It works to protect people. It doesn't get drawn up until there is a match, then the system starts. Taking a swab and entering it into the system to prevent someone on a spree, and we hear about it more and more every day. Every time I hear about, just a few months ago, the mass graves that they have been finding and the dumping grounds where the latest serial killer has been dumping women I worry about my daughter driving around. I'll tell you what, when I talked to the woman who came here and spoke about this, I have never seen a more researched and more thorough explanation of how a system worked. When this woman found out the drawbacks to the system, she went back to the drawing board and she went back and she went back and she went back because she does believe in justice. Every time I hear, "Better one guilty man go free than an innocent man be put away," this action would work. It would also make sure that guilty people are caught long before the 20 or 25 years that lapsed between one crime and the crime that gets them indicted. I think it's worth the investment. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. I believe that this bill is well-intentioned and does seek to try to find ways to capture criminals. I worry, though, about a number of different things with this bill. First, I think there are serious due process concerns with invading someone's privacy based purely on an arrest. If you arrest somebody, you are estimating 10 people, take all their DNA and put it in a national system, not only to be used for that particular crime, but to be fed into a national database, we're told. We're going to arrest people and feed their DNA into a national database without any due process protections. To me, that is a significant problem. Also I don't really understand how this bill works in line with some of the points I've heard in support of it. To really be effective you'd want to take that DNA and make sure it's available to cross-reference every crime in the state and every crime in the country. That's not what the bill does. The bill doesn't allow you to use it unless you get certain conditions met. It appears that it is only going to be used for that particular crime of which they are charged, I would hope. If not then you have additional due process concerns with arresting somebody, maybe for burglarizing a store, and feeding their DNA into a national system to be forever cross-referenced against other crimes. Where does it end? If we really want to make sure that we can solve every crime we ought to have every person in the state and in the country give their DNA so the police have it. We could all do it. The police would have a DNA database of everyone in the state of Maine, everyone in the entire country, and anytime there is a crime they could run it against that database. Why don't we do it? We don't do it because we think there are legitimate privacy concerns that people have a right not to have invaded without certain due process protections. Once you believe in due process then you start getting into this very dicey territory. Once someone is convicted of a crime, take their DNA. When other due process safeguards are met in other circumstances take their DNA. Don't simply allow the police to go out and arrest people and take their DNA without any additional safeguards. It's recipe for disaster. It's a recipe for lawsuits. It's an extraordinary expense in addition to the cost or expense of people's liberties. Thank you, Mr. President.

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

Senator **MASON:** Thank you Mr. President. I just wanted to point out a couple more things. The fact that this DNA is forever in a database, that's not exactly the case. In the bill there is a section for expungement that someone can go through if they think their DNA has been collected not in a correct way. Also if the stats hold up that every dollar we invest we have \$90 in savings, this bill will accumulate \$58,368,600 in savings. Thank you, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I have no problem using DNA to prove someone's innocence or someone's guilt. There is still the case of Deschaine and what would that DNA prove. We've never wanted to open that case back up. I don't know why. If it proves him guilty everybody would feel happy. If it proves him innocent that's okay too. We've had that case in front of us. Here's my catch. This is what hangs me up on this bill. I grew up under a Constitution that says you're innocent until you are proven guilty. If they've been arrested, they've been accused, no one's guilty yet. Wait until they are convicted and then take it. That's the Constitution. Where do we go to make a law that says we don't care what the Constitution say anymore about innocent until proven guilty? We're taking this because they've been arrested and we're going to take their DNA. If you want everybody's DNA, believe it or not, I would go along exactly the way the Senator from Cumberland, Senator Bartlett, has said. Every baby born in the United States has a DNA and it goes into the bank, just like we do fingerprints. I'm all for that, but not to pick a group out that has not been proven guilty yet. We're fortunate because we live in the state of Maine. There's not a lot of corruption here. Somebody who's been arrested, because they are suspected of committing a crime, you've taken away their right, a Constitutional understanding that they are innocent until proven guilty. The DNA part is not what bothers me. It's the part where we are playing with the Constitution. We're having some time tonight with taking away, taking away our rights. I'm astounded. I know my 7th graders can tell you about the right that you are innocent until proven guilty. That's what makes us a great country. Let's not be playing around and tinkering around with that. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I think DNA is something that is of our own and it should not be able to just be collected so haphazardly. I'm very concerned. I do have a problem with just collecting DNA for the sake of it. I agree with the previous speaker about the issue of just collecting it without enough body of evidence before that DNA is collected. I think that is outright wrong. With regard to the statements that the Senator from Penobscot, Senator Plowman, made about the children; if I thought this bill could solve those problems then I would have no problem with this bill. I would probably support it. Unfortunately, I don't think the issues that she was talking about, I don't think those issues will be addressed

by this bill. Also unless something has changed under the dome, I don't think we have a dynamic fiscal note here and I'm seeing that used. Frankly, we will be losing. There will be a cost in the hundreds of thousands of dollars for a new government program or expanded government program. I can see this constantly happening. Many, many hundreds of thousands and millions of dollars that we are choosing as priorities here. I think we should be concerned with that. We have responsibilities that we have not taken care of yet; for example, school funding at the 55%, which I have heard virtually nothing about this session. We constantly are putting on new mandates to our towns, like this new bill that we just voted out tonight on the provisional ballot that I believe there will be a cost on that. I think that these costs, we need to start recognizing that we should be prioritizing. There are some great concerns over the cost of this bill. Should we pass it? Making those statements of what our priorities are. I can't support another government program with more government intrusion into our lives, another chipping away at our rights, at our life, liberty, and the pursuit of happiness, which I definitely believe that this is chipping away at. I hope that you won't support the pending motion and perhaps we can get to the other report. Thank you very much.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm compelled to get up, I'll count it as the second time because the last time I was answering a question, not to defend what my committee has done over the years, but to remind this Body of what the committee has done over the years. We have led this nation in fighting domestic violence and the numbers prove it. The last statistics that came out from the Department of Public Safety show that we are on a decline. Defending women; this legislature, over the years that I've been here, has made substantial improvements through the Criminal Justice and Public Safety Committee and this Body and the other Body in passing laws to bring those numbers down. We saw the latest statistics that you just had a couple of weeks ago. We've done the same thing for child abuse. We started off, when I first got here, with a computer crime taskforce that led into a permanent division of the State Police on computer crimes that deal basically with sex offenders. We set up a registry that has gone back in time. We went back so far one time that we had to redo it to meet the Supreme Court decision.

This bill, I don't know how you can save \$90 on a \$1 in that dynamic financing. I've got an airplane bill I'd like to be able to use that one with. The numbers in front of me are \$648,000. That's for this year. It keeps doubling.

There are members of this Body that have served on the Criminal Justice and Public Safety Committee and know how seriously we take our jobs. They know how seriously we have passed laws that deal with this very subject. We have such a good backlog in the crime lab that even if we were to pass this bill we couldn't get to it for the next couple of years. It was the number one issue for the director of the crime lab before the budget cuts laid him off. The number one issue at the crime lab was trying to get caught up on these DNAs. You can take DNA until you are purple, but if you can't process them it doesn't matter. Right now we're having a hard time processing the ones that we have convicted people on, let alone people under suspicion of something. Due process has to matter. You can say

you are saving something, but, boy oh boy, I can't see it. You can talk about cockamamie stuff all day long, but, boy oh boy, if you can't show it to my voters I can't defend it and I cannot defend spending this much money on something that's not going to do us any good and that we're not already doing.

Criminal Justice and Public Safety is a fairly busy committee and I don't think we sit idle by and make weak laws. You get somebody and convict them; I don't care how much you get into their personal freedom. I think they ought to be locked up for a while. We do that and we do that very effectively. I don't think that we're going to start taking DNA from people that have only been accused of a crime, no matter how high or how low that crime is. Don't forget, all crime isn't A, B, and C. The ones that are listed in here are A, B, and C, but C can be fairly low. If they have taken somebody in and charged them and gone in front of a judge, the judge can order DNA to be taken. You don't need this bill to do it. They do it now. There is nothing that this bill is going to give us that we shouldn't be ashamed of, that doesn't happen now. Do you think we've been sitting on our duffs since DNA was first developed? You think we've been sitting on our duffs while we've been backlogging our crime lab so that it can't even go through these samples? No, we haven't. We've been passing laws and passing things in good conscience to save people. I'll take a backseat to nobody, and this Body will take a backseat to nobody, that we don't lead the country in defending our children and our women from sexual offenders. Not only has this Chairman of the committee but also the past Chairman, the Chairman before him, diligently found the money, whether we were going into money that we didn't have in the budget and we were going into stimulus money, no matter how we were doing it, we were funding personnel to go and work on those cases. We've gotten those backlogs down. We've reduced the rate. Look at the statistics that came out within the last couple of weeks. Look at all those crimes that we're talking about today. All those numbers have come down in the state of Maine. That's because this Body and this committee have worked diligently to put these laws in place, but never have we been ashamed of any laws we put in. This would make me ashamed to say that I'm an American and you're not born with the same rights that I was. This would be a shame on this Body to pass.

Ladies and gentlemen of the Senate, remember what we have done. I'm not standing up here defending it, but I'm reminding you what we've done. There are members of this Body that sat on that committee while we did these things. Remember what we've done and how far forward we've come and how other states look at us for an example on how you do things and you do them right. It's nothing that we're ashamed of. Thank you, Mr. President.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, as most of you probably know I do sit on the Criminal Justice Committee. This particular bill, in hearing and work session, was extremely interesting to me. It was moving, quite touching because of Katie's Law. What we are talking about here tonight is a new technology, as the Senator from Cumberland, Senator Gerzofsky, has indicated, that hasn't gone unnoticed in regards to the state of Maine. I want to answer a few of the questions and concerns that a couple of the previous speakers had in regards to taking DNA sample being a bit

unconstitutional or infringing upon rights. If I'm not mistaken, when you are arrested for a crime fingerprints are taken. The taking of fingerprints gives them all kinds of information. That, as we all know, is rolling your fingers in ink and taking your fingerprints. DNA sampling is a swab inside the cheek. Personally, I think that's less invasive than taking fingerprints. I don't see where there is any more infringing upon our rights by taking a DNA swab than taking fingerprints or drawing blood or whatever the case may be.

The savings issue, statistics that have come from many states does in fact give us the statistics that for every \$1 spent on DNA sampling and processing, \$90 is saved. That \$90 that is saved comes from not having to go through the extensive process of several detectives doing the detective work, the traveling, and the pay; years and years of investigating cases. With the DNA cases it's short and sweet. If the DNA matches you'll be on your way to court. Most always they get a conviction.

I won't reiterate some of the other positive facts in regards to DNA sampling and getting people who have been accused wrongly of a crime, and especially being able to accuse people of serious crimes with DNA that we can't seem to do with fingerprints and years and years of investigations. Also DNA is not processed until there is a probable cause. That's an important fact to remember. I also want to make everybody aware that everybody on the committee was in favor of this with different amendments. I certainly urge you to vote for this bill. It is a good bill. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-576) Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Chair noted the absence of the Senator from Sagadahoc, Senator **GOODALL** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#209)

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

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

EXCUSED: Senator: GOODALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-576) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Prohibit Bullying in Schools" H.P. 928 L.D. 1237

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-570)**.

Signed:

Senators:

LANGLEY of Hancock
ALFOND of Cumberland

Representatives:

RICHARDSON of Carmel
EDGECOMB of Caribou
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

Representatives:

JOHNSON of Greenville
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-570)**.

Reports **READ**.

Senator **LANGLEY** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **MASON** of Androscoggin, 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 (#210)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, GERZOFSKY, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: COURTNEY, FARNHAM, MASON, MCCORMICK, SHERMAN, THIBODEAU

EXCUSED: Senator: GOODALL

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-570) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law"

H.P. 400 L.D. 507

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-573)**.

Signed:

Senators:
TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:
KNIGHT of Livermore Falls
BENNETT of Kennebunk
BERRY of Bowdoinham
BICKFORD of Auburn
BURNS of Alfred
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

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

Signed:

Representative:
BRYANT of Windham

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-573)**.

Reports **READ**.

Senator **TRAHAN** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Resolve, Directing the Bureau of Revenue Services To Provide Guidance Regarding the Valuation of Residential Alternative Energy Infrastructure

H.P. 709 L.D. 965

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

Signed:

Senators:
TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

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 To Pass as Amended by Committee Amendment "A" (H-574)**.

Signed:

Representatives:

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

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

Reports **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Allow Table Games at a Facility Licensed To Operate Slot Machines on January 1, 2011"
H.P. 1044 L.D. 1418

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-522)**.

Signed:

Senators:

FARNHAM of Penobscot
PATRICK of Oxford
PLOWMAN of Penobscot

Representatives:

CHIPMAN of Portland
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco

WILLETTE of Presque Isle

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

Signed:

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Minority **Ought Not To Pass** 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-522) AS AMENDED BY HOUSE AMENDMENT "A" (H-564)** thereto.

Reports **READ**.

On motion by Senator **FARNHAM** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Thursday, June 9, 2011, at 10:00 in the morning.