

STATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR

In Senate Chamber
Tuesday
April 8, 2014

7 April 2014

The 126th Legislature of the State of Maine
State House
Augusta, ME

Senate called to order by President Pro Tem Troy D. Jackson of Aroostook County.

Dear Honorable Members of the 126th Legislature:

Prayer by Senator Geoffrey M. Gratwick of Penobscot County.

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 1671, "An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats."

SENATOR GRATWICK: Thank you and good morning. Last week I received an unexpected gift from a constituent and I have been thinking about it ever since. We had an e-mail exchange in which she advocated for a certain point of view. I disagreed and e-mailed her in some detail about my concerns. She replied with thanks for my thoughtful e-mail and added she was praying for me and my colleagues, that we might have wisdom and discernment. Discernment is our inner search for God's will and purpose in our lives; wisdom and discernment. I invite you to join me in prayer for those qualities and, in that vein, I would like to share with you a short devotional piece by John Donne, the 17th Century metaphysical English poet and cleric. I memorized this perhaps 25 years ago, but its meaning has deepened for me as a result of my experiences here with you all here.

This bill was proposed following a bill passed in June during the First Regular Session that restricted the type of equipment that can be used in motorized recreational prospecting. That bill, LD 1135, also asked that the Department of Environmental Protection undertake rulemaking that would cover the entire State of Maine with the exception of the Unorganized Territories.

No man is an island entire of itself.
Every man is a piece of the continent, a part of the main.
If a clod be washed away by the sea, Europe is the less.
As well as if a promontory were.
As well as if a manor of thy friend's or of thine own were.
Any man's death diminishes me, because I am involved in mankind,

This would have required the Department to complete rulemaking for an enormous area—including thousands of miles of streams—in just six months, all while continuing to accomplish its regular work plan for that same period. When the Department did not complete this enormous administrative undertaking, this bill was submitted.

And therefore never send to know for whom the bell tolls, it tolls for thee.

LD 1671 seeks to add to the work of the Executive branch by requiring that two additional departments undertake detailed work on specific streams so that the Legislature might take further action and presumably require further work from the departments.

All of this is exclusively the responsibility of the Executive branch. When the Legislature gives detailed instructions to Executive departments on what work they should do, how and when, it is an overreach of their authority and a clear violation of the separation of powers.

Pledge of Allegiance led by Senator James M. Hamper of Oxford County.

For these reasons, I return LD 1671 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Reading of the Journal of Monday, April 7, 2014.

Sincerely,

S/Paul R. LePage
Governor

Doctor of the day, David Edsall, MD of Ellsworth.

READ and ORDERED PLACED ON FILE.

Off Record Remarks

The accompanying Bill:

An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats (EMERGENCY)

PAPERS FROM THE HOUSE

S.P. 646 L.D. 1671

The Following Communication: S.C. 899

The Chair noted the absence of the Senator from Penobscot, Senator **YOUNGBLOOD** and the Senator from York, Senator **TUTTLE** and further excused the same Senators from today's Roll Call votes.

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

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 (#559)

YEAS: Senators: ALFOND, BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, VALENTINO, VITELLI, WHITTEMORE, THE PRESIDENT PRO TEM - TROY D. JACKSON

NAYS: Senators: None

ABSENT: Senator: WOODBURY

EXCUSED: Senators: TUTTLE, YOUNGBLOOD

32 Senators having voted in the affirmative and no Senator having voted in the negative, with 1 Senator being absent and 2 Senators being excused, and 32 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The Portland High School Boys Basketball Team, on its winning the 2014 Class A State Championship. The team finished the season with a 22-0 record. We extend our congratulations and best wishes to the members of the team and Coach Joseph Russo on this achievement;

SLS 906

Sponsored by President ALFOND of Cumberland.
Cosponsored by Senator: HASKELL of Cumberland,
Representatives: CHIPMAN of Portland, DION of Portland,
FARNSWORTH of Portland, HARLOW of Portland, JORGENSEN
of Portland, MOONEN of Portland, RUSSELL of Portland,
STUCKEY of Portland.

READ.

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

Senator **ALFOND:** Thank you Mr. President. I rise this morning to congratulate an incredible team, the Portland High School Boys Basketball Team, for their terrific win in the 2014 State Championship game, a game played against Hampden Academy. The tone for this game was set early when the Bulldogs, led by Coach Russo, scored 17 unanswered points in the first quarter. The Hampden Broncos played admirably and they should be commended for their performance. Hampden did put a great second half rally on, but it was never quite enough to catch up with the Portland Bulldogs. Senior Center Matt Talbor kicked off the game, scoring 8 of his 16 points in the first quarter, including two three-pointers. With stellar performances from Jayvon Pitts-Young, Steve Alex, Justin Zukowski, and others, it was clear that Portland was going to win from the first quarter. When the final buzzer rang at the Cumberland County Civic Center the Portland Bulldogs were victorious, 54-40. Again, Hampden played extremely well. They were tough opponents, but games like the one played at the Civic Center at the Class A Championship game are what exemplifies great sports and Maine sports and Maine basketball. Today Coach Russo and every student athlete from Portland should be proud of their remarkable season and undefeated and to be the Class A Boys Champions. Congratulations.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise, too, to add my congratulations to the Portland Bulldogs for an outstanding season and a very well-played championship game. When you match two well-coached and well-prepared teams, unfortunately, the results only allow for one to win; but in this case I think we experienced what makes high school basketball in Maine so great and, most importantly, the skills that are learned on the court will hopefully convey into life skills that will allow them to move on in whatever their future endeavors are. My congratulations to Coach Russo and the boys for an outstanding season and my very best as you go forward in your lives. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, I rise this morning to congratulate the Portland Bulldogs. As a Hampden Academy alumni, I fully recognize that these young men played the game of their lives. If they were successful, and they were, in beating the Hampden Broncos, we know that they played the best possible game that they possibly could. Congratulations to the Portland Bulldogs.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the balcony the Portland High Boys Basketball Team with their coach, Joseph Russo. Will they please stand and be recognized by the Senate.

The Catherine McAuley High School Girls Basketball Team, of Portland, winners of the 2014 Class A State Championship. This is the team's fourth consecutive championship victory. We extend our congratulations and best wishes to the members of the team on this achievement;

SLS 907

Sponsored by Senator **HASKELL** of Cumberland.
Cosponsored by Senator: President **ALFOND** of Cumberland,
Representatives: **CHIPMAN** of Portland, **DION** of Portland,
FARNSWORTH of Portland, **HARLOW** of Portland, **JORGENSEN**
of Portland, **MOONEN** of Portland, **RUSSELL** of Portland,
STUCKEY of Portland.

READ.

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

Senator **HASKELL**: Thank you very much Mr. President. Apparently this is spectacular sports team day here in the Maine Senate. I will tell you it's my pleasure today to stand up and recognize the McAuley Girls Basketball Team. I want to tell you just a little bit about the game. The Lions went in this with a 21-1 record; so you would think, "Well, they're just going to walk all over this. They've been here before." That's not what happened in the first half of the game. The first half of the game they trailed a little bit off and on. They had some fouls in the first quarter. You know what this team did? They became a team. A team that they practiced to be all year long and what McAuley did was they started going to their bench. I'll tell you, that bench has got some depth. I think every player was on the court. Everybody contributed. Everybody had been coached, practiced, and was ready to move that team forward. At the end of the day, on that classic day at the Cumberland County Civic Center, they became the third Class A program to capture four straight titles. I don't know if you'd call that a four-peat or a quadra peat, but we're going to make up a great term for that because they used every strength they had, every bit of coaching they had, and they were able to overcome Oxford Hills by a score of 67-41 and came home for the fourth time in a row with the Class A Championship. I'll tell you this speaks to some of the things that my colleagues have been talking about, and that is that every player counts,

every player matters, everybody has something to contribute, and they all did and the team came away with another win for a wonderful team and it's my pleasure to congratulate McAuley on this great win. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator **Thibodeau**.

Senator **THIBODEAU**: Thank you Mr. President. I rise today to congratulate the McAuley girls as well. We actually have a personal relationship with one of the young ladies on the team, as she interned for the Senate Republicans over the past year, Carolyn Liziewski. Carolyn spent some time in our office. We all got to know her very well and we're incredibly proud of the McAuley girls for winning the State Championship. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT PRO TEM: The Chair is pleased to recognize in the balcony the Catherine McAuley High School Ladies Basketball Team. Will they please stand and accept the greetings of the Maine Senate.

Senate at Ease.

Senate called to order by President Pro Tem
TROY D. JACKSON of Aroostook County.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

The following matter 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 Assigned (4/4/14) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Limit Consent Regarding Land Transfers to the Federal Government"

S.P. 733 L.D. 1828

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-496)** (2 members)

Tabled - April 4, 2014, by Senator **VALENTINO** of York

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

(In Senate, April 4, 2014, Reports **READ**.)

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

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

Senator **VALENTINO:** Thank you Mr. President. Men and women of the Senate, I rise today before you to ask you to support the motion currently on the floor, Ought Not to Pass. This is a very strong, bi-partisan, 11-2 report out of the Judiciary Committee. This bill originally started out in the language as prohibiting transfers to the federal government for any piece of land over 5 square miles. Five square miles is 3,200 acres. When it came before the committee for the public hearing the sponsor said that his intention was not 5 square miles but was 5 acres. Some of the testimony we had was implied to 5 acres because they knew it was going to be changed and others actually were against the 3,200 acres in the bill as originally. The amendment you have before you now is 40 acres. Forty acres. I'd like to just read to you what it says; "A tract or continuous tract," so it doesn't have to be one tract, it could be more than one, "of land, the total of which exceeds 40 acres in area may not be acquired by the United States for a purpose not specifically authorized in this section, which would be for a lighthouse, custom house, court house, post office, or an arsenal, unless the consent thereto is granted by the Legislature by an affirmative vote of a majority of the members of each house of the Legislature." Basically, what it is saying is it would almost take an act of Congress, but an act of Maine, for anybody to sell 40 acres to the United States government anywhere in the state of Maine. To put that in perspective, Baxter State Park is 209,000 acres. We're talking 40 acres. I live, my house, is on 250 acres. I couldn't sell 40 acres without putting a bill in to the Legislature and having the House and the Senate vote on it, having public hearings on this, to sell 40 acres to the government of the United States without this.

Maine has a long tradition of strong private property rights. Those owners have been good stewards of the land for the past 200 years. This bill seeks to interfere with those rights by telling someone who they can and cannot sell to or give their land to. It is a fundamental violation of the concept that you are free to do what you want to with your property, including selling it. This is a violation of property rights in the state of Maine.

What about someone who is contemplating a land donation to Acadia but decides not to because they find a law says that they have to come to the Legislature. This bill raises far too many questions and, moreover, it seeks to solve a problem that does not exist. Transfers of this type to the federal government are rare and well publicized and discussed before they happen. This legislation is unnecessary and comes with a litany of unintended consequences.

The bill appears to take aim at a proposed national park in the state of Maine, but this bill does not say anything about a national park in the state of Maine. This bill says 40 acres of land. It does not say where; whether it's in southern Maine, northern Maine, eastern Maine, or western Maine. It says 40

acres. It could be two or three parcels that equal 40 acres of land. We also have here a letter from SAM, the Sportsman's Alliance of Maine, at the public hearing. They say our preferred amendment to L.D. 1828 would be a blanket provision that would require legislative approval to transfer or donate land with the intention of creating a national park. We don't see any need to place a minimum acreage amount on that requirement. That's from the Sportsman's Alliance of Maine.

Basically, it takes an act of Congress to establish a national park. Until such time as our Congressional Delegation fully supports the creation of a new national park Congress will not approve it. Why are we putting in a bill for 40 acres if people are talking about a national park? If passed, this bill would have a negative impact on property rights by preventing a private property owner from selling or donating their land. It could also have a negative impact on the value of lands. In addition, this bill is in search of a problem. In the last decade alone, this is from the Nature Conservatory, they are not aware of any transfers of land to the federal government that meets the specifications of this bill. This bill is unnecessary and over prescriptive. We also have a letter from the Superintendent of Acadia National Park in opposition to the bill. It says, "Acadia's fee and boundaries were established by Congress in 1986. We are mandated to purchase or accept donations of parcels within the fee boundary until the park is fully protected. We have about 40 tracts of undeveloped land within the park's fee ownership boundary left to acquire. Many of them are larger than 40 acres. If we cannot protect the undeveloped parcels within our boundary that quality will deteriorate and visitor satisfaction will go down. We also have to be able to react quickly when a threat develops on one of these undeveloped parcels. That means moving to purchase the land as the bulldozers are unloaded. We cannot wait for the Legislature to begin session and to act before we purchase a parcel of land." One of the comments which showed the flavor of the public hearing and reading through the letters, and I will quote from one of the people at the public hearing, it says, "These days every day seems to bring out a new outrageous action from an out of control, corrupt, dysfunctional federal government." Really? This bill is not about selling land to China or Nigeria or Saudi Arabia or even to Canada or any foreign national person that comes here. This bill is about a private property owner selling 40 acres of land that they own to the United States of America, to our government, which I do not think is a corrupt, out of control, dysfunctional government. This bill is un-American. This bill violates the property rights of every Maine citizen. Please vote Ought Not to Pass.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, there is no one in this Chamber who is any more American than I am. We can't do this because someone might lose the right to sell their property to the federal government and property owners should have the right to sell to anyone they choose even if that means the rights of thousands of Maine is taken from them; even if the rights of every Mainer to hunt and fish and snowmobile is severely restricted; even if all the neighboring property is threatened with fire and disease to their forest? How many rights are we going to take from all of Maine to give this right to a small group of people? There will only ever be a handful of people who ever get the opportunity to sell to the

federal government. To give those few people the right we're going to rights and abilities from everyone in Maine, and a lot of people who come here to visit, and quite possibly finish destroying the economy of Northern Maine. In reality, this bill doesn't take away that right. It only adds a step in the process because the consequences are so drastic. Selling land to the federal government is not selling land to a benevolent grandfather. A benevolent grandfather would let you snowmobile across his land, or hunt, or fish. More often than not, the federal government is not going to allow snowmobiling on their land. In some places people have been fined thousands of dollars when they got lost snowmobiling in a blizzard and ventured into a place they weren't allowed on federal land. So much for their right to life and survive a blizzard. The hunting and fishing that most of us enjoyed all of our lives will probably be severely limited on any land that the federal government owns. So much for those rights.

As a society we, in Maine, have decided there are some things you don't do, like clear land right down to the shore of the lake or build too close to certain bodies of water. We do that to protect water quality and the character of our lakes and ponds. Those rules are gone if the federal government owns the property. If you own property on that lake or pond and the feds diminish the value, so much for your rights. In Northern Maine the best asset, and sometimes the only asset we have, is our land. We've made our living from it generation after generation. Farming and forestry have sustained us for hundreds of years. For that once in a lifetime right for a small handful of people to sell their land to the federal government without restriction we're going to drive even more of our young people out of Maine because there will be no farming or no forestry on that land every again once it's locked up by the federal government. Will there be enough tourists to make up for those job losses? Probably not with all the better opportunities to recreate on millions of acres of state and private lands in the area, land where you can hunt or fish or ride your ATV or snowmobile. What about the rights of neighbors to grow trees on their land? The federal government often doesn't allow forest fires to be extinguished because forest fires are natural. In much of the west where they own vast tracts of land they have a let it burn policy. If the fire gets into neighboring property it's too bad for the neighbors. Besides, they can buy it cheaper after it burns to make their park bigger, which would be the goal once a park is established here in Maine. Will this land just become a breeding ground for every kind of disease that destroys forests, spreading to private forests all around? It very well could. Who knows what a bureaucrat in Washington is going to decide and it will be bureaucrats from away who will decide everything. Maine laws and Maine commonsense doesn't apply to federal land.

Let me read the article in our Constitution, the U.S. Constitution, that I believe in. Article 1, section 8, clause 17, that applies to this land says, "To exercise exclusive legislation in all cases whatsoever over such district not exceeding 10 miles square as made by cession of particular states and the acceptance of Congress become the seat of government of the United States." That's the part of the Constitution that establishes a capital. That's Washington D.C. It continues, "and to exercise like authority over all places purchased by the consent of the Legislature of the state in which the same shall be for the erection of forts, magazines, arsenals, stock yards, and other needful buildings." When the federal government purchases land the authority over that land becomes the same as the authority over Washington D.C. In fact, once title to our land is conveyed to the

federal government the laws that govern it are no longer the laws that govern Maine. They are the laws that govern Washington D.C. It's no longer a part of Maine, but part of Washington D.C. That territory is taken off the rolls of Maine and none of Maine laws apply, only federal rules apply according to our Constitution. That's why the framers thought it so important that they required the Legislature in every state to give permission before it could happen.

All this bill does is require legislative approval before more than 40 acres of land can be taken from the territory of Maine and made part of Washington D.C. Some future Legislature may decide it's in the best interest of Maine to allow this to happen or they may not. In any case, it needs to be Maine people who decide our fate, not a handful of bureaucrats in Washington D.C. Thank you.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I appreciate the opportunity to stand up and speak about this bill for a moment. I consider this to be a very important bill. My regret is that the bill came in the eleventh hour of this term. I think the bill deserved a lot more discussion and input than we actually were able to get in this late hour. I was very surprised by some of the responses in the committee because as we think about the flavor, if you will, that has been mentioned here of the testimony. I saw the flavor as being a little something different. I listened to a lot of people, an overwhelming number of people, that came in and testified in support of this bill very concerned about their property rights, very concerned about what's going to happen in their neighborhoods where they live, and, thus, were supportive of this. I was surprised by some of the comments that I was hearing from the committee; people who were turning this into a violation of private property rights when normally they weren't overly concerned about those issues in the past. It was a very interesting discussion and a very interesting presentation that we had.

I've received a lot of e-mails on this, as maybe some of the rest of you have. It's been interesting that they have been on both sides of the issue. All of the e-mails have had the same impetus. They have been concerned about their property rights. Some have taken opposition against this feeling that this violates their property rights, but I would say the majority of them are in support of this, wanting to protect their property rights. It seems to be a two-way sword, at least in some people's minds. I think that's the result of not having a full vetted discussion. There was some movement in the committee, if you will, to study this and see what the implications were and what has happened in other states. I think that might have been a good thing. That fell short of support, so what you have before you is either passing the bill or rejecting it completely.

I don't see this as a violation of property rights or I wouldn't be standing here speaking and I wouldn't have been one of the people that supported this bill in the committee. I consider myself to be a good American, contrary to what has been implicated here. I'd like to think I'm a good Maine citizen. I'm very concerned, Mr. President, about my property rights and every Mainer's private property rights. That's why I've taken the position on this that I have. I'll give you an example. I live in a part of Maine where I'm basically surrounded by one of our wildlife refuges, the Moosehorn Wildlife Refuge. It's a wonderful place.

It's a great habitat for animals. I grew up in that territory and all the time that I was growing up I was able to fish and hunt, snowmobile, and traverse that property that's almost adjacent to my property. Since that time that wildlife refuge has bought up more and more tracts of land from the paper companies as they've become available. Consequently, that right, not right but privilege, that my neighbors and I have enjoyed over the years has changed. No longer can you snowmobile, hunt, fish, trap, or traverse that property without permission from the federal government. The rules have changed. They have the right to do that under the federal laws because they now own that property. It does have implications for those in the neighborhood and local control. Anybody who thinks that it does not has never experienced what I've experienced.

I'll give you another example. Back here this fall and this winter, when we had the federal shut-down, you all know what took place across the country and, hopefully, you know what took place here in the state of Maine. I think specifically of the Cobscook Bay State Park. It was shut down completely during that shut-down era. That's a state park and it is located completely on federal land. We lease that property from the federal government. Regardless of the fact that everybody who worked there is a State employee and every fisherman who had to travel over that land in order to use the public boat access was a local person trying to make a living, it didn't matter to the federal government. The park was closed up, barricaded, and people were not allowed to access it. People were put out of work. Tourists were not allowed to come. Consequently, there was a great thing that took place that was adverse to the local people because of the federal rules. The feds had a right to do what they did, apparently. It was not challenged beyond the time that the park was reopened. I'm just bringing that point to you for you to consider. Who owns the land, especially when it's the federal government, has great implications for the community in which that is located and the neighbors that surround that. I thought that was a good example of what can happen when the State or private property owner loses control over land to the federal government.

I see this bill as something that protects both sides. I think it's something that would cause a transfer of land to be more properly vetted by this Body and by the other Body before that transaction takes place. I can't imagine that if it was not an appropriate proposal and an appropriate transaction of land that these two Bodies would sanction it. I can't see how it would be anything different. I have great respect for these two Chambers and I think that everybody's rights would be protected if that was put in place. Without that the local people have absolutely no say whatsoever. If I choose to transfer my 200 acres of property to the federal government my neighbor has nothing to say about that. I see this bill as a buffer so that local control and neighborhoods where these transfers take place will have another opportunity to have their voices heard. We've talked a lot in the last few days about people having their opportunity to have their voices heard. This would give them an opportunity whereas now they don't have that opportunity.

The other thing that interests me is the mention about SAM's testimony during the committee process. I listened to that with great interest. I thought that it was a pretty good proposal that SAM had made, but I wonder had we adopted that as the amendment instead of the one that's before you today to make this only about the transfer of property to a federal park as to whether or not you would have heard the exact same arguments

against it that you heard a few minutes ago. I have no way of knowing, but I wonder what would have taken place. I'd urge you not to set your mind against this proposal. Think of the ramifications, Mr. President, that are involved here if we don't pass this bill. I don't know what's going to happen in the future. I don't live up in Northern Maine where most of the concern is, but if I did I would be very concerned about the action that you take here today in this Body. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, from the conversations we've had here today you'd think that maybe what we had before us was a bill about seceding from the United States. There is a certain degree of distrust for all intents of the federal government and ability to do things. Well they are part of our government. They are part of our nation and part of what makes us what we are. As imperfect in dealing with things like a shut-down as our federal government may be, it's also true that we're guilty of the same failings here at the State level from time to time. That's the nature of government. I want to point out that all of that animosity towards what it means if the federal government and the natural parks control the lands, it's not a unique problem to whether it's the federal government or not. The 200 acres that were being considered selling and the neighbors had no say in that. What if that was being sold to someone from New York State that decided they really want to not allow anyone to hunt and fish on that pristine piece of wilderness that they considered dear and would rather block what Maine people do there? We have no say in that either. What if someone decided that they wanted to sell it to someone from Canada who just wants to come in and flatten that piece of land, make it no good for hunting anymore? Well, we don't necessarily have any say in that either. Where do you draw the line, because there are all any nature of parties, sources, locations, entities that land can be sold to that may or may not allow the sorts of uses that you enjoy as part of life in Maine that you hold dear? Where do we end this slippery slope of saying who a person can sell their property to? I think we're drawing the line arbitrarily out of some form of animosity to our own United States government. It certainly isn't even-handed in how it's deciding the basis for whether the State has to get involved for someone to sell their property, if only as much as 40 acres. Many years ago a good part of this country was formed, before many of us the states existed, and was settled under the Homestead Act in which 40 acres and a mule was granted to people. They could settle the land. Now we're trying to say that 40 acres is a piece that we're not willing to let someone who already owns that land, it has been settled many years ago here in Maine, to sell that piece of land or give it back to the federal government. That's mighty nice. I, frankly, think a lot more of our federal government, as imperfect as it is at times. It's what we have together that makes us a country, makes us a nation. I think if you're going to decide on policy about whether a person can sell their 40 acres or more of land it ought to be outlined into good reasons why the State should be getting into that question and where that person's property rights rest. How are we going to respect the rights of not just the person who is a neighbor who may have been enjoying other uses, but the person who owns that property, who wants to sell it as well? Thank you.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, as somebody who spent a fair amount of his life north of Augusta on some unorganized territory, whose family has owned land for five generations, I understand some of these dynamics. Maine is a unique state where property owners have granted the public the privilege of being able to access their land and, with the respect for that, allow them the free use of it. We're talking about a fundamental difference here. When we convey land to the federal government there is not the same life span as when somebody purchases it for their own personal property. They have created a set of guidelines at the federal level that are not always responsible to the citizens who are represented by that federal government. I think we have to think very carefully about whether we're going to continue to allow the federal government's reach to dictate what happens with land in the state of Maine. It's clear by those I've talked to in the Legislatures in the west that federal lands have had benefits, but they have also had some dire consequences. I think this bill is appropriate to have that discussion. I'm sorry, as is my good colleague from Washington, that we did not have the full time to address this during this session because it is a fundamental that we in Maine pride very greatly, open access to land, but the private property ownership that has assured that access, I think, is being threatened by some of the recent occurrences and the desires for a national park here. Thank you.

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

Senator **BOYLE:** Thank you Mr. President. Men and women of the Senate, in addition to my consulting business I also buy and sell real estate. I have for a number of years. This bill surprised the heck out of me. This is a private rights issue. If I own 41 acres and I want to sell I feel like I should be able to sell it. One of the first interactions I had with some of the folks in this Chamber was, I think it was in the 125th, when they came around the state and had these Red Tape Review hearings for L.D. 1. I sat through some of those. It seems to me like this is exactly what they were trying to address in those Red Tape Reviews. Let's get the State out of people's business and off their backs. Here we are, a couple of years later, putting the State, the Legislature, on private property owner's backs. I own some property. I'd like to be able to sell it to whoever I want to be able to sell it to. Whoever buys it has to deal with the neighbors and their restrictions on that land at that time, just like we have zoning and everything else to deal with that. I support the Ought Not to Pass. Thank you.

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

Senator **VALENTINO:** Thank you very much Mr. President. Men and women of the Senate, this bill is not about a national park. We would be having a different discussion if the bill was put in about a national park. I think that's a discussion that we probably need to have. This bill is assuming that everybody in the state of Maine is against a national park. Maybe a lot of people want a national park. It reminds me of another bill we had on eminent domain where we assumed everybody wanted an East-West

highway. We found out very quickly a lot of people didn't want an East-West highway. This bill is about selling 40 acres. This bill is about private property rights. It isn't even about selling 40 acres. You cannot gift 40 acres without coming to the Legislature. As Acadia National Park had said, they need to act swiftly on a lot of these purchases. The Legislature is not in session 12 months out of the year. What happens if they want to buy a 40 acre parcel of land? Are we called in to special session to vote on a sale for 40 acres of land? This bill is not about a national park. If people want to have a discussion on a national park then they should submit a bill that addresses the national park. This bill is about private property rights for 40 acres of land. Not for 4,000 acres of land or 40,000 acres of land or 400,000 acres of land. It is about 40 acres of land. If you own it they are saying you cannot sell it to whoever you want to, which could be the federal government, or gift it to them unless you came back before this Legislature. If you are against the national park then put in a bill that addresses the national park. This is not the vehicle to do it. Please vote Ought Not to Pass.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, if someone from New York or Canada buys a piece of land in Maine the Forest Practices Act still applies. Shoreland zoning still applies. If the federal government takes title to land, let me read you the section of the Constitution again, "and to exercise like authority over all places purchased by the consent of the Legislature." It's the same as Washington D.C. Does Maine shoreland zoning apply in Washington D.C.? Does the Forest Practices Act apply in Washington D.C.? No. We have had the discussion about a national park in this Legislature. Three years ago we overwhelmingly voted against a national park in Maine. The way the current law stands the President of the United States can, with the stroke of a pen, under the Antiquities Act, take title to hundreds of thousands of acres of Maine land and only he and the landowner would be involved in that transaction. The landowner donates it. With a stroke of the pen the title goes to the federal government. Just a little over a year ago now there were 249,000 acres in New Mexico that the title was transferred like that to the federal government under the Antiquities Act. If someone wanted to sell 40 or more acres to the federal government I don't think it would take long. We're reasonable people here in these Chambers. I don't care what people say about us. If it was good for the state of Maine we would allow it. Of course we would. Shouldn't we have some say when all authority over that land is going to be taken, when in effect it becomes part of Washington D.C. and no longer part of Maine? Should we allow people to sell land to be ceded to New Hampshire? I don't like the taxes we pay. I'd like not to pay any income tax or any sales tax. Can I sell my 100 acres to New Hampshire and have it become part of New Hampshire and Maine laws no longer apply? Of course not. No other entity besides the United States government can take authority away from Maine; not Canada, not New York. That's why this was put in our Constitution and I urge you to vote against the pending motion. Thank you.

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

Senator **JOHNSON**: Thank you Mr. President. Ladies and gentlemen, it's starting to sound like instead of using Maine roads to get to the national park areas we're getting off the Beltway to get there. Somehow it doesn't strike me that our national parks that are in the state of Maine look like Washington D.C. In fact they are nothing like Washington D.C. Yes, it is a matter of it being owned by our government, our federal government. I consider that part of my government. Frankly, if there is a problem with how that government manages federal lands, and what uses they permit on that, we have a right to have an impact on that as well. We have representation in Washington. Instead of trying to put restrictions on the rights of our citizens to sell their land as a state and becoming part of that red tape, I submit that the right way to deal with these concerns is to take them to Washington. It is for our citizens to deal with our representatives in Washington and work to make changes so that we're happier with what our federal government is doing because, frankly, if what we're trying to do is just get in the way of the federal government working the way it should than we're busy being obstructionists, we're busy being the sort of legislative body that we object to when we see it happening in Washington. Frankly, I think, as responsible citizens, we should be working with our government in Washington to make changes we feel are necessary to protect the interests of our people. As a Legislature, we shouldn't be getting in the way of the rights of our citizens in order to try to create red tape for that process instead. I urge support for the pending motion.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from York, Senator Valentino 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 (#560)

YEAS: Senators: ALFOND, BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, FLOOD, GERZOFSKY, GRATWICK, HASKELL, HILL, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, VALENTINO, VITELLI, WOODBURY, THE PRESIDENT PRO TEM - TROY D. JACKSON

NAYS: Senators: BURNS, COLLINS, CUSHING, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITEMORE

EXCUSED: Senators: TUTTLE, YOUNGBLOOD

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **VALENTINO** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

Off Record Remarks

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

Senator **KATZ** of Kennebec was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **ALFOND** of Cumberland, **ADJOURNED** to Wednesday, April 9, 2014, at 10:00 in the morning.