

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

In Senate Chamber  
Tuesday  
May 31, 2011

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

Prayer by Pastor Clint Compton, Kennebec Valley Assembly of God, Chelsea.

**PASTOR COMPTON:** I'd like to be introduced every morning in church like that. That would be quite the ordeal, wouldn't it? Greetings. I know this is just normal business for you, but it's different for me to come and pray with people that are leaders of the state. I appreciate the opportunity. We can go ahead and pray, okay?

Heavenly Father, thank You for Your blessing upon our lives. Thank You, Lord, for just the blessing of the beautiful day, yesterday and today. We're mindful of those small things, Lord, and I stand here before You, a great God, a sovereign God, a mighty God, and I stand here before great leaders. I ask You, God, in the name of every name, that You would grant to these people wisdom, especially the spirit of wisdom, Lord, in the affairs of this state and that You would guide them. There is a promise in Your word, Lord, that says unless the Lord builds the house they that labor labor in vain. Lord, we willingly acknowledge Your sovereignty, Your deity, Your supremacy, and Lord I ask You just to impart a special spirit of unity, peace, and love in the midst of this group. Lord, they represent a great people. They represent many, many varying opinions about how things ought to be. God, I know they are sensitive to all of those things. Lord, I ask You that You would especially just grant them Your divine favor as well as help them know Your will. We thank You for that, Lord. In Jesus' name, Amen.

Pledge of Allegiance led by Senator David R. Hastings, III of Oxford County.

Reading of the Journal of Thursday, May 26, 2011.

The Chair noted the absence of the Senator from Androscoggin, Senator **SNOWE-MELLO**, and the Senator from Cumberland, Senator **GERZOFSKY** and further excused the same Senators from today's Roll Call votes.

Senate at Ease.

Senate called to order by the President.

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, To Foster Energy Efficiency Improvements and Other Needed Renovations at Residential Care Facilities Funded by MaineCare (EMERGENCY)

S.P. 219 L.D. 790  
(C "A" S-127)

In Senate, May 23, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-127).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-127) AND HOUSE AMENDMENT "A" (H-371), in NON-CONCURRENCE.**

On motion by Senator **COURTNEY** of York, the Senate **RECEDED** and **CONCURRED.**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, To Study Motor Fuel and Fuel Additives and To Explore Alternatives to Ethanol Motor Fuel

H.P. 636 L.D. 839

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-277)** (2 members)

In House, May 25, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277).**

In Senate, May 25, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**

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

On motion by Senator **SAVIELLO** of Franklin, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION.**

Senate at Ease.

Senate called to order by the President.

**REPORTS OF COMMITTEES**

House

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Amend the Laws Administered by the Department of Environmental Protection" H.P. 1027 L.D. 1398

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-369)**.

Signed:

Senators:

- SAVIELLO of Franklin
- GOODALL of Sagadahoc
- SHERMAN of Aroostook

Representatives:

- HAMPER of Oxford
- AYOTTE of Caswell
- DUCHESNE of Hudson
- INNES of Yarmouth
- KNAPP of Gorham
- LONG of Sherman
- NASS of Acton
- PARKER of Veazie
- WELSH of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-370)**.

Signed:

Representative:

- HARLOW of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369)**.

Reports **READ**.

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369)** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-369) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Support Maine Veterans Nonprofit Corporations"

H.P. 881 L.D. 1190

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

Signed:

Senators:

- FARNHAM of Penobscot
- PATRICK of Oxford
- PLOWMAN of Penobscot

Representatives:

- BEAULIEU of Auburn
- CAREY of Lewiston
- CHIPMAN of Portland
- CROCKETT of Bethel
- DAMON of Bangor
- JOHNSON of Eddington
- LONGSTAFF of Waterville
- VALENTINO of Saco
- WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-365)**.

Signed:

Representative:

- RUSSELL of Portland

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

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

Reports **READ**.

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

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Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Allow a Valid Claim against a Dissolved Corporation" H.P. 341 L.D. 448

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

Signed:

Senator:

- HASTINGS of Oxford

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senators:

BARTLETT of Cumberland  
WOODBURY of Cumberland

Representatives:

DILL of Cape Elizabeth  
MALONEY of Augusta  
PRIEST of Brunswick  
ROCHELO of Biddeford

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 **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 Dill.

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I urge you to vote against the pending motion. The reason why is that current law requires all claims against a dissolved corporation to be filed within three years of the dissolution. This bill allows a claim against a dissolved corporation when there is liability insurance available. The bottom line is that corporations purchase insurance, insurance companies accept premiums, they weigh the risks, and they put money in reserves to pay claims. In the event that a corporation dissolves and a claim is later made, the insurance company is off the hook. Supporting the pending motion is simply supporting insurance companies getting off the hook from paying valid claims. This bill simply allows a claim to go forward for the amount that the insurance policy is for and up until the time that the normal statute of limitations applies. It's a good bill. It's a pro-business bill. I urge you to vote against the pending motion. Thank you.

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The Chair noted the presence of the Senator from Cumberland, Senator **GERZOFKY**.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, we give corporations a status. They become legal entities. Once they dissolve they no longer exist. One of the first questions that this law does not even address is; who do you even serve to start a lawsuit? You're going to sue the corporation, but it doesn't exist any more. Its stockholders, its shareholders, may well be dispersed. You may not know where they are. Maybe you do and maybe you don't, but there will be cases where you don't. Who do you serve? I'm not sure how you are going to find out if there is insurance in the first place. This is a very, I think, kind of unusual situation because you don't actually run an insurance policy up the flag. How do you even know they've got insurance? When they do dissolve there is a three year period to bring that lawsuit already. It's not as if you dissolve one day and you disappear the next. Those claims can be brought now within three years. During that three year period there is an orderly system of dissolution. There is somebody around that's got to be available to accept service. After that date they are gone. What does an insurance company do if, in fact, this were in place? Who would assist them in defending the lawsuit? They've got nobody. The corporation is dissolved. It's gone. When you do buy insurance one of the things you promise is that you will be there to help you defend the claim against you. The dissolved corporation had disappeared. This treats insurance like it's no fault insurance almost. The fact that there is insurance means there is somebody you can go after, an insurance company that is, basically, defenseless. Fine, if that's the way you want it. What this will ultimately do, if this were taken advantage of, is require insurance companies to pay losses because it's unable to defend against the lawsuit because its got nobody available, no records, no witnesses. They are on their own. They are going to lose. Those costs are going to be spread among the premium payers, you and I and other businesses, that remain in existence and they will have to bare those costs. I think the present law that's run through the Secretary of State's Office and allows a three year orderly dissolution of a corporation works and I think this sounds good but in effect is impractical. I would urge that you support the pending motion. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. The key to this, I think, is thinking about what goes on in a typical circumstance. If someone has a claim that has, for example, a six year statute of limitations, in the ordinary court they have six years from the date of injury to bring a cause of action. What happens under current law is that if your corporation dissolves you essentially get off the hook after three years. You have a victim who has the exact same problems as somebody who can go after anyone else for up to six years, but they can't go after that corporation because they dissolved. Dissolution could be a way for a corporation to avoid liability on a number of claims and simply reform under some new corporation to avoid facing liability and shrink their statute of limitations in half. That's a problem. In terms of how does the insurer defend the case, when they issued the policy they ought to find out who the directors and officers are for each year that and they are insuring the company. They then can use

subpoena power to get them into court. These people can be found. They can be brought into court. Simply because they are no longer part of this corporation does not mean that they are outside the bounds of the law. They certainly aren't.

It's also important, I think, as you think about this is to understand the way the insurance works. Insurance policies cover an entity for a period of time. During the time they run the risk for anything that happens during that time. Even if their policy ends on a certain date they are still on the hook for up to six years after that because they were on the risk during that period of time. An example is if somebody is covering a corporation or other entity for 2010. At the end of 2010 the company goes onto another insurance company. That insurance company is going to be on the hook for claims that happened in 2010 up until 2016 because they were on the risk. All we are saying with this legislation is that the same ought to be true whether the corporation dissolves or they get a new insurance policy or for whatever reason that they are no longer insured by that company. Insurance companies do this all the time. They insure for a period of time and there is always a tail on it once their coverage ends. This simply says that you cannot avoid liability merely by dissolving, particularly when we are dealing with a corporate form that could easily be dissolved and started as a new corporation for the simple purpose of avoiding liability. It's not fair to victims and it doesn't serve the public interest. Thank you, Mr. President.

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Off Record Remarks

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, 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. Most insurance policies that I have seen, or all insurance policies that I have seen, include in them a duty for the insured to cooperate. That is, you purchase insurance coverage. The insurance company will cover you under certain circumstances but you, as the policy owner, have a duty to cooperate with the insurer if a claim is made against you. My question is, with a dissolved corporation, would not the same apply? That is, if the dissolved corporation is scattered to the winds, as someone has put it, and do not cooperate with the insurer, would not that be grounds for the insurer to be able to get out of the case, alleging that the insured, in this case the dissolved corporation, had not cooperated? I ask the question because I do not know the answer, 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 Cumberland, Senator Dill.

Senator **DILL:** Thank you Mr. President. Just briefly, in an attempt to respond to the previous question. Clearly, if we pass this law, then the insurance company will most likely add language to their policies that requires any corporation, on the event of dissolution, to provide cooperation. It seems to me that it is something that will be negotiated and made part of the contract.

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

Senator **HASTINGS:** Thank you Mr. President. I just want to respond to the Senator from Cumberland, Senator Dill. This law does not exempt existing insurance policies. Those policies can't be amended, those that are effect. I also have a concern of when the corporation is still in existence the owners of the corporation have a dog in the fight. Their continued existence is important to them and they will rigorously defend. I think their interest, even if they are located, in defending may disappear substantially and the insurance company will pay the price and that price will be spread among additional policy holders. 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, I wonder if this is the highly touted free market approach. To me, it sounds like the old shell game with a shift and shaft component added in. The only ones that take it on the chin is the aggrieved. I will be voting against. Thank you.

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

Senator **DILL:** Thank you Mr. President. Just briefly, I would point out that the Maine Business Corporation Act, title 13C, section 1404, sub 4, states that at the time of dissolution the Secretary of State may require a corporation to file the annual report required to be filed under section 1621. I simply point that out so that should this bill pass the Secretary of State could simply ask those corporations that are dissolving in the next year or so to file an annual report that would identify at least some person why could then be subpoenaed to provide appropriate information so that, as the Senator from Oxford, Senator Patrick said, the aggrieved could seek relief. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Hastings 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 (#126)**

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

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

ABSENT: Senator: SULLIVAN

EXCUSED: Senator: SNOWE-MELLO

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Create a Sales Tax Holiday for Energy-efficient Appliances and Fixtures"

H.P. 369 L.D. 476

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-337)**.

Signed:

Senators:  
TRAHAN of Lincoln  
HASTINGS of Oxford

Representatives:  
KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BERRY of Bowdoinham  
BICKFORD of Auburn  
BURNS of Alfred  
FLEMINGS of Bar Harbor  
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:

Senator:  
WOODBURY of Cumberland

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-337)**.

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.

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**Divided Report**

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Allow the Sale of Locally Produced Beer and Wine at Farmers' Markets"

H.P. 570 L.D. 763

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-342)**.

Signed:

Senators:  
FARNHAM of Penobscot  
PLOWMAN of Penobscot

Representatives:  
BEAULIEU of Auburn  
CAREY of Lewiston  
CHIPMAN of Portland  
CROCKETT of Bethel  
DAMON of Bangor  
JOHNSON of Eddington  
LONGSTAFF of Waterville  
RUSSELL of Portland  
WILLETTE of Presque Isle

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

Signed:

Senator:  
PATRICK of Oxford

Representative:  
VALENTINO of Saco

(Representative MITCHELL of the Penobscot Nation - 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-342)**.

Reports **READ**.

Senator **FARNHAM** of Penobscot 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 Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, first of all I'd like to say I support business and this may be a business bill, but this is a bill, really, without real regulation and enforcement. This is a bill that would allow wine sales and malt liquor at farmers' markets. Now you say to yourself, "What's wrong with that?" The Veterans and Legal Affairs Committee has, over the years, given many little carve outs along the way. We have small wineries, small breweries, and small distilleries. We've allowed them to sell their products at their own places. Actually on a couple of them we have allowed them to have several places to sell. Although it allows municipal approval, which I think is a good thing, what this doesn't do is actually say whether or not two farmers could get together with their town officials and say, "I want to have a farmers' market over there on my field and, by the way, we're going to sell liquor." Although you have to pay a \$75 fee to do this, it doesn't say whether or not you are going to have to card people or whether you are going to have to go with the normal statutes that are on there when you go to buy beer or wine or liquor at a liquor store or small market. To me, with the unavailability of enforcement to really maintain a stringent control over this, there is too much probability that liquor can get in the hands of minors. I'm not saying we have bad businesses, but I've also seen many shows on NBC. Just recently there was one about a lady who had a water heater and she had people come over to her house to find out what the problem was. Every single one, I think except for one, found major problems with the water heater. These were all reputable firms. What's the story behind this? I think it can happen. You don't want to give anyone the opportunity to want to sell a lot of their wares. If there's no one around, what's the harm? If somebody looks 25 but happens to be 18, and it seems that way nowadays, young kids look a lot older than what they are. I've got my reservations as to whether or not this can be enforced. I would ask you to vote against the Ought to Pass as Amended report. 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, as you know, I usually get up in opposition to expanding the use of alcohol in our state. I especially am in opposition to this particular piece of legislation because I always

think of farmers' markets as a place for families. They are during the day. Frankly, I just don't think it's the right venue for selling and expanding the sale of wine and malt liquor. I just don't understand why we continue to promote a substance that causes such incredible harm in our society. We just continually refuse to acknowledge it. I get questioned all the time from my constituents about why we increase certain taxes but we don't increase the tax on alcohol when it does such incredible destruction in our state. We could virtually empty out our prisons if we didn't have substance abuse in this state. Yet we constantly are increasing the way that we get it to people. I think we need to start examining, each of us inside ourselves, what we are trying to do as policy makers. I think that this is just a bill that is just not a good bill and I would encourage you to vote against the pending motion. Thank you very much.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this is a very important bill and it's important because Maine has a very strong brand recognition, a strong brand recognition for quality products. One of the new areas that we find ourselves in is that those quality products include beers, as we know, from some of our finest microbreweries and also some exceptional wines, wines that have won awards around the nation. It's a new area of agricultural growth that is providing some hope for some of our smaller farms that otherwise are struggling to determine what forms of agriculture they can continue to use to sustain their family farms. We have excellent quality products. What this bill does is allow those products to be marketed in another venue along side a variety of other agricultural products from Maine, products of which we are appropriately proud. I believe, as a marketing opportunity, it is a terrific one. They are not serving this alcohol, either the beer or wine. They are merely marketing it there. There is complete support from the liquor enforcement folks. They have no concerns about their ability to enforce the law. They testified on that at the time of the hearing. 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, vegetables, scones, breads, or eggs, they don't cause the destruction that alcohol does. Those products are very healthful, but alcohol consumes too much and is very destructive. I would submit to you, I don't think it's the right venue, especially given that this is where children are going. It's supposed to be a venue where healthful products are sold. I am not saying that they shouldn't be allowed to sell their wines, but the right venue is not at a farmers' market, nor is it for beer, frankly, or malt liquor, which I'm told has a higher alcohol content. I don't know about all of you, but I have seen and felt and been a part of the destruction that alcohol can create. I just went to an "every 15 minute" venue where children were there talking about

the destructiveness of alcohol. I don't think that this is the right message to be sending, by having this at family venues. It's just plain bad. Bad message. I hope you will vote against the pending motion. Thank you very much.

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

Senator **FARNHAM:** Thank you Mr. President. I just wanted to remind us, in the Committee Amendment we further defined the farmers' market to say that it must consist of at least six separate stalls or booths that sell already farm or food products, not including the alcoholic beverages, and must be authorized by the bureau. We did want to clarify further that the farmers' market had to exist prior to asking for this new addition.

**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, I want to thank my good Chair for pointing that out, but I would also like to say that although the bureau really didn't come out against it, I will say that just like the bingo and beano laws of the State of Maine, you take the geographic region in the state of Maine and there are two people in the whole state of Maine that goes and checks out bingo violations. I'm pretty much assured there are hundreds of bingo games every single day throughout the state of Maine. I'll tell you one thing right now, they cannot get to hardly any of the them over the course of the week. It's the same thing with the wineries, the small farmers' markets. On any given day, over the state of Maine, I'm sure there are hundreds of them going on. One of the things that happened with the public safety is that they have so few people now that they have actually given a lot of their oversight to municipalities. Some municipalities may be trained well in the verse of liquor laws, but I'll tell you that awful lot of them aren't. Even though they might not be against it, I can't imagine, in good faith that I can say, they are 100% in favor of it because they would know sure well that the people that are out there doing the enforcement as so few people that it's on the good graces that we go forth. Just like the Senator from Penobscot said, this is an issue of really enforcement and the right place to sell. We allow small wineries, and I'm happy we did that, to sell at their wineries. I remember testimony one time when we had a similar bill. There was about five or six wineries that showed up and they wanted to sell their wares. I asked the question to the biggest one of them all, "Do you have a lot of excess product that would warrant internet sales or anything like that?" They said, "No, we're selling every bit we can." From that standpoint, I know myself that when I go to Washington State, one of the greatest things is going to Chateau St. Michelle. It's a wonderful winery. You get the ambiance. You can have a glass of wine there. You can buy a case to send home. Whatever you want. There is a bit of difference between having the experience of a winery and actually going to a farmers' market and say, "I'll have some radishes and let me have some of that blueberry wine that you made over there." I think the enforcement thing is enough for me. I'm hoping that you will support the Ought Not to Pass report. Thank you.

**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 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 (#127)**

**YEAS:** Senators: ALFOND, BARTLETT, COLLINS, COURTNEY, DIAMOND, DILL, FARNHAM, GOODALL, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: BRANNIGAN, CRAVEN, GERZOFKY, JACKSON, PATRICK, SCHNEIDER

**ABSENT:** Senator: SULLIVAN

**EXCUSED:** Senator: SNOWE-MELLO

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

**READ ONCE.**

Committee Amendment "A" (H-342) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Law Regarding Comparative Negligence" H.P. 768 L.D. 1034

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

Signed:

Senators:  
HASTINGS of Oxford  
WOODBURY of Cumberland

Representatives:  
NASS of Acton  
BEAULIEU of Auburn  
FOSTER of Augusta  
MOULTON of York  
SARTY of Denmark  
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

BARTLETT of Cumberland

Representatives:

DILL of Cape Elizabeth

MALONEY of Augusta

PRIEST of Brunswick

ROCHELO of Biddeford

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#128)

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

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

ABSENT: Senator: SULLIVAN

EXCUSED: Senator: SNOWE-MELLO

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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Senate

**Ought to Pass As Amended**

Senator MASON for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing the Sex Offender Registry"

S.P. 313 L.D. 1025

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-180)**.

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

**READ ONCE**.

Committee Amendment "A" (S-180) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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Senator LANGLEY for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Encourage Science, Technology, Engineering and Mathematics Education"

S.P. 490 L.D. 1540

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-177)**.

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

**READ ONCE**.

Committee Amendment "A" (S-177) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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

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#### SECOND READERS

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

#### House As Amended

Bill "An Act To Amend the Law Governing Municipal Disbursement Warrants"

H.P. 226 L.D. 278  
(C "A" H-367)

Bill "An Act To Enhance the Security of Hospital Patients, Visitors and Employees"

H.P. 365 L.D. 472  
(C "A" H-360)



Bill "An Act Concerning the Protection of Personal Information in Communications with Elected Officials"

H.P. 817 L.D. 1082  
(C "A" H-361)

Bill "An Act To Amend the Requirements Concerning Restroom Facilities for Small Restaurants with Dual Liquor Licenses"

H.P. 997 L.D. 1358  
(C "A" H-366)

Bill "An Act Regarding Protection Orders and the Prosecution of Domestic Violence Cases"

H.P. 1004 L.D. 1365  
(C "A" H-362)

Bill "An Act To Amend the Maine Administrative Procedure Act"

H.P. 1036 L.D. 1410  
(C "A" H-368)

Bill "An Act To Amend the Maine Business Corporation Act"

H.P. 1103 L.D. 1502  
(C "A" H-363)

Bill "An Act Honoring Gold Star Families through Special Registration Plates"

H.P. 1123 L.D. 1529  
(C "A" H-355)

Bill "An Act To Amend Licensing and Certification Laws Administered by the Department of Health and Human Services"

H.P. 1129 L.D. 1537  
(C "A" H-359)

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

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Bill "An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority"

H.P. 1130 L.D. 1538  
(C "A" H-354)

**READ A SECOND TIME.**

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is a bill coming out of the Government Oversight Committee with their recommendations dealing with the Maine Turnpike Authority. It would be realistic to say that there probably isn't a member of this Chamber that does not remember the headlines in the paper and radio talk programs about some of the discrepancies that occurred within the Turnpike Authority. The Government Oversight Committee, with their prowess and public hearing, were able to detect a lot of inaccuracies within the Turnpike Authority. They got the truth out and were diligent in coming up with the facts and

recommendations to changing the Turnpike Authority. Their recommendations will make it much more transparent as far as the dealings with the Turnpike Authority. The Government Oversight Committee and the Transportation Committee also have made some changes within this bill. For your information, if you don't know, last week the other Body voted unanimously for this bill. It's a situation that people back home are expecting us to come forward with recommendations for changing the way the Turnpike Authority conducts their business. This is the bill that will do it. Thank you.

On motion by Senator **COLLINS** of York, 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 Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I was privileged to be a part of the Government Oversight Committee process. I think that the record should reflect that none of this would have happened were it not for the persistence over some years, as I understand it, of the good Senator from York, Senator Hill, who doggedly pursued this issue to get it before the Government Oversight Committee. It finally did this year and all of the recommendations we made were encompassed in this bill. The Transportation Committee went even further and made it an even better bill. I'll be proud to be voting for it. Thank you.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, as you've heard, this was sort of a combination of efforts. Certainly the OPEGA Committee did a wonderful job with this this year, which the idea was started last year. This year the Transportation Committee really, as you heard, spent a lot of time going through the details of this and did some really good things, I think, as a result of the recommendations of OPEGA. Things like retaining a separate auditor, an independent auditor, beyond the annual audit report, which really is going to put a much closer eye on the proceedings. Also what this bill will say is that from now on there will be reports directly to the board as opposed to having to go through the chain of command, as it was. There are a number of things here that make this a lot better and makes us, as a Legislature, feel more comfortable. One of the things we're going to do with the Transportation Committee is to require that their financial orders come before the Transportation Committee whenever there is a change made in the budget. A lot of good things happened. A lot of people worked very hard on this. I think the interim Director, Senator Mills, is doing a tremendous job and I hope that he is able to continue because he's really made a tremendous difference. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed. 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 (#129)**

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, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: None

ABSENT: Senator: SULLIVAN

EXCUSED: Senator: SNOWE-MELLO

33 Senators having voted in the affirmative and no Senator having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

**Senate As Amended**

Bill "An Act To Declare Certain Records of the Maine Commission on Indigent Legal Services Confidential"

S.P. 189 L.D. 609  
(C "A" S-179)

Bill "An Act To Expand the Availability of Natural Gas to the Citizens of Maine"

S.P. 324 L.D. 1091  
(C "A" S-178)

Bill "An Act To Make Municipal Recounts Consistent with State Recounts"

S.P. 343 L.D. 1134  
(C "A" S-176)

Bill "An Act To Extend the Salary Supplement for National Board-certified Teachers at Publicly Supported Secondary Schools That Enroll at Least 60% Public Students"

S.P. 425 L.D. 1380  
(C "A" S-168)

Bill "An Act Concerning the Recording of Plans for Subdivisions"

S.P. 447 L.D. 1460  
(C "A" S-175)

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor

S.P. 504 L.D. 1572  
(C "A" S-153)

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

Sent down for concurrence.

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

**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 (5/24/11) Assigned matter:

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

H.P. 728 L.D. 984

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

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

Tabled - May 24, 2011, by Senator **KATZ** of Kennebec

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

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#130)**

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

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

(In Senate, May 25, 2011, **READ A SECOND TIME.**)

On motion by Senator **DIAMOND** of Cumberland, the Senate **SUSPENDED THE RULES.**

ABSENT: Senator: SULLIVAN

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-133).

EXCUSED: Senator: SNOWE-MELLO

On further motion by same Senator, Senate Amendment "A" (S-173) to Committee Amendment "A" (S-133) **READ.**

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

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

**READ ONCE.**

Committee Amendment "A" (H-304) **READ** and **ADOPTED**, in concurrence.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment simply changes the \$5 million down to \$2 million. I believe that really does address most of the small businesses, certainly the small farmers who find themselves in a situation that is untenable. I would hope that everybody would go along with this amendment. Thank you, Mr. President.

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-182) **READ.**

On motion by Senator **DIAMOND** of Cumberland, Senate Amendment "A" (S-173) to Committee Amendment "A" (S-133) **ADOPTED.**

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

Senator **KATZ:** Thank you Mr. President. This amendment just makes it clear, although it may already be, but it makes it crystal clear, that this amendment to the Constitution would apply only to bond and securities authorized by this Legislature after January 1, 2011. In other words, to the extent that there have been bonds and securities already authorized by this Legislature and are in the pipeline and on their way, this would not apply to those. There would be no question at all to the sellers of the bonds about the validity of those already authorized ones. Thank you, Mr. President.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (S-133) AS AMENDED BY SENATE AMENDMENT "A" (S-173)** thereto.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-182) **ADOPTED.**

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

Bill "An Act To Make Disputed Ballots in State Elections Public" H.P. 225 L.D. 277

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-304) AND SENATE AMENDMENT "A" (S-182), in NON-CONCURRENCE.**

Tabled - May 25, 2011, by Senator **COURTNEY** of York

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

Ordered sent down forthwith for concurrence.

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

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

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

Senator **PATRICK** of Oxford moved to **SUSPEND THE RULES** for the purpose of **RECONSIDERING** whereby the Senate **ADOPTED** Committee Amendment "A" (H-178), in concurrence.

Bill "An Act To Conform Maine's Estate Tax to the Federal Estate Tax"

S.P. 347 L.D. 1147  
(C "A" S-133)

Tabled - May 25, 2011, by Senator **TRAHAN** of Lincoln

Senate at Ease.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-133)**

Senate called to order by the President.

Senator **COURTNEY** of York **OBJECTED**.

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 Patrick.

Senator **PATRICK:** Thank you Mr. President. I just rise to briefly talk about the way the rules and the process goes. I think the process that we have here for adding amendments and objecting to adding amendments is a great process, but I think the short coming of the objection of the process does not allow a person to expound upon the merits of the issue that the person would like to bring forward.

**THE PRESIDENT:** The Senator would please defer. The Chair is advised that the motion to Suspend the Rules is not debatable.

Senator **PATRICK:** Thank you Mr. President. I apologize, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Suspend the Rules for the purpose of Reconsidering whereby the Senate Adopted Committee Amendment "A" (H-178). 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 (#131)

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

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

EXCUSED: Senator: SNOWE-MELLO

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **PATRICK** of Oxford to **SUSPEND THE RULES** for the purpose of **RECONSIDERING** whereby the Senate **ADOPTED** Committee Amendment "A" (H-178), in concurrence, **FAILED**.

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

On motion by Senator **PLOWMAN** of Penobscot, 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, this bill has not been greatly debated in the Body because the committee came to a unanimous agreement as to how we would handle unresolved disputed ballots in a recount. Unresolved disputed ballots in a recount are the very, very few ballots that are left after a recount where the parties have agreed as to what will be counted in each pile and which ballots will be left to be determined at a later point, either by going to court or by negotiations or by holding them, seating the member, and then having the member vote themselves into the Body, which is, by the way, okay with the Constitution. This happened some years ago. What this bill does is says those last few ballots will be photocopied, not the original, but the last few will be photocopied with the originals remaining with the original paperwork for a recount. Those ballots will be able to be seen by the public, keeping in mind that no distinguishing marks or any other identification of who that ballot belonged to would be visible. What it says is that there is an interest in the public as to how these final ballots are negotiated away or strong armed into who gets seated. I know that there was a dispute as to where that should become public and that developed after the unanimous report. Some feel that those ballots should be secret and never shown until after the member is seated. Others believe that the public, in full transparency and full knowledge of what's happening, should be able to know how those final votes are counted. In the last election that this would have affected it was three, three ballots. There were actually eight ballots and five ballots, all of which had the same characteristics and the tradeoff was that all of them looked alike but you could only tradeoff the five and the five. Eight ballots for one candidate were marked in red, I believe, and five ballots for the other candidate were marked in red as well. They should all be treated equally, which meant all thirteen of them should have gone and been counted. What happened was there was a tradeoff. We'll throw out this ballot if you throw out that ballot. If they were all to be treated equally all of the ballots that we declared invalid should have been invalid. The uproar was incredible. The bill came to us, we considered the circumstances, and we considered the purpose for which the ballot would be made public. That is to determine whether gamesmanship won or whether the voters of the state of Maine won. In the interest of transparency, we decided to come down in favor of the voters because voters don't believe in gamesmanship. They believe in the final count. They believe in the transparency. They want to believe that the people that were seated were seated under the same rules as everyone else. I would urge you to vote against this motion and keep the transparency in where it belongs. Thank you, men and women of the Senate.

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

Senator **BARTLETT:** Thank you Mr. President. I rise in support of the pending motion to Indefinitely Postpone this bill for the simple reason that we have not had the opportunity to fully debate

it. The central issue in this bill and the amendment that would have been offered deals with timing, the timing of when the ballots should be disclosed, not whether they should be made public but at what moment. Unfortunately, we can't have the debate about the timing because the Majority party has decided to shut down debate and not offer an amendment that would have allowed us to debate the merits of the timing. I don't understand why this is being done now. We're not within a few hours of trying to get out of this place. I don't know why we can't have a legitimate discussion about an amendment. I think that it is unfortunate, the process that we've seen unfold here today. I hope that it's not something that's going to continue right up until the end because it does create unnecessary hostility. There is no reason, we all should be able to stand here and debate the merits of an amendment. I can't. I'd be out of order if I tried. For that reason, I am voting to Indefinitely Postpone. Thank you, Mr. President.

**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, I, too, support transparency and I think we should have it as much as we can. I actually have another bill coming down to bring transparency to the process down the road, so I hope I can get some support on that bill. In actuality, I view it a little bit differently, or see it a little bit differently, because in my recollection I actually heard that the committee did agree on the basic parts of the bill, but I actually believe that the idea of having the viewing of the ballots coming after the decision has been rendered is basically in line with what has been going on for years. I don't necessarily think it's broken because in a recount both parties can have as many people and lawyers as they want to make sure as to whether or not a recount is done equitably and fairly. Not to have the decision rendered, to me, is a cockamamie idea. Can you imagine. It would end up a real dog and pony show. It would be decided upon who has enough money to put huge ads in the paper, to put TV advertisements, saying to look at this ballot and look at that ballot. You want to talk about a three-ring circus. The only one that's going to gain if the bill passes as it is would be the press, the television, and the internet because very few people, in actuality, know about what goes on in a recount and can qualify whether or not a ballot is good or not good. I'm not one of them, but I do know I have a lot of confidence in those that do. I hope I never get into a recount situation, but from my standpoint this is the same thing as having a jury go into a one week deliberation and half way through they're going to request to see the written comments without the names on it of the people deliberating on a murder charge or something. I don't think it's the right thing to do. People should see the ballots after it's over. They haven't in the past. If we would have passed the amendment they would have had that opportunity, because I think they should see them and find out how the process works by the visualization of the ballots after the election is done. I would ask you to support the Indefinite Postponement motion. 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 just wanted to briefly say I understand

where this is going. I understand the intent. I think the committee certainly thoroughly reviewed this, but there was a misunderstanding about this bill. I did talk with the head of the elections and she did not have the same understanding that we are talking about today at that time. As a result of that, I think there might have been more concern although I don't know that for sure. The answer to the question about what this is going to allow to have happen, in spite of the intent, the consequences here, I think, are dangerous. I have nothing against it. In fact, I've always supported, as you all have, transparency in elections. There's nothing wrong with that. We need to maintain it. The problem is I think this is turning this over to door-to-door campaigns. It's turning it over to the person with the largest purse. Full page ads. That's really not the place for all of this kind of deliberation, which I think is equal to a jury deliberation. It's a precious process we have. I'm very concerned about where this is going to take us. As far as the transparency goes, when it's over with everybody looks at the ballot and if there was some chicanery then consequences certainly could happen. I would ask you to think about that and what this is really going to open up. I think it's going to be dangerous for us, for the process, and I would ask you to support the motion. Thank you.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, my first election I ran I lost by what I thought was a close vote. I think I lost by 102 votes. I had no idea, really, I didn't have any idea then really what I was in for and I didn't understand the recount process or anything like that. For reasons I won't get into, I was pretty comfortable, or I was confident, that there was some votes missing in two of the towns that I running for. I scraped together the \$500, or whatever it was, for the recount. I remember me and my father driving down from the Allagash on a snowy, wet, and slushy day. We had to drive slow. Neither one of us really knew what we were getting in for. Actually when I got here to Augusta I had to ask somebody where they did the recounts. We were in there for quite along time. Like I had surmised, they found 200 votes that hadn't been counted. In the end I still ended up losing. We drove back home. I was disappointed but I felt it was fair. I felt that I had truly lost and it just inspired me to work harder the next time. If we had passed this law and some big organization was able to spend all kinds of money before the recount and had all these ads and talked about how these votes had gone against me, or whatever, I probably would have left Augusta after that feeling like I'd been cheated, even though the votes hadn't counted up for myself. If the media had been involved in before, or all these organizations that could spend money, like I said, I had trouble scraping up the \$500 just to have the recount for myself, I probably would have felt like I got robbed. In some of these court cases, when there's been a lot of media exposure, and I don't know because I'm not a lawyer, but I think there is such a thing as change of venue because of all the coverage. The juries get sequestered whenever the media starts getting involved too much. I just think that it'd be a real problem if we allow organizations with lots of money to start coming in and trying to influence, through the media, our elections. I think we have a fairly fair process. I know whenever it gets down to counting two or three votes that it gets contentious. I understand that. When a decision has to be made I'm sure somebody is going to be upset

by it. I understand that. In my recount, I was frustrated or disappointed, but I certainly felt it was fair. I had to leave thinking that I lost and there was nothing I could do about it until next time.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I'd like to differentiate between a recount and a recount that ends with a disputed result. We have recounts every two years. When the votes are counted, people see the results, and the tally sheet is before them, there is a winner and there is a loser because they resolved the differences between the ballots and a winner emerges. I've been here since 1992 and only twice in my knowledge, and I could be wrong, has an election had to move beyond the recount process and into the court process. Two times. We do six, eight, or ten recounts every two years. This is not an every day happening. This is when there is a dispute between the lawyers and the candidates as to what the intent of the remaining ballots would be. This is not where everything is settled and someone says, "I can see that." This is where it goes to court. There is an end to 99.9% of the recounts that come through very loud and clear. Once every ten years, based on my experience, there comes along a case where the ballots are actually brought before the court. While the court can look at them and the court can make the decision as to what the voter's intent might have been, the Constitution still says that the Senate and the House may seat their members. Despite the fact, despite the vote, the Body's have the ability to overlook all of that and the Majority party can seat a member who is not obviously elected. I see a problem with that. You should see a problem with that too. I'll repeat it. You can overlook the fact and the decision and the Majority party, which happens to be here today and you could be here in two years.

**THE PRESIDENT:** For what purpose does the Senator from Cumberland, Senator Dill, rise?

Senator **DILL:** Thank you Mr. President. I believe the rules direct members to address the Chair in debate.

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

Senator **PLOWMAN:** Thank you Mr. President. The positions could be reversed. However, if I was a member of the Minority, and I have been, knowing that that is out there, this is the last step in the process. Buying ads to show a ballot. Buying press. Putting out phone calls. This is the very last step in the process. You know what? If we're at that step in the process, I believe you're going to be getting a lot of phone calls as it is. The phone calls will say to seat so and so or seat so and so. Do the right thing. The right thing suddenly becomes who the Majority is and who the Minority is. I would ask you to not Indefinitely Postpone this bill. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think the good Senator helps make my case. If gets down to six, twelve, fifteen, or twenty ballots can you

imagine 1.2 million people trying to help make that decision as to whether or not somebody's intent on some ballot is something else. Can you imagine the headlines in all the newspapers after all the dirty money comes into the race. If they spent \$400,000 on five races they may spend \$1 million on trying to get that one seat, whether in the Majority or the Minority. It doesn't make any sense. It's a total cockamamie idea to allow this to happen. I just think it's ill-conceived to allow the press and outsiders to make that decision on those six ballots. If I was on trial for murder one of the things I wouldn't want is the press to go through the whole state of Maine convicting me already or not convicting me already. They are going to come down hard on one side or the other. Usually those few ballots, because they are so scrutinized by both sides, you have to have an independent person make the decision. It's as simple as that. Having 1.3 million people or having 37 newspapers screaming, hooting, and hollering that this one should be seated or that one should be seated, this is right or this is wrong, is totally wrong. I think the system we have in now, as someone just said, 99% of the time things work great. I think the 1% also works okay because I really thing this is now, the more I hear it, a solution looking for a problem. I would ask you to continually support the Indefinite Postponement. Thank you, Mr. President.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I rise to oppose the Indefinite Postponement. I don't believe it's a cockamamie idea. I think it provides transparency to people. It didn't work, as has been noted earlier by my good colleague from Penobscot, the 1% of the time. It failed. It failed miserably. I'm not afraid to let people see how I vote and the information on how I come to that conclusion. I think that's more important than anything. This is about transparency. Transparency doesn't start after you vote. Transparency starts when the process comes to you. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Indefinitely Postpone the Bill and accompanying papers. 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 (#132)

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

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

EXCUSED: Senator: SNOWE-MELLO

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **PATRICK** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to go on record for all the citizens of the state of Maine that I am in support of transparency and that I do think that transparency, when it fits into the timeframe, is great. This bill does not allow anyone's signature on the ballot, so you don't know what the person's intent is. It's ambiguous because we're trying to figure out somebody's intent. To have the news media, whom I'm hoping will become enriched after this process is done and gain thousands and thousands of dollars, especially if they lost some revenue on a previous transaction, involved. At least I will go down saying, after the next 1% issue that happens, that I think it's a terrible idea. I think had we had the enlightenment after the decision is rendered is the way to go. I will be in opposition to this. Thank you, Mr. President.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to pose a question to the previous speaker. I would like to pose a question through the Chair.

**THE PRESIDENT:** The Senator may pose his question.

Senator **TRAHAN:** Thank you Mr. President. My question is, when it comes to intent, some of these disputed ballots, at least because they weren't exposed to the public before the final vote is taken, I was told that the reason that they were challenged is because they were in red ink or a different color ink. Obviously the intent of that voter is there, it's just a different color ink. Could you explain how that has anything to do with intent or is it more appropriate, if it isn't about intent, that it is this really about continuing the process as it has been in the past? I'm really not understanding what the big fuss is about if there is no name on the ballot and a person's identity is not revealed. Why is it such a big crisis that the public not see these until the conclusion or the issue is over? Would someone please explain that?

**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 Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. I think the issue comes down to if you do have a disputed election do you really

want every special interest in the state lining up, lobbying legislators, on how they should vote on any particular ballot. I think that is the concern. If these votes get circulated, people looking for ways to get angles on them and they can say, "Because of that stray mark that has nothing to do with the voter intent you should vote to disqualify the ballot anyways." It is the concern that it is going to be litigated through special interests and lobbying efforts rather than allowing people to sit down, review the ballots, have the discussion, and vote. I think that is the fear we have.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, only in this building could something so transparent be twisted to suggest that it's about special interests. The special interest that I came here for is for my constituents, Mr. President. The special interest that I came here for was to offer transparency. Again, I'll state it again, I'm not afraid of the people at home seeing what these ballots are. I think that they can come to the same logical conclusion that I did. 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'm not afraid of what constituents at home might think either about any ballots. What I am afraid of is what the intent is going to be if some of these organizations that may be running full page ads about these ballots. I think we've all had ads run against us that the intent is something that we probably didn't think was the actual truth. I'm fine with the courts deciding. If we need to change the rules on what the good Senator talked about, the House and Senate seating its members, I'd be fine with that. If the court ruled a certain way I'd be fine with that. Putting this out to the media or the organizations that could spend money trying to influence this before it's actually been decided, I think, is a real problem.

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed as Amended. 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 (#133)

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

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

EXCUSED: Senator: SNOWE-MELLO

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**, in concurrence

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Off Record Remarks

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

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

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

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

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

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Off Record Remarks

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**RECESSED** until 1:00 in the afternoon.

After Recess

Senate called to order by the President.

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#### ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Create a Sales Tax Holiday for Energy-efficient Appliances and Fixtures"

H.P. 369 L.D. 476

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-337)** (11 members)

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

Tabled - May 31, 2011, by Senator **ALFOND** of Cumberland

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

(In House, May 26, 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-337)**.)

(In Senate, May 31, 2011, Reports **READ**.)

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

**READ ONCE.**

Committee Amendment "A" (H-337) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senate at Ease.

Senate called to order by the President.

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Prohibit Organized Retail Theft"

H.P. 478 L.D. 648

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

Minority - **Ought Not to Pass** (6 members)

Tabled - May 18, 2011, by Senator **MASON** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, May 17, 2011, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 18, 2011, Reports **READ**.)



Senator **MASON** of Androscoggin requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

H.P. 591 L.D. 784

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

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

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

Tabled - May 25, 2011, by Senator **ALFOND** of Cumberland

Pending - **ACCEPTANCE OF ANY REPORT**

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

(In Senate, May 25, 2011, motion by Senator **RECTOR** of Knox to **ACCEPT** Report "**A**", **OUGHT NOT TO PASS, FAILED**.)

Senator **RECTOR** of Knox moved the Senate **ACCEPT** Report "**C**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-301)**, in **NON-CONCURRENCE**.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this was the Minority report of the Senator from Aroostook, Senator Jackson. What this does is suggest that we create a Resolve and ask the Board of Electrical Examiners to come forth with a recommendation as to how to provide a limited license for simple electrical procedures. I would suggest that this is the appropriate place for that decision to be made and would urge your support of this report. Thank you, Mr. President.

On motion by Senator **SCHNEIDER** of Penobscot, 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. Briefly, after caucusing this morning and trying to discern what the dangers to the public under the bill, a phone call was made to the Fire Marshall, John Dean. When asked if he thought there was a fire danger with unlicensed people installing minor electrical devices and would that be a real problem, he said, "I can't think off the top of my head or in my career of a problem with that." We continued, "If installing minor electrical devices was a significant cause of fires, would you be aware of that?" He said, "Yes, I would be. I've been in fire prevention for 40 years." When you are voting today, keep the Fire Marshall's thoughts in mind. He seems to not think that this is going to cause a significant rise in fires. 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'd just like to concur with the sentiments brought forward by my Senate colleague, the Senator from Penobscot, Senator Plowman, and would hope that you would vote against the pending motion so we can get to the other report that has already been approved at the other end of the building. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Accept Report "C", Ought to Pass as Amended by Committee Amendment "B" (H-301). A Roll Call has been ordered. Is the Senate ready for the question?

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

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The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#134)**

YEAS: Senators: ALFOND, BARTLETT, GOODALL, HASTINGS, HILL, HOBBS, LANGLEY, MARTIN, PATRICK, RECTOR, ROSEN

NAYS: Senators: BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, JACKSON, KATZ, MASON, MCCORMICK, PLOWMAN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: GERZOFISKY

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **RECTOR** of Knox to **ACCEPT** Report "**C**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-301)**, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **SCHNEIDER** of Penobscot, Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300) ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-300) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

The Chair laid before the Senate the following Tabled and Later (5/26/11) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Create a Family Ombudsman in the Judicial Branch and the Department of Corrections"

S.P. 393 L.D. 1272

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-172)** (1 member)

Tabled - May 26, 2011, by Senator **HASTINGS** of Oxford

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 26, 2011, Reports **READ**.)

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/26/11) Assigned matter:

**Emergency**

An Act To Modify the Laws Regarding Status as an Independent Contractor

S.P. 437 L.D. 1420  
(C "A" S-150)

Tabled - May 26, 2011, by Senator **PLOWMAN** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, May 25, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150)**.)

(In House, May 26, 2011, **PASSED TO BE ENACTED**.)

(In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence. On motion by Senator **PLOWMAN** of Penobscot, **RECONSIDERED**.)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

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

**SECOND READERS**

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

**House**

Bill "An Act To Clarify the Award of Fees in Domestic Violence Cases" (EMERGENCY)

H.P. 1159 L.D. 1576

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

**House As Amended**

Bill "An Act To Allow Independent Practice Dental Hygienists To Work within Their Scope of Practice"

H.P. 183 L.D. 230  
(C "A" H-319)

Bill "An Act To Restrict Permits Available to the Holder of a Super Pack License"

H.P. 630 L.D. 833  
(C "A" H-345)

Bill "An Act To Require That a Student Satisfactorily Complete a Course in Civics and Government To Receive a High School Diploma"

H.P. 902 L.D. 1211  
(C "A" H-344)

Bill "An Act To Establish the Maine Back to Work Program"

H.P. 929 L.D. 1238  
(C "A" H-351)

Bill "An Act To Promote Transparency in the Medicaid Reimbursement Process"

H.P. 1092 L.D. 1485  
(C "A" H-349)

Resolve, To Ensure a Strong Start for Maine's Infants and Toddlers by Extending the Reach of High-quality Home Visitation  
H.P. 1105 L.D. 1504  
(C "A" H-348)

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

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Bill "An Act To Promote the Hiring of Seasonal Workers"  
H.P. 829 L.D. 1117  
(C "A" H-271)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act To Clarify the State's Authority under Public Health Laws for Municipal Inspections of Establishments"  
S.P. 273 L.D. 869  
(C "A" S-166)

Resolve, To Implement the Recommendations of the Report on Services for Elders and Other Adults Who Need Long-term Home-based and Community-based Care  
S.P. 452 L.D. 1461  
(C "A" S-165)

Bill "An Act To Amend the Uniform Principal and Income Act"  
S.P. 479 L.D. 1517  
(C "A" S-167)

Resolve, To Transfer the Guilford Butler School to Regional School Unit 13  
S.P. 498 L.D. 1559  
(C "A" S-164)

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

Sent down for concurrence.

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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 Make Strangulation an Aggravating Sentencing Factor"  
H.P. 761 L.D. 1027

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-378)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-378)**.

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

**READ ONCE**.

Committee Amendment "A" (H-378) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **JUDICIARY** on Bill "An Act To Make Permanent the Direction of Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation"  
H.P. 171 L.D. 194

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-375)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-375)**.

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

**READ ONCE**.

Committee Amendment "A" (H-375) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **JUDICIARY** on Bill "An Act To Permit Representation by Persons Other than Attorneys in Certain Hearings, Actions and Proceedings before the Department of Education"  
H.P. 258 L.D. 325

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-376)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-376)**.

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

**READ ONCE.**

Committee Amendment "A" (H-376) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **JUDICIARY** on Bill "An Act To Enhance Mandated Reporting and Prosecution of Elder Abuse, Neglect and Exploitation"

H.P. 699 L.D. 939

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-374).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-374).**

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

**READ ONCE.**

Committee Amendment "A" (H-374) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **JUDICIARY** on Bill "An Act To Provide Prevailing Mortgagors Attorney's Fees in the Foreclosure Process"

H.P. 999 L.D. 1360

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-373).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-373).**

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

**READ ONCE.**

Committee Amendment "A" (H-373) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Tuition Subsidies by Municipalities"

H.P. 203 L.D. 250

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

Signed:

Senator:

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 To Pass as Amended by Committee Amendment "A" (H-356).**

Signed:

Senators:

LANGLEY of Hancock

MASON of Androscoggin

Representatives:

JOHNSON of Greenville

McCLELLAN of Raymond

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not To Pass** Report.)

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

Reports **READ.**

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

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**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the School Administrative Unit Consolidation Laws" (EMERGENCY)

H.P. 311 L.D. 385

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-357)**.

Signed:

Senators:

LANGLEY of Hancock  
ALFOND of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-358)**.

Signed:

Senator:

MASON of Androscoggin

Representative:

McCLELLAN of Raymond

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (H-357)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)**.

Reports **READ**.

On motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-357)** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-357) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY**.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Continue Limited Entry in the Scallop Fishery  
H.P. 274 L.D. 348  
(C "A" H-333)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters  
S.P. 494 L.D. 1547  
(C "A" S-156)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

**Pursuant to Constitution  
Public Land**

Resolve, To Authorize the Exchange of Interest in Certain Lands Owned by the State  
S.P. 341 L.D. 1132  
(S "A" S-152 to C "A" S-55)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 34 Senators having voted in the affirmative and no Senators having voted in the negative, and 34 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.

**Acts**

An Act Regarding the Qualifications of Candidates for Office  
H.P. 229 L.D. 285  
(C "A" H-341)

An Act To Establish an Elder Victims Restitution Fund  
H.P. 594 L.D. 787  
(C "A" H-343)

An Act To Implement the Recommendations of the Joint Standing  
Committee on State and Local Government To Make Necessary  
Changes to the Maine Administrative Procedure Act  
H.P. 837 L.D. 1125  
(C "A" H-334)

An Act To Require Use of the Electronic Death Registration  
System  
S.P. 392 L.D. 1271  
(C "A" S-157)

An Act Concerning Technical Changes to the Tax Laws  
H.P. 1077 L.D. 1468  
(C "A" H-336)

An Act To Clarify and Update the Laws Related to Health  
Insurance, Insurance Producer Licensing and Surplus Lines  
Insurance  
H.P. 1138 L.D. 1551

**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 Fund the Screening and Early Detection Elements of  
the Statewide Cancer Plan  
H.P. 915 L.D. 1224  
(C "A" H-322)

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **EDUCATION AND  
CULTURAL AFFAIRS** on Bill "An Act To Extend the Salary  
Supplement for National Board-certified Teachers at Publicly  
Supported Secondary Schools That Enroll at Least 60% Public  
Students"

S.P. 425 L.D. 1380  
(C "A" S-168)

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

Minority - **Ought to Pass as Amended by Committee  
Amendment "A" (S-168)** (4 members)

In Senate, May 31, 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-168)**.

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

Senator **LANGLEY** of Hancock moved the Senate **INSIST**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#135)**

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

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

EXCUSED: Senator: GERZOF SKY

19 Senators having voted in the affirmative and 15 Senators  
having voted in the negative, with 1 Senator being excused, the  
motion by Senator **LANGLEY** of Hancock to **INSIST**,  
**PREVAILED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to  
Wednesday, June 1, 2011, at 10:00 in the morning.