

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

In Senate Chamber
Thursday
February 8, 2018

Senate called to order by President Michael D. Thibodeau of
Waldo County.

Prayer by Pastor Glenn Peterson, Hope Baptist Church in
Manchester.

PASTOR PETERSON: Let us pray. Merciful God, we thank You that You are a God of reconciliation and forgiveness. We thank You as well that You are a God who has given this country many great leaders. One of those leaders was President Abraham Lincoln, who once quoted the words of Jesus from Mark Chapter 3 in verse 25, 'and if a house is divided against itself, that house will not be able to stand.' Lord, it is our desire for the house of the State of Maine to be able to stand strong and united together. So we pray that the Senators gathered here today will be able to work together in unity. We pray that You will open their ears so that they will be able to truly listen to one another and to You, O Lord. We pray that You will open their minds so that they will be able to hear one another's perspective rather than just their own voices. May our Senators be slow to speak and quick to listen today. We pray also that You will give to all of these Senators the wisdom they need from You to serve our state well today. May they be united in seeking the wisdom and truth and justice that is found in You and You alone and, if there be any bitterness or hard feelings among the people of the Senate, may You work forgiveness into their hearts. May they be able to confess their sins to one another so that division and destruction would not harm this Senate Body. Instead, may the people of this Senate come together and work in unity so that the State of Maine can be strong and united in the days to come. In Your mighty name we pray. Amen.

Pledge of Allegiance led by Senator Kimberley C. Rosen of
Hancock County.

Reading of the Journal of Tuesday, February 6, 2018.

Doctor of the day, Edmund (Ned) Claxton, Jr., M.D. of Auburn.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **MASON** of Androscoggin, the following Joint Order:
S.P. 688

Ordered, the House concurring, that when the Senate and House
adjourn, they do so until Tuesday, February 13, 2018 at 10:00 in
the morning.

READ and PASSED.

Ordered sent down for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act
To Authorize a General Fund Bond Issue To Assist in the
Commercialization of Maine Products and Services"
S.P. 568 L.D. 1613
(C "A" S-335; S "A" S-339
to C "A" S-335)

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (S-335)** (9 members)

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

In Senate, July 20, 2017, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-335) AS
AMENDED BY SENATE AMENDMENT "A" (S-339)** thereto.

Comes from the House, Bill **COMMITTED** to the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS in **NON-
CONCURRENCE**.

On motion by Senator **HAMPER** of Oxford, the Senate
RECEDED and **CONCURRED**.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act
To Authorize a General Fund Bond Issue To Provide Funding for
a Program of Student Debt Cancellation and Refinancing"
S.P. 384 L.D. 1163
(C "A" S-336)

Report "A" - **Ought to Pass as Amended by Committee
Amendment "A" (S-336)** (7 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee
Amendment "B" (S-337)** (1 member)

In Senate, July 20, 2017, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-336).**

Comes from the House, Bill **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE**.

On motion by Senator **HAMPER** of Oxford, the Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act Prohibiting Female Genital Mutilation"
H.P. 1261 L.D. 1819

Bill "An Act To Amend the Laws Governing Offenses against the Person"
H.P. 1264 L.D. 1822

Come from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

On motion by Senator **ROSEN** of Hancock, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

Bill "An Act To Amend the Laws Governing Expedited Permitting for Wind Energy Development" (EMERGENCY)
H.P. 1255 L.D. 1810

Comes from the House, **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** and ordered printed.

On motion by Senator **WOODSOME** of York, **TABLED** until Later in Today's Session pending **REFERENCE**.

Resolve, Regarding Increases in Reimbursement Rates for Certain Children's Habilitative Services under MaineCare (EMERGENCY)
H.P. 1262 L.D. 1820

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **BRAKEY** of Androscoggin, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 836

**STATE OF MAINE
CHILD DEVELOPMENT SERVICES
78 STATE HOUSE STATION
AUGUSTA, MAINE**

February 6, 2018

Honorable Sara Gideon
Speaker of the House
2 State House Station
Augusta, Maine 04333

Honorable Michael D. Thibodeau
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear Speaker Gideon and President Thibodeau:

Pursuant to 5 M.R.S.A., Section 12023, please consider this the letter of transmittal for the required report from the Child Development Services State IEU due by February 1, 2018.

Please contact me if you have any questions or need additional information.

Thank you.

Sincerely,

S/Roy K. Fowler
CDS State Director

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: S.C. 837

**STATE OF MAINE
ONE HUNDRED AND TWENTY EIGHTH LEGISLATURE
COMMITTEE ON LABOR, COMMERCE, RESEARCH AND
ECONOMIC DEVELOPMENT**

February 1, 2018

Honorable Michael D. Thibodeau, Senate President
Honorable Sara Gideon, Speaker of the House
128th Maine State Legislature
State House
Augusta, Maine 04333

Dear President Thibodeau and Speaker Gideon,

Pursuant to Joint Rule 310, we are writing to notify you that we have approved the request by the bill sponsor Rep. Herbig of Belfast, to report the following bill Leave to Withdraw:

L.D. 1244 An Act To Support Small Manufacturers in the State

Sincerely,

S/Sen. Amy F. Volk
Senate Chair

S/Rep. Ryan M. Fecteau
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

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

Senate at Ease.

The Senate was called to order by the President.

REPORTS OF COMMITTEES

House

Pursuant to Public Law

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Implement the Recommendations of the Board of Dental Practice"
H.P. 1267 L.D. 1825

Reported that the same be **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**, pursuant to Public Law 2015, chapter 429, section 25.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**.

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

Bill and accompanying papers **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**, in concurrence.

Pursuant to Joint Order

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding the Repeal of a Provision of Law Allowing Certain Nonresidents To Hunt Deer before the Open Season on Deer"

H.P. 1265 L.D. 1823

Reported that the same be **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**, pursuant to Joint Order, H.P. 1249.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

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

Bill and accompanying papers **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

Pursuant to Joint Order

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Regarding the Termination of the Authority To Issue a Permit for a Noise Suppression Device on a Firearm for Hunting"
H.P. 1266 L.D. 1824

Reported that the same be **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**, pursuant to Joint Order, H.P. 1250.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

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

Bill and accompanying papers **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**, in concurrence.

Pursuant to Statute

The Committee on **JUDICIARY** on Bill "An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Freedom of Access Training for Public Officials"
H.P. 1263 L.D. 1821

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**, pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

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

Bill and accompanying papers **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

Ought to Pass Pursuant to Statute

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Repeal the Sunset Date on the Laws Governing Licensure of Appraisal Management Companies" (EMERGENCY)

H.P. 1268 L.D. 1826

Reported that the same **Ought to Pass**, pursuant to the Maine Revised Statutes, Title 32, section 14049-K, subsection 2.

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

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

Bill **READ ONCE**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Former Military Medical Personnel To Perform Certain Medical Services" H.P. 921 L.D. 1327

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-581)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-581)**.

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

Bill **READ ONCE**.

Committee Amendment "A" (H-581) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Amend the Motor Vehicle Laws"

H.P. 1172 L.D. 1692

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-580)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-580)**.

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

Bill **READ ONCE**.

Committee Amendment "A" (H-580) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow The Maine Educational Center for the Deaf and Hard of Hearing and Governor Baxter School for the Deaf To Lease Space to Maine's Protection and Advocacy Agency for Persons with Disabilities" (EMERGENCY)

H.P. 1209 L.D. 1756

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-577)**.

Signed:

Senators:

LANGLEY of Hancock
MAKER of Washington
MILLETT of Cumberland

Representatives:

KORNFIELD of Bangor
DAUGHTRY of Brunswick
FARNSWORTH of Portland
FULLER of Lewiston
GINZLER of Bridgton
McCREA of Fort Fairfield
PIERCE of Falmouth
SAMPSON of Alfred
STEWART of Presque Isle

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

Signed:

Representative:

TURNER of Burlington

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-577)**.

Reports **READ**.

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

Bill **READ ONCE**.

Committee Amendment "A" (H-577) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Senate

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Create the Fund for Municipalities To Improve Pedestrian Safety"

S.P. 199 L.D. 584

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

Signed:

Senators:

COLLINS of York
ROSEN of Hancock

Representatives:

McLEAN of Gorham
GILLWAY of Searsport
GRANT of Gardiner
PARRY of Arundel
PERKINS of Oakland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-350).**

Signed:

Senator:

MIRAMANT of Knox

Representatives:

AUSTIN of Skowhegan
BRYANT of Windham
SCHNECK of Bangor
SHEATS of Auburn

Reports **READ.**

Senator **COLLINS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **LIBBY:** Thank you, Mr. President. Men and women of the Senate, I rise in opposition to the pending motion. About a year and a half ago Jayden Cho-Sargent was walking to Lewiston Middle School. He was wearing bright colored clothing. This was

in the early morning hours. As he was crossing Main Street a vehicle traveling about 35 miles an hour struck him and killed him. That was a moment for me, in my public service, that was really transformational because I got to know the family through their grieving process and felt compelled to try to do something for them and for the 20 people who passed away while walking Maine roads in the last year. Last year was the deadliest year for pedestrians in the State's history. Before that 2015 was the deadliest year for pedestrians and I feel like we are moving backwards in this regard and it is incumbent on us to try to do something. We know we have a crisis with opiate addiction. We know we have a crisis with a workforce that's leaving and we are doing things about that. But when it comes to the really devastating numbers that we are learning about with regards to pedestrian safety and pedestrian deaths, I think it would be really unfortunate if we leave this Legislature having done nothing.

So what I propose is a pretty modest change in how we do things with State funding and what I brought to the Transportation Committee was a proposal to help towns and cities pay for pedestrian safety improvement projects because these projects are expensive and towns and cities are cash strapped. In Lewiston, for example, our valuations have been at zero or 1% increase over the last six years. Meanwhile our labor costs have grown 2, 3, 4% each year. So there's less and less money to go around and these pedestrian safety improvements, whether they are rapid flashing beacons, bright reflective paints to paint the crosswalks, bump-outs built into the road to slow traffic down, or pedestrian refuge islands where a person crossing a 4-lane road can be able to get some refuge in the median to make the next crossing over the next couple of lanes. All of these things help improve pedestrian safety and they are expensive and it's really challenging in Lewiston, for example, where we have a list of about 75 intersections and crosswalks that were identified as dangerous for pedestrians. Each year, on their own, they can fund five to ten of them, so the backlog is enormous and for a community like Lewiston or a community like Farmington or a community like Allagash, really any community, having a partner in the State would be helpful for improving conditions on the ground. What I propose is pretty modest, a match program that has some defined rules and a competitive process that towns can compete for. They can bring projects to DOT and DOT can partner with them in a very predictable and consistent way. I'm not proposing raising any taxes or any revenue. I'm simply proposing we take the balance of the multimodal account that's unspent at the end of each year, transfer those funds to this pedestrian safety account, and use these funds to match local dollars to let, to help, towns implement pedestrian safety projects. So Mr. President, men and women of the Senate, I ask you to oppose this report so we can get on to the Minority Report, which I think is fairly modest and well thought out, and, Mr. President, I request a roll call.

On motion by Senator **LIBBY** of Androscoggin, 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 York, Senator Collins.

Senator **COLLINS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, as recently as January 16th of this year Maine DOT and its Commissioner, David Bernhardt, presented to

the committee this report about pedestrian passage and the upswing in fatalities with our pedestrian public. DOT recognizes the situation we have and it has dedicated a lot of time and resources to improving that. Now we've all heard the statistics, people seem to be driving distracted. Maine DOT has recognized that very fact and they did a lot of studies and has come up with a plan to be implemented this year, and years to come. It's important to recognize that DOT sees problems, they recognize them, they form citizen groups along with DOT professionals to come up with a resolve and to fix problems here in Maine. I commend the department for the presentation on this and I would just also like to add that the 20th of this month there was a column in the Portland Press Herald, for lack of a term I'll say this article probably falls on the face of fake news. It stated in the column that a bill to create a matching fund program to improve pedestrian safety was approved this week by the Legislative Transportation Committee. This article dealt with L.D. 584, the one we're discussing here this morning. In fact, this is not true. As you can see by your calendar, the vote was 7 - 5, a vote of Ought Not to Pass. Ladies and gentlemen of the Senate, I think this bill is redundant. It's not necessary. The department has recognized the situation and the problem and is addressing it as we speak. Thank you, Mr. President.

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

Senator **CHIPMAN:** Thank you, Mr. President. Men and women of the Senate, I rise to speak in opposition to this report and in favor of the Minority Report. Like many of us, I've had fatalities in my district as recently as last year, and I believe earlier this year. This is a chance to do something about it. It's not enough to see the news reports and hear about fatalities and express remorse and concern and even to allocate some funds, which have been allocated from DOT, when we have an opportunity here to actually do something more. I think that's what we ought to do. This is leftover money in the multimodal fund. This is money that is in a fund that intended to pay for things like this. It requires local buy-in and it covers the whole state. Every city and town can apply for these funds to make things safer and I just think we need to do something now and this is our opportunity. So please vote no on this report so we can pass the Minority Report. Thank you.

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

Senator **LIBBY:** Mr. President, thank you. I rise to agree with much of what my colleague from York, Senator Collins, has stated to the Body. The Maine Department of Transportation is spending time and resources on the issue of pedestrian safety. In fact, I worked with them to do one of the first of a series of public forums in my community on pedestrian safety and best practices, and I really appreciate their proactive efforts to have those public conversations. But public conversations don't cost much but pedestrian safety improvements, actual infrastructure improvements, do cost money. This bill was carried over. Introduced it last spring, it was carried over into this session in part, as I understand from the Transportation Committee, so that MDOT could complete their work for their Task Force on Roadway Safety. It was completed on October 3rd of this year and delivered to the Transportation Committee. In that report

they talked about a lot of the community outreach that they are doing and I, again, applaud them for it. But what really sticks out is on page 10 of this report, in bold letters, funding. Funding is an issue for moving the dial on pedestrian safety. What we're proposing here is not raising any new revenue. It's taking funds from the multimodal account that are designated for helping get people out of their cars and onto the streets. We're proposing taking the unspent balance at the end of the year, put them into a competitive grant program to partner with towns and cities to improve the situation. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought Not to Pass Report. If you are in favor of that report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#507)

YEAS: Senators: BRAKEY, COLLINS, CUSHING, CYRWAY, DAVIS, DOW, HAMPER, KATZ, KEIM, LANGLEY, MAKER, MASON, ROSEN, SAVIELLO, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, DESCHAMBAULT, DIAMOND, DILL, DION, GRATWICK, JACKSON, LIBBY, MILLETT, MIRAMANT, VITELLI

EXCUSED: Senator: HILL

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **COLLINS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report **PREVAILED**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

SECOND READERS

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

House

Bill "An Act To Clarify the Law Governing the Separation of a Class A Restaurant and an Off-premises Retail Licensee Located on the Same Premises"

H.P. 1173 L.D. 1693

Bill "An Act To Rename the Coast of Maine Wildlife Management Area as the Alan E. Hutchinson Wildlife Management Area"
H.P. 1213 L.D. 1759

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

House As Amended

Bill "An Act To Update the Allowance Budget for the Regional Greenhouse Gas Initiative"

H.P. 1142 L.D. 1657
(C "A" H-575)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in 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 Assigned (2/1/2018) matter:

SENATE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act To Create the Bar Harbor Port Authority" (EMERGENCY)

S.P. 478 L.D. 1400

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-347)**

Tabled - February 1, 2018 by Senator **LANGLEY** of Hancock

Pending - **ACCEPTANCE OF REPORT**

On motion by Senator **JACKSON** of Aroostook, 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 Bellows.

Senator **BELLOWS:** Thank you, Mr. President. Dear ladies and gentlemen of the Senate, my original hometown is Hancock, which is why I rise to speak in opposition to the pending motion and I urge you to consider that local control is an important part of Maine's heritage and tradition. We've always understood that local towns and municipalities are best equipped to make decisions about their local economies, local education, and that the State's role is to support our communities and our constituents. Every time the Legislature has departed from the principle of working collaboratively and inclusively with the towns

and municipalities we've seen backlash at the local level and when there've been extreme controversies between two towns, or between two factions or multiple factions in a local town, we have done our best work when helped we've the parties find common ground and mutual satisfaction and sometimes that means taking a deep breath and encouraging further study or planning. In Bar Harbor a 40 member advisory committee of Bar Harbor residents, selected by the Bar Harbor town council, unanimously approved a plan for the waterfront last fall. To get 40 people to be unanimous on anything is remarkable. Under that plan the town, itself, would operate a multi-use marina without a port authority, much like most coastal towns in Maine regulate their waterfronts without port authorities created by the Legislature, and one of the chairs of that 40 person committee is sitting in the back of the room, Joe Minutolo, a businessman, ran a bike shop, has run the bike shop there for 40 years. L.D. 1400 has created, as many of you may realize, an enormous controversy in my home county of Hancock County. I've heard from local business owners like Joe, from entrepreneurs in Bar Harbor, from residents deeply involved in tourism, from environmentalists, from preservationists, urging us to resist passage of L.D. 1400.

Now I'm not convinced that a port authority, on its face, is necessarily a bad idea in the long term, but what I do think, from a process perspective, is we should allow the town to go back and work with this 40 member advisory committee, see if they can come together and come back to us with a proposal that works for everyone. Then I would support this. Rather than imposing our perspective on them now, let's let the local grassroots process work. The State can still sell the pier to Bar Harbor, the sale of which the voters did approve by referendum last year. If the town then comes together, unified, we could pass this next year. There's no urgency in doing it now and I would argue that the controversy that it's unleashed and the amount of mail that we've received suggests it would be unwise to do it now. We don't have to pass L.D. 1400 today and we shouldn't. I hope you will join me in voting Ought Not to Pass.

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

Senator **GRATWICK:** Thank you very much, Mr. President and ladies and gentlemen of the Senate. I, too, rise in opposition to the current L.D. 1400 for four different reasons, which I will go over with you just very briefly. The first is, as has been said by Senator Bellows, that if the port authority goes forward there's no going backwards. If you build a mega pier, if you build a 2,000 foot pier, you can't unbuild it. On the other hand, if they build the way the citizens seem to wish in the community, if you put in a marina that's been very well studied, and that works, great. If it doesn't work, five or ten years hence you can go to this particular route. You can go forward on the latter but you can't go backwards on the former. Second, it's just a question of scale. I'm sure most of you have seen pictures of what these large cruise ships are like. There are now ones that carry 4,500 - 5,000 passengers, and just for comparison, looking at the Cross Office Building, these ships are three times as high as the Cross Office Building. A ship over there three times as high. It gets up to there. Here you are, out in a lobster boat or skiff or sea kayak, three times high, three and a half times as long, and as wide as the Cross Office Building. In other words, it's a question of scale on what's an iconic area of the Frenchman Bay area, Bar Harbor. They are, I fear, going to kill the goose that laid the golden egg by

having excessive numbers of people there. The third thing I'll bring up is really the effect on business. I'll simply note that most of the business in Bar Harbor, the money that stays there, goes to hotels for people who have driven in, who have flown in from Topeka, from Boise, from wherever, because they want to go to a quiet Maine town. Bermuda, as well as Key West, which have had these large cruise ships come in, have actually changed their pattern because these very, very large mega cruise ships have the potential to really destroy what they brought visitors to see. Finally, as has been talked about before, a port authority is a very - it's a legal entity that has a great deal of power onto it, and I quote from the part of here of the bill. Quote, 'The board of directors has the power to establish bylaws and all,' underline all, 'rules and regulations governing the operation and maintenance of the facilities under the control of the authority.' All. Right now Bar Harbor, the town council, has rules and regulations that say you could have 3,500 landings, people come in during the summer months, and you have 5,500 during the off months. That no longer could hold. You have power that goes back to the - that will go to the port authority. There will be a significant conflict and I think that the legal ramifications of this at this point are significant because of that "all", because the port authority has the capacity to establish bylaws and rules for all areas under its control. So I would very much urge that we defeat this at the current time and that this goes for further study. I thank you, Mr. President.

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

Senator **KATZ:** Thank you, Mr. President. Men and women of the Senate, I have a question through the Chair for anyone who might choose to answer because I'm a little bit confused by this bill. But I don't know if a port authority is a good idea or not, but does this bill mandate that there will be a port authority or does it simply allow the Town of Bar Harbor to choose whether they will regulate this through a port authority or not?

THE PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to anyone who may care to answer. The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, to answer that, the very first requirement of this bill is a referendum by the people of Bar Harbor about whether to form a port authority, which may be because there was good testimony on both sides, but the committee came to a unanimous decision. That could have been the reason for some of the folks to have come to that decision. Just as the good Senator from Kennebec had pointed out, we like local control and since the first step is a referendum about whether the town wants a port authority than that addresses local control as well. From the out pouring I've seen, I would think that any efforts to create one would fail, but that's just supposition, but all you're authorizing is, if there's a referendum and it succeeds, there could be a port authority.

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

Senator **CARPENTER:** Thank you, Mr. President. Ladies and gentlemen of the Senate, as many of you know, I have a business, a summer business, in Bar Harbor that would not be affected by this. I do have a concern that - actually the snow storm yesterday I was reading some newspaper articles online. It's my understanding, and I would respectfully request the Senator from Hancock, Senator Langley, to disabuse me of this notion if I'm wrong, but as you come into Bar Harbor, in terms of the sequence of things we're talking about here, the first thing, a few miles down as you come onto the island on Route 3, would be the State Pier, which is where this would be located and then you, within a very few miles, a couple of miles maybe, you're in downtown Bar Harbor. But what you pass before, in the interim, in the meantime, is the College of the Atlantic. The College of the Atlantic is this gorgeous little 38 acre jewel that sits there, recognized year after year by the Sierra Club and Princeton Review as the greenest college in America. It's my understanding from this newspaper article, all subject to the disclaimer of fake news I suppose, that the President of the College of the Atlantic has taken a position against the idea of a cruise ship pier and has specifically said, it was quoted in this newspaper article, speaking to the town council, that it would make it very difficult for the College of the Atlantic to continue if this mega cruise ship pier were located essentially very short distance from there. So I would ask if that's accurate. Thank you, Mr. President.

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

Senator **BRAKEY:** Thank you, Mr. President. As I've sat here listening, it seems to me there's a lot of talk about local control on this issue and I know I've received many of the same phone calls, talked to many of the same people that I'm sure many of us have, and I've heard some very compelling arguments about why the proposal might not be good for the people of the municipality. I certainly heard that. But I agree, we should have local control and this issue should be up for the people to decide and if we reject this motion right now that seems to me that we would be deciding this issue and we would be denying the people of the area local control over what takes place in their own city. So I'm going to be voting in support of the motion. I think that if we support local control, and we want people to be in charge of what takes place in their own communities, that that's the path to take. Again, I don't know if it's a good idea or a bad idea, that should be for the people to decide.

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

Senator **CHIPMAN:** Thank you, Mr. President. Men and women of the Senate, in response to the Senator from Kennebec's question, yes, it would require a local vote of the residents of Bar Harbor but it will not allow any vote, or input or say, really, on this from any of the residents of the surrounding towns and that's what I see as the biggest flaw with this bill and why I can't support it, because I think when you're setting up a port authority that's going to effect a region, that's going to effect a whole bay, you've got to have residents of the surrounding towns involved and included in that decision and this does not allow that. The way this bill is set up, it's one town having their own port authority and that's something I can't go along with. It's my understanding that

the Town of Bar Harbor can do a lot, if not all, of what the port authority would allow for anyways on their own, as a single town, and when I set - when I look at setting up authorities in other ways around the state, it always, usually always, includes other towns and I think that's the problem with this bill, for me anyway, and why I can't support it. I'm all for local control but I've heard from a lot of residents of the neighboring towns that they want to have a say and this will not allow them to, and that's what I think the problem is with the bill really and why we ought to vote it down. It's my understanding there's an amendment that would allow and require inclusion of other towns that could be offered if we defeat this motion, which I hope we will so that we can get on to discussing the merits of that amendment. I might even be able to support the bill if that amendment's attached, but not the way it's set up right now. Thank you.

THE PRESIDENT: The Chair would take time to remind members that any amendments that may or may not be available in the future are not appropriate to discuss at this point. The Chair recognizes the Senator from Kennebec, Senator Bellows.

Senator **BELLOWS:** Thank you, Mr. President and ladies and gentlemen of the Senate, for indulging me in speaking one more time. With regards to local referendum question, I've been a big supporter of upholding the will of the voters on all referendum questions and I think that's important. However, this would be a single referendum and that would hold for the rest of time, and we've had a great deal of discussion in this Body about whether amendment - referendums should be amended or changed in the future. What I would say is if we reject this motion now, and reject this bill now, and we say to the town to come back to us if the grassroots, this 40 person advisory committee that was unanimous in its recommendations for the use of that pier, comes back to us and unanimously says please move forward with a port authority that's designed in this way, then I think the referendum process in that town will be a much - I think you'd see a larger vote and you'd see a larger majority on either side. You'd see a much more collaborative and inclusive process. And I went through this with a non-profit I worked with that made a huge decision and the initial vote they took the decision passed by a couple of votes, and I was the outside consultant, and I said to the membership, I said, 'I'd advise you to suspend this decision and take six months and work through the pros and cons and the concerns that the people who voted against it had to come up with a better product and then take your vote.' Then when they worked through that process, six months later the vote was nearly unanimous. That's what I'm urging. Let's take a pause. Let's vote this down. Let's send it back to the town and next year, if they come back to us with a unanimous proposal where they thought through every piece of it, and then of course there'd be a referendum for ratification, it'll be a much stronger vision for that area. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you, Mr. President. Mr. President and women and men of the Senate, I rise today, frankly, surprised that we have a roll call question on a unanimous vote out of the Transportation Committee on a local, municipal, issue. Mr. President, men and women of the Senate, the Town of Bar Harbor reached out to its elected representatives to the

Legislature for help in creating a legal entity for use as a potential tool, if approved by the voters, in which to govern the operations of a marine terminal located within the legal boundaries of the Town of Bar Harbor. Representative Hubbell and I worked with a town official over a period of months, going over the language, many versions of it, to make sure that it was proper. Mr. President, L.D. 1400 is enabling legislation that allows for the formation of a port authority only after the voters of Bar Harbor approve the act. And I quote from the bill, 'This act takes effect when approved only for the purpose of permitting its submission to the legal voters of the Town of Bar Harbor at a referendum called for that purpose and held within two years after the effective date of that act,' this act, 'The referendum must be called by the municipal officers and must be held at the regular voting places. The referendum must be called, advertised, and conducted according to the law regulating municipal elections. The registrar shall make a complete list of all the eligible voters of the Town of Bar Harbor as described in this act. The list prepared by the registrar governs the ability - the eligibility of a voter. The purpose of registration of voters, the registrar of voters must be in session the regular work day preceding the referendum. The subject matter of this act is reduced to the following question: shall an act to create a Bar Harbor port authority as passed by the second regular session of the 128th Legislature be accepted? The voters shall indicate by a cross or check mark against the word 'yes' or 'no' in their opinion of the same. Upon its acceptance by a majority of the legal voters voting at the election, this act takes effect for all the purposes hereof as long as the total number of votes casts for and against the acceptance of this act equals or exceeds 20% of the total number of votes cast for Governor in the town in the last gubernatorial election. Another election may be held if the total number of votes cast in the first election does not equal or exceed 20%. The results of the election must be declared by municipal town officers of the Town of Bar Harbor and due certificate filed by the town clerk with the Secretary of State.'

Mr. President, women and men of the Senate, I urge you all up here in the Legislature, on local issues such as these, to make sure that the legal framework is proper in the eyes of the State of Maine. It is not our job to weigh in on whether or not the voters of Bar Harbor get to vote on the issue. I can't believe that we have a roll call on this bill. A no vote in this Legislature - on this legislation is a vote to deny the voters of Bar Harbor the right to vote on how they wish to govern this properly. This is their decision to make. There's been an unprecedented effort to deny the right of the citizens of Bar Harbor the vote on this issue. You all have received countless e-mails from citizens. I bet if you've received one e-mail you've received 600 e-mails. And I picked that number 600 for a reason. Last June, the voters of Bar Harbor were asked to vote on a citizen's initiative to ban cruise ships over 300 feet long, in essence to ban cruise ships. Six hundred and seventy-nine people voted to ban cruise ships, 925 people voted against the citizen's initiative. That's right, men and women of the Senate, 925 citizens voted down the ban on cruise ships. So now we're asked to step in and meddle, to step over - all over the rights of the voters to make decisions in the best interest of their community. Mr. President, the effort to trample the rights of the citizens of Bar Harbor is well funded and extends far beyond the municipality of Bar Harbor. You've all received the e-mails. There is a lot of mis-information being used to try to influence your vote today. I'm dismayed at the total lack of respect for the citizens of Bar Harbor, as many e-mails suggest

that Bar Harbor voters should not be able to vote. I spoke to a woman at the work session who told me that herself. Actually asked me why I thought the voters of Bar Harbor should have a say in this matter. Men and women of the Senate, I ask you to consider the precedent this sets, that all of us weigh in on whether or not local citizens get to vote on local issues. Last week's calendar, An Act to Amend the Charter of Lisbon Water District. Are we going to roll call that vote of that committee? Please follow my light and let the voters have their say. Thank you.

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

Senator **DIAMOND:** Thank you, Mr. President and ladies and gentlemen of the Senate. Whenever I see a unanimous committee report I, historically and institutionally, think that carries - does carry a lot of weight and should carry a lot of weight. I certainly respect that, especially the committee that's working on this. But I do have a question, Mr. President, if I could pose it through the Chair.

THE PRESIDENT: The Senator may proceed.

Senator **DIAMOND:** Thank you, Mr. President. Was there any discussion in the committee, or in the work session, about the possibility, or maybe consideration, of having other towns, who will be directly impacted by this, have a vote as well? Because right now this bill calls just for Bar Harbor and I'm just curious if that was considered, and if it was rejected, why. If it wasn't considered, Mr. President, that would be my question.

THE PRESIDENT: The Senator from Cumberland, Senator Diamond, has posed a question through the Chair to anyone who cares to answer. The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, yes, to answer your question, Senator Diamond, we did consider that but then we got back to the actual location is Bar Harbor; whether these cruise ships adversely affect the citizens of Bar Harbor or they don't. But it's still - the geography dictates this is the Port of Bar Harbor. There are outlying communities all around Frenchman Bay. I'm not sure how they're affected. But I will just quickly reiterate, while I have the Floor, that Senator Diamond took some of the points that I was going bring up. When there is a unanimous committee report we seldom have a debate about it because we all, in one sense or another, rely on the committee proceedings to kind of guide us as to how we should be voting on issues effecting Maine citizens. This was a unanimous committee report. We all felt as though the port authority formation was important to the people of Bar Harbor and surrounding communities. They can dictate a lot of things, the port authority can. The port authority, itself, will be elected. I think there are three elected positions and two appointed for the port authority. That is citizen's work at hand. If the people of Bar Harbor and surrounding communities, particularly Bar Harbor, if they don't like what the port authority is doing those trustees will be out in the next election. Plain and simple. So I urge you to vote, follow my light on L.D. 1400. Thank you.

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

Senator **DILL:** Thank you, Mr. Chair. Permission to pose a question through the Chair?

THE PRESIDENT: The Senator may proceed.

Senator **DILL:** Just out of curiosity, there seems to be a lot of discussion all around this and a referendum. Does Bar Harbor actually need our permission to have a referendum on an issue that is within their community?

THE PRESIDENT: The Senator from Penobscot, Senator Dill, has posed a question through the Chair to anybody who cares to answer. The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you, Mr. President. It's my understanding that, in this process, in order to form this quasi-governmental agency of a port authority it would, indeed. They cannot do it on their own. They have to have the permission of the Legislature. That's why it's here. And I'd further like to add, in conversations with the Town of Bar Harbor, the governing of this property is intricately linked to the tax structure of the town. As they have this as an option, as a tool, they've explained to me that they're looking to bond for some school projects, bond for some infrastructure in the town, and then they have to also pay for the formation and the work that has to be done on this property. No other community, you know, will be entered into the tax structure and paying for any of the repairs and the maintenance and the upkeep of this piece of property. So I think, to some degree, the folks that pay the tax bill in that community really ought to be the ones that get to vote on it.

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

Senator **MASON:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, as I sit here and listen to the debate that goes back and forth, and the Senator from Hancock, Senator Langley, has outlined some very good points. I guess the question I would pose to the Senate, and I suppose it's slightly rhetorical, but if anybody wants to answer I'd be happy to hear it: what other community would we deny the opportunity to create a port authority? I don't understand why we would deny them this opportunity. In fact, if I had coastal towns in my district I am sure that many of them would love to have the opportunity to have a port authority. So my question may be rhetorical but I suppose I do pose it to the Senate, Mr. President. Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Mason, has posed a question through the Chair to anyone who wishes to answer. Hearing none, the Chair recognizes the Senator from Cumberland, Senator Millett.

Senator **MILLETT:** Thank you, Mr. President. I rise not to answer the question but rather to pose another question as that question has now raised another question for me. Is - does anyone have an understanding as to whether the other communities that are around that harbor would then look to create their own port authority out of concern that perhaps their issues

are not being addressed by the Bar Harbor Port Authority and then what would that then do to the control of vessel traffic in that area?

THE PRESIDENT: The Senator from Cumberland, Senator Millett, has posed a question through the Chair to anyone who cares to answer. The pending question before the Senate is Acceptance of the Report. If you are in favor of accepting the report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#508)

YEAS: Senators: BRAKEY, COLLINS, CUSHING, CYRWAY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, DOW, HAMPER, JACKSON, KATZ, KEIM, LANGLEY, LIBBY, MAKER, MASON, MIRAMANT, ROSEN, SAVIELLO, VITELLI, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, DION, GRATWICK, MILLETT

EXCUSED: Senator: HILL

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being excused, the **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-347) Report ACCEPTED.**

Bill **READ ONCE.**

Committee Amendment "A" (S-347) **READ and ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later Assigned (2/6/18) matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Resolve, Directing the Secretary of State To Study the Revised Uniform Law on Notarial Acts

H.P. 1171 L.D. 1691

Majority - **Ought to Pass** (8 members)

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

Tabled - February 6, 2018 by Senator **KEIM** of Oxford

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED.**)

Senator **KEIM** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

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

Senator **KEIM:** Thank you, Mr. President. In the testimony from the Secretary of State's own office, it was stated that they already have the authority to initiate this study. According to testimony, this was merely an effort to help the office by giving them a deadline so they remain focused on the task. This Resolve is unnecessary and that is the reason for the Ought Not to Pass Report. Thank you.

On motion by Senator **JACKSON** of Aroostook, 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 Diamond.

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, ordinarily you would kind of just go right along with this and say, 'Well why not if they said it's not needed? The Secretary of State had said that.' It is housekeeping, for sure. But there's a reason for this type of study. I mean, if I think the reason it was brought to the committee and to the Legislature is because there's really a sincere effort to keep the Legislature involved and out-front of these issues. Notarial procedures and demands are changing because of the electronic state we live in, time we live in, changing all the time and it really behooves us, as a Legislature, to be part of this study and to be out-front. Frankly, ladies and gentlemen, it's a commonsense thing to do. It doesn't hurt anybody and it's going to help your constituents, my constituents, keep us in front of this rolling ball that's going so fast, and I think if any one of you were Secretary of State you probably, too, would want to be in the position of having this study. So I would ask you to consider maybe putting this study, letting it move forward, because it really - I think it really is needed and I think it's something that it will benefit everybody and harms nobody. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Ought Not to Pass Report, in non-concurrence. If you are in favor of accepting that report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#509)

10:00 in the morning in memory of and lasting tribute to WWII Veteran, U.S. Navy 1st Class Seaman Warren D. Goodwin.

YEAS: Senators: BRAKEY, COLLINS, CUSHING,
CYRWAY, DAVIS, DOW, HAMPER, KATZ,
KEIM, LANGLEY, MAKER, MASON,
ROSEN, SAVIELLO, VOLK,
WHITTEMORE, WOODSOME,
PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARPENTER,
CARSON, CHENETTE, CHIPMAN,
DESCHAMBAULT, DIAMOND, DILL,
DION, GRATWICK, JACKSON, LIBBY,
MILLETT, MIRAMANT, VITELLI

EXCUSED: Senator: HILL

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **KEIM** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

Senator **CYRWAY** of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator **CYRWAY**: Sometimes we do not hear about veterans that are unsung and I want to take a moment to recognize this man. His name is Warren D. Goodwin, U.S. Navy Seaman First Class, WWII veteran and he is being laid to rest at the Maine Veterans Memorial Cemetery on Mount Vernon Road in Augusta. He passed away on January 10th at Mid-Coast Hospital without having a single visitor to his elder care residence for 5 years. The date is February 21st at 1000 hours and would like to just take a moment of silence for him. Thank you, Mr. President.

THE PRESIDENT: The Senate will have a moment of silence.

Senate at Ease.

The Senate was called to order by the President.

Off Record Remarks

On motion by Senator **CYRWAY** of Kennebec, **ADJOURNED**, pursuant to the Joint Order, until Tuesday, February, 13, 2018 at