**Tuesday, March 15, 2011**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Isaiah, the prophet, affirms that:

“ ‘Surely God is my salvation; I will trust, and not be afraid.’ ”

(Isaiah 12:2a)

Bow in prayer with me, please:

Holy God, it is almost impossible for us to picture the enormity of the tragedies that have wreaked havoc on the nation of Japan. Our hearts grieve over the circumstances of the women, men, and children who have experienced frightening earthquakes, a horrifying tsunami, and now the unsettled fears of radioactive contamination. Bestow Your grace and mercy upon that land and her people. May all of us in this State House continue to hold them in our prayers, as we also seek Your continuing blessings upon the work of this Senate. In Your loving name we pray, O Lord.

Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**Doctor of the Day**

Senator VERDIN introduced Dr. Wendell James of Greenville, S.C., Doctor of the Day.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 229 Sen. Knotts

S. 307 Sen. Larry Martin

S. 431 Sen. Knotts

S. 447 Sen. Knotts

S. 474 Sen. Sheheen

S. 586 Sens. Elliott, Larry Martin

S. 647 Sen. Knotts

S. 687 Sen. Knotts

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 688 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND EXPRESS DEEP APPRECIATION TO THE INDEPENDENT COLLEGES AND UNIVERSITIES IN SOUTH CAROLINA DURING “INDEPENDENT COLLEGE AND UNIVERSITY WEEK” OF APRIL 4 - 8, 2011, AND ON “INDEPENDENT COLLEGE AND UNIVERSITY DAY” ON APRIL 6, 2011, FOR THEIR OUTSTANDING CONTRIBUTIONS IN EDUCATING THE YOUTH OF OUR STATE AND NATION.

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On motion of Senator COURSON, with unanimous consent, the Concurrent Resolution was adopted and ordered sent to the House.

S. 689 -- Senator Courson: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO GIRLS STATE TO USE THE CHAMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON FRIDAY, JUNE 17, 2011.

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The Concurrent Resolution was introduced and referred to the Committee on Invitations.

S. 690 -- Senator Leatherman: A BILL TO REENACT SECTION 12-6-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINATIONS FOR INCOME TAX AND CORPORATE LICENSE FEE PURPOSES.

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Read the first time and referred to the Committee on Finance.

S. 691 -- Senators Rose, Courson, Setzler and Land: A BILL TO AMEND CHAPTER 8 OF THE 1976 CODE, RELATING TO THE ADMINISTRATION OF THE GOVERNMENT, BY ADDING CHAPTER 8, TO ESTABLISH THE OFFICE OF INSPECTOR GENERAL, TO INCORPORATE BY REFERENCE THE PROVISIONS CONTAINED IN EXECUTIVE ORDER NUMBER 2011-10, TO PROVIDE FOR THE MISSION OF THE STATE INSPECTOR GENERAL, TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF OFFICE, AND TO PROVIDE THE OFFICE

WITH THE AUTHORITY NECESSARY TO CARRY OUT ITS MISSION.

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Senator ROSE spoke on the Bill.

Read the first time and referred to the Committee on Judiciary.

S. 692 -- Senators Jackson, Courson, Scott and Lourie: A BILL TO AMEND SECTION 7-27-405, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RICHLAND COUNTY ELECTION COMMISSION AND THE RICHLAND COUNTY BOARD OF REGISTRATION, SO AS TO COMBINE THE RICHLAND COUNTY ELECTION COMMISSION AND THE RICHLAND COUNTY BOARD OF REGISTRATION INTO A SINGLE ENTITY.

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Read the first time and referred to the Committee on Judiciary.

S. 693 -- Senator Bryant: A BILL TO AMEND SECTION 23-9-70 OF THE 1976 CODE, RELATING TO ORDER AND APPEALS FROM A STATE FIRE MARSHAL, TO INCREASE THE AMOUNT OF TIME THAT AN OCCUPANT OR OWNER MAY APPEAL THE DECISION OF A DEPUTY OR RESIDENT FIRE MARSHAL FROM TWENTY-FOUR HOURS TO FOURTEEN DAYS, AND TO PROVIDE THAT THE STATE FIRE MARSHAL’S DECISION MUST BE FILED WITHIN TEN DAYS OF RECEIVING THE NOTICE OF APPEAL.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 694 -- Senator Bryant: A BILL TO AMEND SECTION 41-15-520 OF THE 1976 CODE, RELATING TO REMEDIES FOR EMPLOYEES CHARGING DISCRIMINATION, TO PROVIDE FOR REFERRAL TO THE UNITED STATES DEPARTMENT OF LABOR ALLEGATIONS MADE BY A PRIVATE SECTOR EMPLOYEE OF A VIOLATION OF SECTION 41-15-510 AND TO PROVIDE FOR CIVIL REMEDIES.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 695 -- Senator Knotts: A BILL TO AMEND SECTION 44-7-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE STATE CERTIFICATION OF NEED AND HEALTH FACILITY LICENSURE ACT, INCLUDING THE DEFINITION OF “INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED”, SO AS TO SUBSTITUTE “PERSONS WITH INTELLECTUAL DISABILITY” FOR “THE MENTALLY RETARDED”; TO AMEND CHAPTER 20, TITLE 44, RELATING TO THE SOUTH CAROLINA MENTAL RETARDATION, RELATED DISABILITIES, HEAD INJURIES, AND SPINAL CORD INJURIES ACT, INCLUDING THE CREATION, GOVERNANCE, AND OPERATION OF THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, CHAPTER 21, TITLE 44, RELATING TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS FAMILY SUPPORT SERVICES, SECTION 44-23-10, AND ARTICLES 3 AND 5 OF CHAPTER 23, TITLE 44, RELATING TO PROVISIONS APPLICABLE TO BOTH MENTALLY ILL AND MENTALLY RETARDED PERSONS, CHAPTER 26, TITLE 44, RELATING TO THE RIGHTS OF MENTAL RETARDATION CLIENTS, ALL SO AS TO CHANGE THE TERM “MENTAL RETARDATION” TO “INTELLECTUAL DISABILITY” AND THE TERM “MENTALLY RETARDED” TO “PERSON WITH INTELLECTUAL DISABILITY”; TO PROVIDE THAT THE TERMS “INTELLECTUAL DISABILITY” AND “PERSON WITH INTELLECTUAL DISABILITY” HAVE REPLACED AND HAVE THE SAME MEANINGS AS THE FORMER TERMS “MENTAL RETARDATION” AND “MENTALLY RETARDED”; AND TO DIRECT STATE AGENCIES, BOARDS, COMMITTEES, AND COMMISSIONS AND POLITICAL SUBDIVISIONS OF THE STATE AND THE CODE COMMISSIONER TO SUBSTITUTE THE TERM “INTELLECTUAL DISABILITY” FOR “MENTAL RETARDATION” AND THE TERM “PERSON WITH INTELLECTUAL DISABILITY” FOR “MENTALLY RETARDED” IN RULES, REGULATIONS, POLICIES, PROCEDURES, STATUTES, ORDINANCES, AND PUBLICATIONS WHEN THESE RULES, REGULATIONS, POLICIES, PROCEDURES, STATUTES, ORDINANCES, OR PUBLICATIONS ARE AMENDED, REVISED, OR REPUBLISHED.

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Read the first time and referred to the Committee on Medical Affairs.

S. 696 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Verdin and Williams: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE MEMBERS OF THE SOUTH CAROLINA COUNCIL OF DELIBERATION, UNITED SUPREME COUNCIL, 33°, SOUTHERN JURISDICTION, UPON THE OCCASION OF THEIR FIFTIETH ANNIVERSARY.

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The Senate Resolution was adopted.

S. 697 -- Senator Lourie: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE SPRING VALLEY HIGH SCHOOL GIRLS BASKETBALL TEAM FOR CAPTURING THE 2011 CLASS AAAA STATE CHAMPIONSHIP TITLE, AND TO HONOR THE TEAM’S EXCEPTIONAL PLAYERS, COACH, AND STAFF.

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The Concurrent Resolution was adopted, ordered sent to the House.

H. 3041 -- Reps. J. R. Smith, Thayer, Harrison, G. R. Smith, Taylor, G. M. Smith, Hixon, Patrick and Clemmons: A BILL TO AMEND SECTIONS 59-71-40 AND 59-71-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO A SCHOOL BOND ELECTION, SO AS TO PROVIDE THAT THE ELECTION MUST BE HELD ON THE DATE OF A GENERAL ELECTION OR ON THE DATE OF A PRIMARY ELECTION.

Read the first time and referred to the Committee on Education.

H. 3113 -- Reps. Clemmons and Viers: A BILL TO AMEND SECTION 50-11-310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OPEN SEASON FOR ANTLERED DEER, SO AS TO REVISE THE OPEN SEASON DATES FOR GAME ZONE 4.

Read the first time and referred to the Committee on Fish, Game and Forestry.

H. 3249 -- Reps. G. M. Smith, Taylor and G. R. Smith: A BILL TO AMEND SECTION 61-6-4020, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSPORTATION OF ALCOHOLIC LIQUORS IN A MOTOR VEHICLE, SO AS TO CLARIFY THAT THE LUGGAGE COMPARTMENT OR CARGO AREA IN WHICH ONE MAY LAWFULLY TRANSPORT A CONTAINER OF ALCOHOLIC LIQUOR WITH A BROKEN OR OPENED SEAL OR CAP IS NOT LIMITED TO A CLOSED TRUNK THAT IS ACCESSIBLE ONLY FROM THE EXTERIOR OF THE VEHICLE SO LONG AS THE LUGGAGE COMPARTMENT OR CARGO AREA IS SEPARATE AND DISTINCT FROM THE DRIVER’S AND PASSENGERS’ COMPARTMENTS; AND TO PROVIDE THAT A PERSON’S DRIVER’S LICENSE MAY NOT BE SUSPENDED FOR A VIOLATION OF THIS SECTION.

Read the first time and referred to the Committee on Judiciary.

H. 3333 -- Reps. Sandifer, Toole, Bowers, Hayes, Erickson and Brady: A BILL TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF “ADMITTED ASSETS” TO INCLUDE THOSE ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38-13-80; TO AMEND SECTION 38-9-10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38-10-40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-33-130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38-55-80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

Read the first time and referred to the Committee on Banking and Insurance.

H. 3368 -- Reps. G. R. Smith, Harrell, Bingham, Harrison, Cooper, Huggins, Bowen, Brady, Atwater, Parker, Clemmons, Crawford, D. C. Moss, Pinson, Loftis, Lowe, Allison, Bedingfield, Owens, Frye, Hardwick, Lucas, Quinn, Hamilton, Toole, Bannister, Whitmire, Stringer, Ballentine, Henderson, Nanney, Hearn, Bikas, V. S. Moss, Sottile, Gambrell, J. R. Smith, Corbin, Brannon, McCoy, Crosby, Barfield, Cole, Daning, Delleney, Hixon, Horne, Long, Murphy, Sandifer, G. M. Smith, Spires, Taylor, Young, Viers, Simrill, Pope, Edge, Ryan, Forrester and Willis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-11-415 SO AS TO PROVIDE THAT THE LIMIT ON GENERAL FUND APPROPRIATIONS FOR A FISCAL YEAR IS THE TOTAL AMOUNT OF THE GENERAL FUND REVENUE ESTIMATE AS OF FEBRUARY 15, 2010, FOR FISCAL YEAR 2010-2011, INCREASED ANNUALLY AND CUMULATIVELY BY A PERCENTAGE DETERMINED BY POPULATION INCREASES AND INCREASES IN THE CONSUMER PRICE INDEX, TO PROVIDE FOR THE LIMITATION TO BE SUSPENDED FOR A FISCAL YEAR FOR A SPECIFIC AMOUNT UPON A SPECIAL VOTE OF THE GENERAL ASSEMBLY AND TO DEFINE THIS SPECIAL VOTE, TO ESTABLISH THE SPENDING LIMIT RESERVE FUND TO WHICH ALL SURPLUS GENERAL FUND REVENUES MUST BE CREDITED, TO PROVIDE FOR THE PRIORITY USES OF THE REVENUES OF THIS FUND, TO PROVIDE FOR THE APPROPRIATION OF FUND REVENUES AFTER THESE PRIORITIES ARE MET, TO REQUIRE THAT APPROPRIATION OF REVENUES OF THIS FUND MUST BE BY A JOINT RESOLUTION ORIGINATING IN THE HOUSE OF REPRESENTATIVES, AND TO PROVIDE THAT THIS LIMIT FIRST APPLIES FOR FISCAL YEAR 2011-2012.

Read the first time and referred to the Committee on Finance.

H. 3410 -- Reps. Owens, Cooper, Harrell, Branham, Limehouse, Atwater, Bikas, Govan, Loftis, Skelton, Taylor, Young, Williams, Daning, Quinn, Brannon, J. M. Neal, Bowen, Patrick, Norman, Whitmire, Willis, Thayer, Erickson, Weeks, Munnerlyn, McEachern, Vick, Sandifer, Viers, Hixon, Huggins, Clemmons, Henderson and Lucas: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT OF 2011”; TO AMEND SECTIONS 2-47-30, 2-47-35, 2-47-40, AND 2-47-50, AS AMENDED, RELATING THE JOINT BOND REVIEW COMMITTEE, SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY STATE AGENCIES AND FOR THE APPROVAL OF THESE PROJECTS; BY ADDING SECTION 2-47-53 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS, TO ALLOW THE COMMITTEE TO REQUEST ASSISTANCE WITH THE REVIEW OF PROJECTS, AND TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS; BY ADDING SECTION 2-47-54 SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO GROUND LEASE AGREEMENTS WITH A PRIVATE ENTITY AND TO PROVIDE REQUIREMENTS FOR THOSE AGREEMENTS; BY ADDING SECTION 59-53-168 SO AS TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH A TIERED SYSTEM FOR CATEGORIZING TECHNICAL COLLEGES WITH RESPECT TO FINANCIAL STRENGTH AND OTHER FACTORS BY WHICH TECHNICAL COLLEGES MAY APPLY FOR CERTAIN EFFICIENCY POLICIES GRANTED BY THE BOARD AND TO REQUIRE THE BOARD TO ESTABLISH AN ADVISORY BOARD AND REPORT TO THE GENERAL ASSEMBLY; TO AMEND SECTIONS 59-53-290, 59-53-630, 59-53-740, 59-53-1784, AND 59-53-2430, ALL RELATING TO LEASE AGREEMENTS OF TECHNICAL COLLEGES, SO AS TO PROVIDE FOR THE FAVORABLE REVIEW OF THE AGREEMENT BY THE JOINT BOND REVIEW COMMITTEE AND ITS APPROVAL BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; TO AMEND SECTION 1-11-65, RELATING TO APPROVAL OF REAL PROPERTY TRANSACTIONS BY THE STATE BUDGET AND CONTROL BOARD AND ACCEPTANCE OF THE TRANSFER OF TANGIBLE PERSONAL PROPERTY BY A STATE ENTITY, SO AS TO EXEMPT CERTAIN REAL PROPERTY TRANSACTIONS MADE FOR OR BY THESE INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTIONS 59-147-42 AND 59-147-43 AND TO AMEND SECTION 59-147-30, AS AMENDED, RELATING TO THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS UNDER THE HIGHER EDUCATION REVENUE BOND ACT, ALL SO AS TO REVISE THESE PROCEDURES AND THE PURPOSES FOR WHICH THE BONDS MAY BE USED; BY ADDING ARTICLE 7 TO CHAPTER 101, TITLE 59 SO AS TO PROVIDE FOR CERTAIN PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 11-35-1210, AS AMENDED, RELATING TO CERTIFICATION OF THE BUDGET AND CONTROL BOARD TO ALLOW GOVERNMENTAL BODIES TO MAKE DIRECT PROCUREMENTS, SO AS TO PROVIDE FOR APPROVAL OF PROCUREMENT AUTHORITY BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; TO AMEND SECTION 11-35-1550, AS AMENDED, RELATING TO SMALL PURCHASES UNDER THE CONSOLIDATED PROCUREMENT CODE AND BID PROCEDURES ON PROCUREMENTS UP TO FIFTY THOUSAND DOLLARS, SO AS TO INCREASE THE AMOUNT OF AUTHORIZED SMALL PURCHASES BY PUBLIC INSTITUTIONS OF HIGHER LEARNING AND TO AUTHORIZE THESE INSTITUTIONS TO USE PURCHASING CARDS FOR THESE PURCHASES IN THE AMOUNT AUTHORIZED; TO AMEND SECTION 11-35-3310, AS AMENDED, RELATING TO INDEFINITE DELIVERY CONTRACTS FOR CONSTRUCTION, ARCHITECTURAL-ENGINEERING AND LAND SURVEYING SERVICES, SO AS TO RAISE THE PERMITTED AMOUNTS OF THESE CONTRACTS; TO AMEND SECTION 11-35-4810, AS AMENDED, RELATING TO COOPERATIVE PURCHASES OF PUBLIC ENTITIES UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO ESTABLISH CERTAIN EXCEPTIONS FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING IN REGARD TO NOTICE AND ELIGIBLE VENDORS; TO AMEND SECTION 1-7-170, RELATING TO THE REQUIRED APPROVAL OF THE ATTORNEY GENERAL BEFORE AN AGENCY OR DEPARTMENT OF THIS STATE MAY ENGAGE AN ATTORNEY AT LAW ON A FEE BASIS AND EXCEPTIONS TO THIS REQUIREMENT, SO AS TO ESTABLISH A SPECIAL APPROVAL PROCEDURE FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 59-101-55 SO AS TO PROVIDE THAT STATE APPROPRIATED FUNDS MAY NOT BE USED TO PROVIDE OUT-OF-STATE SUBSIDIES TO STUDENTS ATTENDING STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 59-101-620, RELATING TO LIMITATIONS ON EDUCATIONAL FEE WAIVERS OFFERED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, SO AS TO REVISE THESE LIMITATIONS FOR CERTAIN INSTITUTIONS AND TO PROVIDE FOR ANNUAL REPORTING REQUIREMENTS TO THE COMMISSION ON HIGHER EDUCATION IN REGARD TO THESE WAIVERS; BY ADDING SECTION 59-112-115 SO AS TO PROVIDE THAT WHEN THE GOVERNING BOARD OF A FOUR-YEAR AND GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE ADOPTS A CHANGE TO THE TUITION OR FEES IMPOSED ON STUDENTS, THE CHANGE ONLY MAY BE IMPLEMENTED BY THE INSTITUTION AFTER A PUBLICALLY RECORDED ROLL CALL VOTE, AND A MAJORITY VOTE SHALL BE REQUIRED TO IMPLEMENT ANY CHANGE TO THE TUITION OR FEES, AND TO PROVIDE REPORTING REQUIREMENTS; AND TO AMEND SECTION 1-11-55, RELATING TO LEASING OF REAL PROPERTY FOR GOVERNMENTAL BODIES, SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO LEASE AGREEMENTS UP TO ONE HUNDRED THOUSAND DOLLARS ANNUALLY UPON APPROVAL BY THE INSTITUTIONAL BOARDS.

Read the first time and referred to the Committee on Finance.

H. 3414 -- Reps. Sandifer, Toole, Bowers, Hayes, Erickson and Brady: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-90-213 SO AS TO PROVIDE CERTAIN FEATURES AND REQUIREMENTS CONCERNING A PROTECTED CELL; BY ADDING SECTION 38-90-215 SO AS TO PERMIT THE FORMATION OF A PROTECTED CELL AND TO PROVIDE REQUIREMENTS FOR ITS CREATION, OWNERSHIP AND OPERATION; BY ADDING SECTION 38-90-457 SO AS TO PROVIDE FOR THE FORMATION OF A PROTECTED CELL OF A SPECIAL PURPOSE FINANCIAL CAPTIVE; TO AMEND SECTION 33-9-100, RELATING TO ARTICLES OF DOMESTICATION FOR A FOREIGN CORPORATION, SO AS TO CHANGE THE WORD “STATE” TO “JURISDICTION”; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO APPLICABILITY OF PROVISIONS RELATING TO INSURANCE REORGANIZATIONS, RECEIVERSHIPS, INJUNCTIONS, AND SPONSORED CAPTIVE INSURANCE COMPANY ASSETS AND CAPITAL PROVISIONS, SO AS TO PROVIDE FOR THE APPLICABILITY OF THE TERMS AND CONDITIONS OF CHAPTERS 26 AND 27, TITLE 38, TO A CAPTIVE INSURANCE COMPANY AND A PROTECTED CELL OF THIS COMPANY, AND TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY OBTAIN PERMISSION OF THE CIRCUIT COURT TO CONSERVE, REHABILITATE, OR LIQUIDATE ONE OR MORE PROTECTED CELLS, INDEPENDENTLY, WITHOUT CAUSING OR OTHERWISE EFFECTING CERTAIN ACTIONS, TO PROVIDE A DIRECTOR MAY NOT SEEK TO HAVE A SPONSORED CAPTIVE INSURANCE COMPANY DECLARED INSOLVENT IF AT LEAST ONE OF ITS PROTECTED CELLS REMAINS SOLVENT, AND TO PROVIDE THIS SECTION DOES NOT PREVENT THE DIRECTOR FROM TAKING CERTAIN ACTIONS TO THE CONSERVATION OR REHABILITATION OF A SPONSORED CAPTIVE INSURANCE COMPANY IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-90-210, RELATING TO FORMATION OF A SPONSORED CAPTIVE INSURANCE COMPANY AND ESTABLISHING PROTECTED CELLS, SO AS TO ADD CONDITIONS UNDER WHICH A SPONSORED CAPTIVE INSURANCE COMPANY MAY ESTABLISH AND MAINTAIN ONE OR MORE PROTECTED CELLS TO INSURE RISKS OF ONE OR MORE OF ITS PARTICIPANTS; TO AMEND SECTION 38-90-220, AS AMENDED, RELATING TO REQUIREMENTS APPLICABLE TO SPONSORS, SO AS TO PROVIDE THE DIRECTOR MAY APPROVE AN ADDITIONAL ENTITY UNDER CERTAIN CONDITIONS; TO AMEND SECTION 38-90-230, AS AMENDED, RELATING TO PARTICIPANTS IN SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THE PARTICIPANT WHOSE RISKS ARE INSURED THROUGH CERTAIN PROTECTED CELL ENTITIES, THE SPONSOR, OR THE SPONSORED CAPTIVE INSURANCE COMPANY MUST BE THE OWNER OF THAT PROTECTED CELL ENTITY UNLESS OTHERWISE APPROVED BY THE DIRECTOR; TO AMEND SECTION 38-90-235, RELATING TO TERMS, CONDITIONS, AND EXCEPTIONS FOR PROTECTED CELL INSURANCE COMPANIES APPLICABLE TO SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE FOR THE LAW THAT GOVERNS IN THE EVENT OF A CONFLICT; AND TO AMEND SECTION 38-90-485, RELATING TO THE EFFECT OF THE CREATION, NAMING, AND MANAGEMENT OF ASSETS OF A PROTECTED CELL, SO AS TO PROVIDE AN EXCEPTION FOR CERTAIN PROTECTED CELLS.

Read the first time and referred to the Committee on Banking and Insurance.

H. 3419 -- Reps. Merrill, Bingham, Young, Taylor, Hixon, J. R. Smith, Clemmons, Stavrinakis, Bowers, Edge, Ballentine and Knight: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “TAXPAYER FAIRNESS ACT” BY ADDING SECTION 12-4-397 SO AS TO PROVIDE THE MANNER IN WHICH THE SOUTH CAROLINA DEPARTMENT OF REVENUE MUST INTERPRET TAX STATUTES OF THIS STATE, TO PROVIDE THAT TERMS IN THE TAX STATUTES OF THIS STATE MAY NOT BE GIVEN BROADER MEANING THAN INTENDED BY POLICY DOCUMENTS AND REGULATIONS OF THE DEPARTMENT OF REVENUE, TO PROVIDE THAT AMBIGUITY IN TAX STATUTES MUST BE RESOLVED IN FAVOR OF THE TAXPAYER, TO REQUIRE THE DEPARTMENT TO REPORT AMBIGUITIES TO CERTAIN MEMBERS OF THE GENERAL ASSEMBLY, AND TO DEFINE “TAX STATUTES OF THIS STATE”.

Read the first time and referred to the Committee on Finance.

H. 3438 -- Reps. G. M. Smith and Weeks: A BILL TO AMEND SECTION 29-15-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIENS FOR REPAIR OR STORAGE, SO AS TO EXCLUDE FROM THESE LIENS THE CONTENTS OF A TOWED, STORED, OR REPAIRED MOTOR VEHICLE, TRAILER, MOBILE HOME, WATERCRAFT, OR OTHER ITEM OR OBJECT SUBJECT TO TOWING, STORAGE, OR REPAIR.

Read the first time and referred to the Committee on Banking and Insurance.

H. 3574 -- Reps. Merrill, Quinn, Bingham, Toole, Atwater, G. M. Smith, Frye, Spires, Stavrinakis and Bedingfield: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-545 SO AS TO PROVIDE THAT A MEMBER OF A STATE BOARD OR STATE COMMISSION MAY NOT BE EMPLOYED BY THE BOARD OR COMMISSION ON WHICH HE SERVES, OR AN ENTITY GOVERNED BY THAT BOARD OR COMMISSION, DURING THE TERM OF HIS SERVICE OR FOR ONE YEAR AFTER HIS TENURE ON THE BOARD OR COMMISSION ENDS.

Read the first time and referred to the Committee on Judiciary.

H. 3631 -- Reps. Harrison, Clemmons, Funderburk, Pitts, Anderson, R. L. Brown, Govan, Hodges, Allen, White, Edge, Whipper, Hiott, Limehouse, Horne, Vick, Herbkersman, Agnew, Viers, Hardwick, Harrell, Sellers, Skelton, Gambrell, Young and Taylor: A BILL TO AMEND SECTION 48-34-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, SO AS TO FURTHER SPECIFY SUPERVISION REQUIREMENTS FOR A PRESCRIBED FIRE MANAGER AND TO REFERENCE SPECIFIC REGULATORY AND STATUTORY PROVISIONS APPLICABLE TO CONDUCTING A PRESCRIBED FIRE; AND TO AMEND SECTION 48-34-50, RELATING TO LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, SO AS TO PROVIDE THAT A PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE IS NOT LIABLE FOR DAMAGES CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE IS PROVEN.

Read the first time and referred to the Committee on Fish, Game and Forestry.

H. 3667 -- Rep. Bannister: A BILL TO AMEND SECTION 16-3-655, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL SEXUAL CONDUCT WITH A MINOR OFFENSES, SO AS TO PROVIDE FOR CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE WHEN THE ACTOR IS OVER THE AGE OF FOURTEEN AND COMMITS CERTAIN ACTS WITH A CHILD UNDER THE AGE OF SIXTEEN, TO PROVIDE AN EXCEPTION FOR CERTAIN CONSENSUAL CONDUCT, AND TO PROVIDE A PENALTY; AND TO REPEAL SECTION 16-15-140 RELATING TO COMMITTING OR ATTEMPTING TO COMMIT A LEWD ACT UPON A CHILD UNDER THE AGE OF SIXTEEN.

Read the first time and referred to the Committee on Judiciary.

H. 3669 -- Reps. Harrison and Harrell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-7-385 SO AS TO PROVIDE THAT WITH CERTAIN EXCEPTIONS, THE ATTORNEY GENERAL MUST APPROVE ANY CIVIL ACTION UNDERTAKEN BY A SOLICITOR OF THIS STATE EITHER UNDER HIS OWN SIGNATURE IN HIS OFFICIAL CAPACITY ON BEHALF OF THE STATE OR BY OUTSIDE COUNSEL RETAINED AS PROVIDED BY LAW BY THE SOLICITOR IN HIS OFFICIAL CAPACITY ON BEHALF OF THE STATE; AND TO AMEND SECTION 15-3-570, RELATING TO ACTIONS TO SECURE A PENALTY OR FORFEITURE BY A PRIVATE PARTY FOR A PENALTY OR FORFEITURE GIVEN TO THE PRIVATE PARTY, OR UPON FAILURE OF THE PRIVATE PARTY TO COMMENCE THE ACTION WITHIN THE TIME PRESCRIBED BY THE ATTORNEY GENERAL OR THE SOLICITOR OF THE CIRCUIT WHERE THE OFFENSE WAS COMMITTED ON BEHALF OF THE STATE, SO AS TO DELETE THE AUTHORITY OF THE SOLICITOR OF THE CIRCUIT WHERE THE OFFENSE WAS COMMITTED TO BRING THE ACTION.

Read the first time and referred to the Committee on Judiciary.

H. 3784 -- Reps. Gilliard and King: A CONCURRENT RESOLUTION TO REQUEST PRESIDENT BARACK H. OBAMA TO INCLUDE IN HIS 2012 FEDERAL BUDGET FUNDING FOR THE U. S. ARMY CORPS OF ENGINEERS TO CONDUCT A FEASIBILITY STUDY REGARDING THE DEEPENING OF CHARLESTON HARBOR TO AT LEAST FIFTY FEET SO THAT IT CAN ACCOMMODATE LARGER CONTAINER SHIPS EXPECTED TO CALL AT THE PORT WHEN THE EXPANSION OF THE PANAMA CANAL OPENS IN 2014.

The Concurrent Resolution was introduced and referred to the Committee on Transportation.

H. 3786 -- Medical, Military, Public and Municipal Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF ARCHIVES AND HISTORY, RELATING TO REHABILITATION OF DESIGNATED HISTORIC BUILDINGS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4135, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Read the first time and referred to the Committee on Education.

H. 3790 -- Rep. Sellers: A BILL TO CREATE THE BAMBERG COUNTY WATER AND SEWER AUTHORITY; TO PROVIDE FOR ITS DUTIES, RESPONSIBILITIES, AND POWERS; AND TO PROVIDE FOR THE APPOINTMENT AND TERMS OF THE AUTHORITY’S MEMBERS.

Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 3806 -- Reps. Toole, Bingham, Quinn, Frye, Huggins, Atwater, Spires, McLeod, Ballentine and Ott: A JOINT RESOLUTION TO PROVIDE A PROPERTY TAX CREDIT FOR PROPERTY TAX YEAR 2011 FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY SITUATED IN LEXINGTON COUNTY SCHOOL DISTRICT NOS. 1 AND 4 AS THE SOLE REMEDY FOR REFUNDING OVERPAYMENTS OF PROPERTY TAX ON SUCH PROPERTY FOR PROPERTY TAX YEARS 2007 AND 2008 AS A RESULT OF THE OPINION OF THE SOUTH CAROLINA SUPREME COURT IN THE CASE OF BERKELEY COUNTY SCHOOL DISTRICT ET AL. V. SOUTH CAROLINA DEPARTMENT OF REVENUE, AND TO PROVIDE FOR THE CALCULATION OF THE CREDIT AND OTHER REFUNDS RESULTING FROM THE CASE, AND TO PROVIDE THOSE ELIGIBLE TO RECEIVE THE CREDIT.

Read the first time and ordered placed on the Local and Uncontested Calendar.

**REPORTS OF STANDING COMMITTEES**

Senator COURSON from the Committee on Education submitted a favorable with amendment report on:

S. 241 -- Senators Rose and Leventis: A JOINT RESOLUTION TO CREATE THE SOUTH CAROLINA DYSLEXIA TASKFORCE, TO PROVIDE FOR THE COMPOSITION OF THE TASKFORCE, AND TO PROVIDE THAT THE TASKFORCE SHALL REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY.

Ordered for consideration tomorrow.

Senator COURSON from the Committee on Education submitted a favorable with amendment report on:

S. 295 -- Senators Hutto, Fair, Jackson and Rankin: A JOINT RESOLUTION TO CREATE THE SOUTH CAROLINA SUMMER CAMP STUDY COMMITTEE TO STUDY THE SUMMER CAMPS IN THE STATE AND MAKE RECOMMENDATIONS TO THE LEGISLATURE RELATED TO LICENSING AND REGULATION OF SUMMER CAMPS, PROVIDE FOR THE MEMBERSHIP AND METHOD OF APPOINTMENT FOR THE MEMBERSHIP, PROVIDE FOR THE DUTIES OF THE STUDY COMMITTEE, PROVIDE FOR THE STAFFING OF THE STUDY COMMITTEE, AND TO DISSOLVE THE STUDY COMMITTEE AFTER A REPORT OF ITS FINDINGS IS PROVIDED TO THE LEGISLATURE AND THE GOVERNOR.

Ordered for consideration tomorrow.

Senator COURSON from the Committee on Education submitted a favorable with amendment report on:

S. 432 -- Senators Jackson and Rose: A JOINT RESOLUTION TO CREATE A STUDY COMMITTEE TO STUDY THE FEASIBILITY AND COST EFFECTIVENESS OF CONSOLIDATING SCHOOL DISTRICTS WITHIN THE INDIVIDUAL COUNTIES OF THIS STATE, TO PROVIDE FOR THE DUTIES OF THE COMMITTEE AND FOR ITS MEMBERSHIP, AND TO REQUIRE THE COMMITTEE TO REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY BY JANUARY 31, 2012, AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED.

Ordered for consideration tomorrow.

Senator COURSON from the Committee on Education submitted a favorable with amendment report on:

S. 433 -- Senators Hayes, Jackson, Setzler, Matthews, Rankin, Courson, Fair, Davis and Rose: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑18‑1125 SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE REGULATIONS THAT PROVIDE A SYSTEM FOR GRANTING SCHOOL DISTRICTS EXEMPTION FROM BOARD REGULATIONS, AND TO PROVIDE WHAT THE REQUEST FOR EXEMPTION MUST INCLUDE AND WHO SHALL MAKE THE REQUEST; TO AMEND CHAPTER 20, TITLE 59, RELATING TO THE EDUCATION FINANCE ACT, SO AS TO REVISE DEFINITIONS; TO REVISE THE METHOD OF CALCULATING THE INDEX OF TAXPAYING ABILITY FOR FISCAL YEARS 2011‑2012, 2012‑2013, AND 2013‑2014 AND BEYOND BY IMPUTING AN INDEX VALUE FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY ASSESSED AT FOUR PERCENT OF VALUE; TO REVISE PURPOSES OF THE CHAPTER; TO REVISE STUDENT CLASSIFICATION WEIGHTINGS AND TO INCLUDE A WEIGHTING FOR YOUNG ADULT EDUCATION AND ADD‑ON WEIGHTINGS FOR GIFTED AND TALENTED PUPILS, ACADEMIC ASSISTANCE, POVERTY, LIMITED ENGLISH PROFICIENCY PUPILS, AND PUPILS ENROLLED IN VIRTUAL OR BRICK AND MORTAR CHARTER SCHOOLS SPONSORED BY THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT; TO PROVIDE THE CALCULATION FOR WHAT THE STATE SHALL ALLOCATE TO THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT; TO ALLOW SCHOOL DISTRICTS TO TRANSFER AND EXPEND CERTAIN FUNDS UPON CERTAIN CONDITIONS, TO ALLOW DISTRICTS TO CARRY FORWARD UNEXPENDED FUNDS, AND TO PROVIDE CERTIFICATION AND REPORTING REQUIREMENTS; TO REQUIRE SCHOOL DISTRICTS TO MAINTAIN TRANSACTION REGISTERS ON THEIR WEBSITES, TO PROVIDE WHAT THE REGISTER MUST INCLUDE, TO REQUIRE DISTRICTS TO POST ON THEIR WEBSITES MONTHLY STATEMENTS FOR ALL DISTRICT CREDIT CARDS, AND TO REQUIRE THE COMPTROLLER GENERAL TO POST ON ITS OWN WEBSITE DISTRICT TRANSACTION REGISTERS FOR DISTRICTS THAT DO NOT MAINTAIN THEIR OWN WEBSITES, AND TO DISTRIBUTE A METHODOLOGY FOR COMPLIANCE WITH THE TRANSACTION REGISTER PROVISION; TO REQUIRE THE STATE BOARD OF EDUCATION TO ESTABLISH A FRAMEWORK WHEREBY A DISTRICT MAY IMPLEMENT AN INCENTIVE COMPENSATION SYSTEM FOR TEACHERS; TO REVISE THE DATE BY WHICH SCHOOL IMPROVEMENT COUNCIL REPORTS MUST BE PROVIDED AND ADVERTISED; AND TO DELETE OBSOLETE REFERENCES; TO AMEND SECTION 59‑40‑140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES TO CHARTER SCHOOLS, SO AS TO PROVIDE THAT STATE FUNDS MUST BE DISTRIBUTED TO CHARTER SCHOOLS BASED ON THE TOTAL WEIGHTED PUPIL UNITS DERIVED FROM STUDENTS ENROLLED IN THAT SCHOOL; AND TO REPEAL SECTIONS 59‑18‑1110 AND 59‑18‑1120 BOTH RELATING TO FLEXIBILITY OF EXEMPTION FROM REGULATIONS AND STATUTES.

**S. 433--Committee Report Committed to the**

**Committee on Finance**

Senator HAYES asked unanimous consent to make a motion to commit the Bill, which was reported out of the Committee on Education, to the Committee on Finance.

There was no objection.

The Bill was committed to the Committee on Finance.

Senator ALEXANDER from the General Committee polled out H. 3303 favorable:

H. 3303 -- Reps. J.E. Smith, Harrison, Pinson, Vick, Agnew, Williams, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Munnerlyn, Murphy, Nanney, J.H. Neal, J.M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G.M. Smith, G.R. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Viers, Weeks, Whipper, White, Whitmire, Willis and Young: A JOINT RESOLUTION TO PROMOTE MAJOR GENERAL STANHOPE S. SPEARS TO THE RANK OF LIEUTENANT GENERAL OF THE SOUTH CAROLINA ARMY NATIONAL GUARD EFFECTIVE JANUARY 11, 2011.

**Poll of the General Committee**

**Polled 17; Ayes 17; Nays 0; Not Voting 0**

**AYES**

Alexander O'Dell *Martin, Larry*

Knotts Ford Sheheen

Reese Lourie Bryant

Bright Cleary Coleman

Cromer Hayes Jackson

Scott Shoopman

**Total--17**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**OBJECTION**

Senator THOMAS objected to the uncontested Bills on the Statewide Calendar.

**THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MADE SPECIAL ORDER UNDER RULE 33B**

H. 3375 -- Reps. Harrell, Lucas, Cooper, Hardwick, Harrison, Owens, Sandifer, White, Bingham, Atwater, Parker, Crawford, Loftis, Bowen, G.R. Smith, Bedingfield, Toole, Sottile, V.S. Moss, Forrester, Bikas, Huggins, Brady, Allison, Pinson, Frye, Whitmire, Skelton, Nanney, Henderson, Limehouse, Corbin, Barfield, Battle, Clemmons, Cole, Crosby, Daning, Gambrell, Hamilton, Hiott, Hixon, Horne, Lowe, D.C. Moss, Murphy, Norman, Patrick, Simrill, G.M. Smith, J.R. Smith, Spires, Taylor, Willis, Young, Herbkersman, Ballentine, Thayer, Bannister, McCoy, Tallon, Stringer, Long, Hayes, Ott, J.M. Neal, Vick, G.A. Brown, Branham, Anthony, Bowers, Sellers, Quinn, Hearn, Edge, Anderson, Erickson, Knight, Chumley, Butler Garrick and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA FAIRNESS IN CIVIL JUSTICE ACT OF 2011” BY AMENDING ARTICLE 5, CHAPTER 32, TITLE 15, RELATING TO PUNITIVE DAMAGES, SO AS TO PROVIDE LIMITS ON THE AWARD OF PUNITIVE DAMAGES AND TO PROVIDE FOR CERTAIN PROCEDURES AND REQUIREMENTS RELATING TO THE AWARD OF THESE DAMAGES; BY ADDING SECTIONS 1‑7‑750 AND 1-7-760 SO AS TO ENACT THE “PRIVATE ATTORNEY RETENTION SUNSHINE ACT” TO GOVERN THE RETENTION OF PRIVATE ATTORNEYS BY THE ATTORNEY GENERAL OR A SOLICITOR AND TO PROVIDE TERMS AND CONDITIONS GOVERNING THE RETAINER AGREEMENT INCLUDING LIMITS ON THE COMPENSATION OF OUTSIDE COUNSEL IN CONTINGENCY FEE CASES, AND TO PROVIDE FOR THE SUSPENSION OF THE LIMITATIONS UNDER CERTAIN EXCEPTIONAL CIRCUMSTANCES; TO AMEND SECTION 15‑3‑670, RELATING TO LIMITATIONS ON ACTIONS BASED ON UNSAFE OR DEFECTIVE IMPROVEMENTS TO REAL PROPERTY, SO AS TO PROVIDE THAT THE VIOLATION OF A BUILDING CODE DOES NOT CONSTITUTE PER SE FRAUD, GROSS NEGLIGENCE, OR RECKLESSNESS BUT MAY BE ADMISSIBLE AS EVIDENCE; TO AMEND SECTION 18‑9‑130, AS AMENDED, RELATING TO THE EFFECT OF A NOTICE OF APPEAL ON THE EXECUTION OF JUDGMENT, SO AS TO PROVIDE LIMITS FOR APPEAL BONDS; AND TO AMEND SECTION 56‑5‑6540, AS AMENDED, RELATING TO THE PENALTIES FOR THE MANDATORY USE OF SEATBELTS, SO AS TO DELETE THE PROVISION THAT PROVIDED THAT A VIOLATION FOR FAILURE TO WEAR A SEATBELT IS NOT NEGLIGENCE PER SE OR COMPARATIVE NEGLIGENCE AND IS NOT ADMISSIBLE IN A CIVIL ACTION.

The motion to make the Bill a Special Order was polled out of the Committee on Rules as follows:

**Poll of the Rules Committee**

**Polled 16; Ayes 13; Nays 3; Not Voting 1**

**AYES**

*Martin, Larry* McConnell Reese

Knotts Cromer Leatherman

Elliott Massey Davis

*Martin, Shane* Nicholson Rose

Shoopman

**Total-- 13**

**NAYS**

Land Hutto Matthews

**Total-- 3**

**NOT VOTING**

Malloy

**Total-- 1**

On behalf of the Rules Committee, Senator LARRY MARTIN moved under Rule 33B to make the Bill a Special Order.

The Bill was made a Special Order under Rule 33B.

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, the Senate agreed to dispense with the Motion Period.

**THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.**

**COMMITTEE AMENDMENT AMENDED**

**DEBATE INTERRUPTED**

H. 3004 -- Reps. Ballentine, Norman, Viers, Lucas, Simrill, Huggins, G.M. Smith, G.R. Smith, Loftis, Bedingfield, Hamilton, Stringer, Nanney, Lowe, Young, Willis, Bowen, D.C. Moss, Agnew, Pope, Daning, Thayer, Harrison, Allison, Taylor, Ryan, McCoy, Hixon, Bingham, Long, Whipper, R.L. Brown, Atwater, Henderson, Horne and Harrell: A BILL TO ENACT THE “SPENDING ACCOUNTABILITY ACT OF 2011”; AND TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑7‑125 SO AS TO REQUIRE CERTAIN BILLS AND JOINT RESOLUTIONS TO RECEIVE A RECORDED ROLL CALL VOTE AT VARIOUS STAGES OF THEIR PASSAGE BY THE HOUSE OF REPRESENTATIVES AND THE SENATE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

**Amendment No. P2**

Senators LARRY MARTIN, PEELER, DAVIS, SHANE MARTIN, THOMAS, BRIGHT, ROSE, RYBERG, CROMER, FAIR, CAMPBELL, JACKSON, CLEARY, BRYANT, LEATHERMAN and ALEXANDER proposed the following amendment (3004R003.LAM), which was adopted:

Amend the committee amendment, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “Spending Accountability Act of 2011”.

SECTION 2. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑125. (A) For purposes of this section, a ‘recorded roll call vote’ means a vote recorded in the journals of the respective houses of the General Assembly, which must be by yeas and nays and recorded by name.

(B) The Annual General Appropriations Bill must be considered section‑by‑section prior to third reading, and must receive a recorded roll call vote by the House of Representatives and the Senate when the pending question is the adoption of an individual section.

(C) A bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when:

(1) the pending question is adoption of a Conference or Free Conference Report;

(2) the pending question is the passage of a bill or joint resolution on second reading;

(3) either the House of Representatives or the Senate agrees to the other body’s amendment; or

(4) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

Senator McCONNELL argued contra to the adoption of the amendment.

**Point of Quorum**

At 2:26 P.M., Senator SHEHEEN made the point that a quorum was not present. It was ascertained that a quorum was present.

The Senate resumed.

Senator McCONNELL resumed arguing contra to the adoption of the amendment.

**Remarks by Senator McCONNELL**

Mr. PRESIDENT and Members of the Senate.

Senator from Charleston, I am going to start out and try to answer some of your questions and try to put some plain talk based on constitutional principle back into this debate. I’m not going to take any questions until I finish my address.

I want to go back, and I want to address the amendment that is before you -- the proposed rule, because it is not exactly the Senate Rule. They have changed it; and because of the constitutional problems, that’s why they conveniently, in my opinion, left out the words they left out. But, to the people of South Carolina, this transparency thing started several years ago. But now, Governor Haley -- who was Representative Haley at the time -- and I wrote an editorial calling for more transparency -- more roll call voting -- across the State. That’s where we were together.

Where we parted was when she wanted a law instead of doing it by rule. So, the question becomes, why did we part? Where is that division? Where is our responsibility here in the Senate to the people of South Carolina? Where is the responsibility of us to the framers of our Constitution? Where is our responsibility to our oath of office? First of all, to the Senator from Charleston, Senator CAMPSEN, you are dead on the money about the permanency, because it goes back to the explicit provisions of the South Carolina Constitution. It goes back to the question of the separation of powers that I thought you so eloquently addressed in the article entitled, “Preserve Separation of Powers in S.C.” in the Post and Courier this morning, and I will go back and start with that. I thought that you capsulated very well the essential constitutional questions, and it will lead me to why I have to criticize my friend from Pickens’ amendment, because he very carefully soft-pedaled the fact that he had removed out of the Judiciary Committee amendment the language which said the Bill just doesn’t go into effect until the constitutional amendment passes.

Now, if you recall, I was told no raffles until we have a constitutional amendment; but now I am told we can have rule changes without a constitutional amendment. But the Senator from Charleston said it very well, and I quote: “Our Constitution mandates that only legislative rules or the Constitution itself can impose procedural requirements on one of our legislative chambers. Therefore, the recorded vote statute must first be enabled by the constitutional amendment” which he says he has authored. He then goes on, and I quote: “This approach is necessary to honor our Constitution’s separation of powers provision.” And, in very eloquent terms, Senator CAMPSEN outlines that history of our Constitution on the separation of powers.

There are those that say that the Constitution does not state all that it says. That reminds me, of course, of the philosophy that the constitutions somehow can change with time and mean things other than what they say, and interestingly, that was addressed over a century and a half ago in this book. It’s a book that I would commend to each of you not necessarily for all of its accuracy but for its philosophy on how to look at the Constitution. It’s entitled, “Story on the Constitution.” This weekend, I had a chance to revisit this book, and this book contains the exact reasons how the provisions that were put into the United States Constitution also found their way into the South Carolina Constitution and why they were put there. They were put there for specific reasons, and we will go over those reasons this afternoon. Because those reasons, if you take a strict constructionist view of a constitution -- and I am referring to Barry Goldwater’s book, A Conservative Approach to the Constitution -- which I will go to and quote. “To go forward with this legislation is to ignore the history of our Constitution, the reasons the framers put it in there, the language they chose, and also, to ignore the separation of powers in this country and to take a view…. This is the very view that a lot of members of our party criticized the other party for in Washington, D.C. on Obamacare -- “Well, it doesn’t say that you can’t do it in there, so somehow it is in there -- the power to do it. So we are going to do it.”

Let us look now at this section of our Constitution and the history of this Constitution. In doing so, I want to start out first of all with Chief Justice of the Supreme Court John Marshall in 1803. He said, “The Constitution is either a superior paramount law unchangeable by ordinary means, or it is on a level with ordinary legislative acts and like other acts, is alterable when the legislature shall please to alter it. If the former part of the alternative be true, then a legislative act contrary to the Constitution is not law. If the latter part be true, then written constitutions are absurd attempts on the part of the people to limit a power in its own nature illimitable....” It was laid out a century and a half ago. Today, this Senate, with this amendment, is flirting with doing what we were warned not to do, and that is to say that we can somehow circumvent or override the Constitution with a statute.

Let us go back to the Minutes of the Constitutional Convention and to the language that came out of there. This particular document is very interesting. It says the restriction of calls of the Ayes and Nays to one fifth is founded upon the necessity of preventing too frequent a recurrence to this mode of ascertaining the votes at the mere caprice of an individual. A call consumes a great deal of time and often embarrasses the just progress of beneficial measures. It is said to have been often used to excess in the Congress under the confederation and even under the present Constitution, it is notoriously used as an occasional annoyance by a dissatisfied minority to retard the passage of measures which are sanctioned by the approbation of a strong majority. The check, therefore, is not merely theoretical, and experience shows that it has been resorted to at once to admonish and to control members and this is an abuse of the public patience and the public indulgence. The opponents of those of us, Senator from Charleston, who have tried to stand up to the Constitution, have spread the propaganda story that we believe that roll call voting is unconstitutional. Nothing could be further from the truth. In fact, you were the author of the constitutional amendment. You and I both voted to extend roll call voting in the Senate, and I might say that the Rules of the Senate require more roll call voting than this statute we have before us. The statute does not go as far as the Senate Rules go, but it goes in other places, so the Senate Rules, number one, being broader and requiring more roll call votes establishes for the record today whatever comes out of this Bill, that we already have roll call voting. We have recorded votes and with this Bill, if it were supreme, would be less roll call voting than this Senate, by a two-thirds majority, has been willing to impose upon this body.

That having been said, you must then look at the early writings. Then you go to the constitutional history of South Carolina, which we did over the weekend, and started taking a look at the history of our section. The current provision is traceable to the 1868 Constitution which is now in effect and then, by looking on back, you will find that the provisions earlier than that existed from the 1780s forward all the way, and they mirrored pretty much what was going on at the federal level. Then, you could go in here and take a look at the exact reasons for why this was put into effect. But we are told today that the provisions of the Constitution that were put in there of limitation limited the power of the General Assembly. Those sections did not give us the power. They limited the power. The same question came up in Washington, D. C. I’m trying to remember which one at the moment -- the U. S. Senate or the U. S. House -- until I find the reference. Could they, by unanimous consent, change that provision in the Constitution or suspend it as it applied to that legislative body? They were told “no.” But today, we are told it doesn’t even take unanimous consent. You can change it by a majority vote of the General Assembly -- another departure in our history. Well, how should we interpret constitutions? How should they be looked at? I, of course, go back to a gentleman I greatly respected, Senator Barry Goldwater. He said, and I quote, “The framers of the Constitution had learned their lesson. They were not only students of history but victims of it. They knew from vivid personal experience that freedoms depend on effective restraints against the accumulation of power in a single authority, and that is what the Constitution is -- a system of restraints against the natural tendency of government to expand in the direction of absolutism,” and he goes into the expansion of absolutism. So, that having been said, I take my guidance off of Senator Barry Goldwater’s view of the Constitution.

Then, I went back over the weekend and also tried to look in this particular document right here and see what they say about how you amend constitutions. How should they be viewed? Where and how? Let me quote a couple of items out of there that I think you will find interesting: “In the policy of one age may ill suit the wishes of policy of another age, the Constitution is not the subject to such fluctuations. It is to have a fixed uniform permanent construction. It should be so far at least as human affirmity will allow -- not dependent upon the passions or parties of particular time but the same yesterday, today, and forever.” And then they provide a method by which you may amend it -- not by will and wish but a constitutional process for administration.

I had some research done to find out about a strict constructionist approach to a Constitution. I was looking for information on (1) the text of the Constitution, (2) the intent of the framers, and (3) the precedent. Senator from Charleston, the text of the Constitution is as clear as it can be. It does not grant to the General Assembly the power to make rules of procedure by law. Instead, it says “Each House shall determine its rules of procedure” -- not the General Assembly -- not the House and the Senate -- each separate. What does it take to understand the plain black letter words of the Queen’s English? What does it take to understand that? “Each shall determine its rules” -- not their rules -- “its rules of procedure.” So, on that test, number one, the plain black letter. Then, on down further it’s in either Section 17 or 22. It prescribes ten House members or five Senators to guarantee a roll call vote. That’s what it says, and there’s where the provisions are put in. Then, it goes to the intent of the framers. I invite you to go back and look at the history of our Constitution and the United States Constitution. It’s very clear. It’s not what today’s politicians are saying. It’s what they said, and you draw the intent of the framers from what they said -- not what people on political stumps want to say about it 150 years later. And then you go to precedent. Where is the precedent? Well, the precedent has always been that is the case. The other side of the question is liberal constructions or loose constructions or whatever you want to call it -- a nonoriginalism approach -- and that is, you take the broader view. That is to say there are social, political, and economic consequences to natural law of the belief that higher or more law ought to trump in consistent positive law. So, we’re there constitutionally.

Now, the Senator from Pickens proposes an amendment. Let me tell you first off what it does differently from the Senate Judiciary Committee amendment, before I go to some of its shortcomings. The Senate Judiciary Committee said that the statute does not take effect until the adoption of the constitutional amendment authorizing the law. Nobody in the Senate on either side of this question opposed the roll call vote. The division is not over roll call voting. It’s over whether or not the rule trumps the statute and whether or not the Constitution is supreme in this debate. To boil it down into other things are attempts by political propagandists to get their way and to move the public. I appeal to the public. Those who are standing here have absolutely nothing to gain by insisting that the Constitution be followed except for the people of this State -- that the Constitution should not be trampled upon.

So, the first thing the amendment proposed by Senator LARRY MARTIN does is it removes making it an enabling statute and makes it automatically go into effect upon the signature of the Governor. The second thing it does, that I notice they were very careful not to tell you it does, is that the majority of the Senate Judiciary Committee decided to come down on the side of transparency and to expand the roll call votes to amendments. They want to take that out. The LARRY MARTIN amendment takes out roll call voting on amendments. That’s the second thing it does. The third thing it does is it puts in for the Senate a new and somewhat different procedure, Senator from Florence, on budgets. Now, let me tell you why this language got played with and also why they tampered with the rule on substantive amendments on third reading. They just said now, if there is any amendment on third reading, it’s subject to a roll call vote. The Senate Rule calls for a roll call vote on a substantive amendment, because we have roll call votes on second reading. Why do I think they avoided the word “substantive?” -- for the very thing that the Senator from Charleston, Senator CAMPSEN, hammered on -- separation of powers. The minute you insert the adjective “substantive” in front of the amendment in a Code of Laws is the minute you invite lawyers to sue over whether we followed the procedures accurately and whether the law was enacted under the law. Part of the major reason that the framers of our Constitution were very careful not to take procedures in the judiciary, in the executive, and in the legislative branches of government and start embodiment in the law where they could be argued about... The court is on almost all of its procedures the sole judge of its procedures, and it was to prevent the spillover, the encroachment, of one branch of government on another.

But, getting back to the LARRY MARTIN amendment, interestingly -- look at the Senate Rule. Take out your Senate Rule book and look at what we say about roll calling voting. If you read it, you will find out that, first of all, we had more roll call voting than is in the Governor’s Bill or the House Bill or the MARTIN amendment or anything else. This Senate is a leader in roll call voting and did so with its own rules. But, prior to third reading, Senator from Florence, of the annual General Appropriations Bill, each section of Part 1-A with the corresponding provisos must be considered individually and receive a roll call vote. Now, let’s go to the proposed amendment that we have. It’s different. The annual Appropriations Bill must be considered section by section prior to third reading. Sounds good, doesn’t it? -- just like we are doing it. Of course, if you notice, they dropped out that language about provisos. They dropped all of that out of there. And, then they added this language -- “It must receive a recorded roll call vote by the House of Representatives and the Senate when the pending question is the adoption of an individual section.” Separate it, read it and look at it very carefully, Senator from Florence. Does it now mean that every time on second reading that somebody says, “I move to adopt the section,” we have got to have a roll call vote in the House and the Senate? This is fundamentally different from what the Senate Rule is. The reason that we wanted it section by section on third reading is because our amending occurs on second reading. It takes a 60% plus vote in here to get the power of amendment, so it seems the proper thing to do -- get all of the amendments out of the way and then vote section by section. I was interested in the answers to the questions under the way this rule is now constructed by the Senator from Pickens. Does the vote, section by section, under the way this is worded close out the section? Can a member move to approve a section? Does it close out amendments or if it doesn’t, do you have to have another roll call vote after the amendments? Well, if you put that in the law, maybe some judge, instead of presiding official, will make those decisions as to whether or not we have complied with our procedures, because you have done what the framers set out to stop you from doing and that is to have courts looking in here on political questions of procedure in this body that are decided by this body. That’s why there were Rules put in. The House operates differently. I affectionately call it almost a legislative racetrack over there. It’s a 50% plus one rule in the House, and in the framers’ minds, it was supposed to be closer to the popular will. But, a bicameral legislature was set up, because the framers were so suspicious of the accumulation of power that they were concerned about a tyranny of the legislature, and it broke the legislature into two different Houses -- different terms and different methods of election. Then, they even restricted the powers of the legislature by ensuring that for instance, we cannot begin a revenue-raising measure over here in the Senate. Restrictions on procedure constitute mandates -- the issue for the people of South Carolina in roll call voting again.

If I say it one time, I will say it 20 times, because I have seen these press releases going out and the propagandas spreading across South Carolina as though we have something to hide in here. I am delighted for roll call voting. We are on TV. This Senate has modernized its website and reached out based on the critique we got as to how we could make this body more user-friendly with our website to see what was going on. But as much as the people want all of that, I don’t believe particularly in the conservative community across South Carolina that they want us to now embark upon a new way of looking at the South Carolina Constitution, and that new way is if the people want it, pass it. Let a court decide if it’s constitutional or not. Litigate it. I’m telling you the people that vote in my district or how they feel about Obamacare, feel like the United States Congress exceeded the Constitution. But you see, I could go back and give you some quotes from up there. They are taking a similar attitude like some are now taking in South Carolina. One of them says, “I don’t worry about this Constitution on this to be honest.” Another one says, “The federal government can, yes, do most anything in this country.” You go down that slippery slope when you abandon the philosophy of strict construction. When you begin to embrace the concept that constitutions contain secrets that the framers had in their heads but just didn’t put on paper and they are just waiting to be discovered in the next century by some legal scholar who’s digging in the Constitution and trying to find some new idea.

I remember when the Senator from Pickens had his hearings, and a public interest group came in with an opinion. I later found out the political leanings of that person who wrote that particular opinion. They are not my leanings. They contended that, of course, that the people should know what’s going on. That’s why we changed the Rules. This Senate, when it gets Rules, looks back on the language we have. It stays pretty much on that course from Senate to Senate, but there are Supreme Court decisions -- one that reaffirms this rule authority, and number two, make it clear that one General Assembly cannot bind another, but we can, if we amend the Constitution, and that’s what a group of us in the committee propose to do. Somehow, enough arguments have been swirled around in Senator LARRY MARTIN’s head that he now has come to the idea that perhaps, “Well, if it doesn’t conflict with the Senate Rules, it’s okay.” I saw a president of a college write an editorial that essentially said, “Well, there’s really nobody with standing; and as long as the Rules seem to mirror whatever the statute is, what’s the issue?” The issue may be that this Senate, for whatever reason, could change its Rules. There’s no guarantee that any of us will be here. Then the question is the Senate may decide that it wants to have its roll call votes on the budget on second reading instead of third, because it moved its amending process somewhere else. But if we have the power, as the Senator from Pickens and others seem to think, without a constitutional amendment, to impose rules of procedure on the House of Representatives, then members of the Senate, we have the power to prescribe the rules in the General Assembly -- when we meet in a General Assembly -- how votes are counted, all sorts of questions -- if they are not covered by the Constitution. If you follow the philosophy that unless it’s specifically covered in the Constitution, you can do it. That’s what some argue. Well, it says one-fifth can, but what prevents a lower amount? Well, I found out when the United States Senate looked at that question that you can’t even change the Constitution, Senator from Clarendon, by unanimous vote or by unanimous consent. We can’t ignore it. Every one of us in here is bound to apply the Constitution as best we know it.

So, I join the Senator from Charleston in everything that he has to say about separation of powers. The vote that we are about to take is not about whether or not you want roll call voting, because the Senate Judiciary Committee report puts that in there. In fact, the committee report is more roll call voting-friendly than the Senator from Pickens’ amendment, because he strikes some of it out. The question is whether or not the Constitution requires an amendment to put this statute in place, and even the proponents of this Bill have admitted to you today that the rule trumps the word of the statute under the present Constitution. Why do you think they have supported the Constitutional change? Because they know. This is the political show that is underway. It’s a political show about finishing up supposedly the issue of transparency; but to finish it up, we have to do it the right way -- not in the immediacy of the moment but by the procedure that our ancestors, the framers of the Constitution, put in place.

When I look back in this book and start looking at some of the old writings here, I think you will find some of these interesting. In Joseph’s story on this book, he says, “The reader must not expect to find in these pages any novel views and novel constructions,” and he goes on to say, “I have not the ambition to be the author of any new plan of interpreting the Constitution or of enlarging its powers by ingenious subtleties and learned doubts.” -- the expositions to be regarded not as his opinions but of those of great minds which frame the Constitution. He goes through the one-fifth vote history, and he says in “Talking about our American Constitution,” which I believe holds here, in South Carolina, “on the one hand, a rule of equal importance is not to enlarge the construction of a given power beyond the fear terms merely because a restriction is inconvenient in politics or even mischievous. If it is mischievous, the power of redressing the evil lies with the people by amendment. It is doing for the people what they have not chosen to do for themselves.” He goes on. He says, “Temporary delusions, prejudices, excitements and objects have irresistible influence in mere questions of policy and convenience.” On words of construction he quotes from cases back then -- “The words are to be taken in their natural and obvious sense and not in a sense that is reasonably restricted or enlarged.” “… As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots, who framed our Constitution and the people who adopted it, must be understood to have employed words in their natural sense and to have intended what they say.” It goes on and on. I am not going to bore you with all of the book, but I wanted this weekend, one last chance to go back and see if maybe I had just gotten it wrong or somehow missed the boat somewhere that I had just not gotten it right. Because politically, it’s very easy to explain, “I’m just voting. I’m voting for that Bill. I’m voting for the statute.” It’s the easy way out. The harder way out is to stand up and explain the Constitution and the fact that you as an elected official are limited by that Constitution. I am willing to put the question to the voters, but I’m not willing, from my point of view, to take my vote and, in my firm belief, walk on the black letter of the Constitution.

Remember, I told you that they conveniently left out the word in our current Rule. Remember what that was in the Rule? Go back now, and just think for a minute on this particular issue. In the Senator from Pickens’ amendment is a Bill or Joint Resolution. As amended, in the pending question is the passage of a Bill on third reading. The Rule of the Senate is there is no reason to have another vote unless there has been a substantive amendment. So, we put that in there just as the framers warned us about frivolous votes in there taking too much time. We leave out a comma. We leave out a period. We need to substitute a word. Under their Bill, we have to go back and have a roll call vote. Why they didn’t put the word “substantive” in there is because of their deep-seeded suspicion about their weakness constitutionally -- where they were -- that the courts, the Judiciary, would have to weigh in on was it or wasn’t it a substantive amendment. So, they just said, all of it on third reading; but in their clamor to do that, they left out and added new language.

Now, let me tell you why, members of the Senate. What they have not told you today, and I went back to have a look to see what they were up to. The House Rules -- go and look at the House Rules. What they have not told you is that the House requires roll call voting section by section on the budget -- not on third -- on second. So, I guess the House can either amend this Bill back to second reading and send it back to us and the conflict would be on the Senate side or the conflict would be on the House side, and then the House has set Rule 7.2 -- you should go take a look at and look at the other conflicts, Senator from Horry, that start to come up. The reason I address you is because your newspaper was attempting, in an editorial, to criticize the Senate Judiciary Committee for not applying roll call voting to amendments and yet, the very amendment they are trying to kill today is the one that does expand it to amendments. When you vote for the Senator from Pickens’ amendment, you vote to take the roll call voting off of the amendments. You bring in the convoluted language that he has had to import to try to reconcile the House and Senate Rules. Why? Why didn’t he just put it all in there? Because deep down, they have a constitutional problem. Conflict! The rule trumps the statute, and then, the statute -- if it is governing and is subject to interpretation -- becomes the business of a separate branch of government and is no longer the ruling in here and a vote of the members. It just should be so obvious to you. The vote we are about to take is not over whether you are pro or con roll call voting. It is over whether or not you want it broader, Senator from Lexington. Here is your chance to be a champion of transparency. It’s a broader interpretation and, the Senator from Charleston, Senator CAMPSEN, and I defend the Constitution like he argued in the morning paper, by not letting the statute go into effect until the people of this State, under the proper procedure, take the constitutional amendment and adopt it. It’s empowering the public. It’s doing it the right way. It’s abiding by the Constitution.

Now, I respect my friends on the other side. They are just a little bit more liberal than I am. They have a looser approach to the language of constitutions. You know, some of us on the pro-life side have criticized the U. S. Supreme Court, because they adopted that concept of the penumbra and weighed it in, Senator from Charleston, finding rights that the framers of the Constitution never put in there. But now, we are told that there are things in this Constitution we just haven’t seen and the framers didn’t put in there that we just need to accept. So, I call it a looser or non-traditional approach. You can call it a liberal approach. That’s where I see it. I cast my lot with Senator Goldwater. He’s the guy who inspired me, years ago, to have an interest in politics and, ultimately, I became a Goldwater Republican, and I have chastised some in this Senate, Republican and Democrat, who don’t believe, for instance, that I agree with Senator Goldwater about freedom. That’s why I believe if you want to buy a raffle ticket -- I mean it’s just unbelievable to me that the people of this State can’t vote on whether or not they want to buy a raffle ticket in order to give a charitable donation.

I tried to follow the philosophy of the invisible hand. Government should not act except to protect people from the invisible hand. But here, the invisible hand is the slippery slope from the high ground of strict construction of the Constitution to saying, “Well, it might say that. It might say each House shall determine its rules of procedure” -- not their rules of procedure. All of that may be accurate. The framers are very specific. I understand the intent in the Constitution all the way back from the language in the Articles of Confederation coming forward; and despite all of that evidence -- despite all of that black letter constitutional law -- people want this statute. So, we’ll give it to them now instead of with the constitutional amendment that should be going with this -- that should have gone with it; but you see, that’s what the central issue is here in this amendment, because the Senator from Pickens is peeling the way -- in the enabling language -- the House of Representatives sent it over here. I’ve never accused them of being a citadel of constitutional scholarship over there. On many occasions I’ve criticized them in the inartful drafting of Bills in the House of Representatives, but I understand the role they perform, and it’s time to step back and say, let’s do this thing the right way. I hope the Senate will adopt the viewpoint I take. I hope I have not offended any of you. I did not intend to do that. You have your viewpoints and I have mine. You may think you can read it another way. When you leave the black letter words, you’re in to interpretation, and the black letter words, that is what the framers said. Remember what I have said. It’s been carried from constitution to constitution. The constitutional amendment we have will create a constitutional right to roll call votes on certain things the General Assembly puts in statute.

The constitutional right to a roll call vote is already there when five Senators require it. It’s already required. No one in this body, that I’m aware of, on either side has taken the position that roll call votes are unconstitutional. No one has done that. It’s the method -- how we get there, and I would simply tell you that in what we are doing, we should not let the ends justify the means. We are specific. The Constitution is specific. I wish my friend, the Senator from Richland, were here. I love to read to him from Barry Goldwater’s books, but I notice I get him uncomfortable on occasions, so I will not read to him today; but please think about it and think again about what John Marshall said, “The Constitution is either a superior paramount law unchangeable by ordinary means, or it is on a level with ordinary legislative acts and like other acts, is alterable when the legislature shall please to alter it. If the former part of the alternative be true, then a legislative act contrary to the Constitution is not law. If the latter part be true, then written constitutions are absurd attempts on the part of the people to limit a power in its own nature illimitable.”

So, I close again by appealing to you on the basis of the separation of powers to please think about what you are doing. We’ll put a statement in the Journal that this vote is not on the question of whether you are for or against roll call voting. As far as I’m concerned, this is a question on whether you take the approach that the Constitution says what it says, or it says something more than what the framers intended over all of those constitutional conventions, even when, I believe it was, Governor West’s Commission looked at it. They looked at the section and carried it over and agreed not to disturb it. But all of a sudden, we can disturb it -- not by constitutional conventions and not by amendment, but we’re told now that we can do it by a majority vote. The argument here apparently is that we have much greater powers than the framers laid down in the black letter law of the Constitution. And once you go down the slippery slope, there’s no way back for us. You cannot pick and choose when it is what it says and when it’s not what it says, because that always becomes a political discussion. We appeal on the greater plane to the people of South Carolina. Our Constitution is solid. It must be adhered to, and there is a method by which we can amend it. The Senate Judiciary Committee has acted on a constitutional amendment. It’s prepared to try to go forward. But this is wrong what we are doing in almost a stampede to the finish line. We are going to go ahead and put this Bill in and look at the contortions they’ve had to go through with this language to somehow make it appear that it does not conflict so as not to get a rub in a court. Why? Because deep down, they know what I am saying is accurate. They know the Constitution trumps it. They know what I’m saying is the black letter law of the Constitution.

Now, I’ll close by saying that you always can escape that by saying, “Oh, but it’s subject to interpretation that was framed over a hundred and something years ago, and things have changed.” Well, the framers knew that, and they put in there methods for change, and we are prepared to make that change, but this Senate should not approve this amendment. I hope you will stick with the Judiciary Committee amendment which expands it to all amendments but, most importantly, makes it an enabling statute and says this goes into effect when and if the people amend the Constitution and it becomes effective, giving the General Assembly the power by law to do these specific things. Constitutions are documents of grants of power and limitation. They are not documents for vivid imaginations and the opportunity to try to figure out a way a hundred and something years later that the framers really had that in the backs of their minds. They just didn’t say it. So, I think the Senator from Charleston made a convincing case. Just as Barry Goldwater said, “These people weren’t historians whatever. They were victims of history, and they stopped and put meticulous safeguards in separation of powers and things, and we now, in a modern political climate are stampeding in disregard of that. I would hope that this Senate would perform its role in a bicameral legislature and say, “Look, House of Representatives, number one, we’ve adopted Rules that are much broader with roll call voting, but if you want to put it in a statute, let’s do it the right way.” This Senate is not a bastion of opposition to roll call voting. It’s a friend of it. Its Rules prove it, but its track record is it’s been a friend of the Constitution, but not always. I’ve gotten up here and argued about some, and I think the Senator from Aiken will agree with me. I warned about that blending Bill that got bobtailed and ended up getting struck down by the court. The Constitution is very specific -- single subject, but some thought it was open to interpretation, and we had to be pulled back to reality.

The Senator from Pickens, Senator LARRY MARTIN, is very eloquent from the podium and he is very talented at writing. But he knows when I see him scribbling and moving those words around on those Rules, that I know what he’s trying to do. He’s trying to tiptoe around what he knows is the ultimate constitutional trap; and if there is the slightest conflict in there, he knows somebody could get standing. He’s got to know that the Rule trumps the statute until the Constitution is amended. I was told that learned people, Betsy Gray, one of the leading constitutional lawyers in this State for instance, looked at this with the Senator from Pickens, and she told him, “The Rule trumps the statute until [we] amend it.”

That is where we are. Is that the right way? Is that the way it should be? It’s what we inherited from the framers. It’s not the Senate at this point saying it’s the right or wrong way in terms of the policy put in the Constitution, members of the Senate. It’s what the framers put in. Is it now your province to say that their words don’t mean what they said and they mean something else? I submit to you. You have an opportunity to change that with the constitutional vehicle, but trying to skirt around it and hope that for two years the Rules comply and there won’t be a conflict. I will tell you there already is a conflict between the Senate Rules that we’ve adopted and the very carefully drawn language of my friend from Pickens, and I compliment him on it. I had to look very closely to find it, but I did find it.

Thank you.

On motion of Senator KNOTTS, with unanimous consent, the remarks of Senator McCONNELL were ordered printed in the Journal.

Senator McCONNELL resumed arguing contra to the adoption of the amendment.

Senator CAMPSEN argued contra to the adoption of the amendment.

**Remarks by Senator CAMPSEN**

The General Assembly is currently debating a Bill requiring recorded votes on all legislation, even though newly adopted House and Senate Rules have already made the procedure a reality. As author of the first Senate Rule proposal to require such recorded votes, I am pleased we changed our rules to meet the public’s demand for more transparency. However, when it comes to enacting a statute, our Constitution mandates that only legislative rules, or the Constitution itself, can impose procedural requirements on one of our legislative chambers.

Therefore, the recorded vote statute must first be enabled by constitutional amendment, which I have authored. This approach is necessary to honor our Constitution’s separation of powers provisions. I don’t arrive at this conclusion lightly, and it certainly isn’t politically expedient to do so. It is, however, a position I’m compelled to take in fulfillment of my oath to preserve and protect the Constitution.

The relevant distinction between rules and statutes is this: rules involve only the legislative chamber adopting them. Statutes involve all branches of government because they must be passed by each chamber and are subject to gubernatorial veto and judicial interpretation. At the heart of this debate lies the separation of powers doctrine.

**Separation of Powers**. The Founding Fathers considered the separation of powers a vanguard of limited government and liberty. In *Federalist Papers 51* James Madison said its purpose is to, “oblige [government] to control itself.” It accomplishes this governmental self-control by diffusing executive, legislative and judicial powers among separate, co-equal and independent branches. This structure establishes a dynamic whereby one branch’s effort to consolidate political power will always be blocked by the other branches, since they too crave such power.

According to John Locke, “A government can only function effectively and justly if the three [branches]... are independent of each other.” *On Civil Government*. Independence dictates the branches must control their internal proceedings without interference from other branches. Madison said, “Each [branch] should have a will of its own, “and, “be as little dependent as possible on the others.” If a branch loses control over its internal proceedings, it loses its effectiveness as a check on the other branches.

The doctrine’s brilliance is that it harnesses man’s inherent lust for political power, and uses it to thwart attainment of the very power sought. Three independent and co-equal branches continually jockeying for political ascendency assures that ascendency is obtained by none. Madison described the intent as follows, “Ambition must be made to counteract ambition.”

This separation of powers doctrine permeates the South Carolina Constitution. Article I, §8 provides, “the legislative, executive and judicial powers shall be forever separate and distinct.” Article V, §4, and Article III, §12, mandate that the Supreme Court administer the judicial branch, and legislative chambers determine their procedures - by rule - so as to avoid the entanglement with other branches a statute entails.

Article III, §12, specifically states, “Each house shall...determine its rules of procedure”. “Each house” means the House and the Senate independently. The imperative “shall” means there is no option. “rules” means the House and Senate Rules, and recorded voting has always been considered part of a chamber’s “procedure”. As a strict constructionist I believe in the original intent of written constitutions. It would constitute judicial activism of the highest order to conclude Article III, §12 means anything other than each chamber’s procedures - including its roll call voting procedures - may only be established by rule or specific constitutional provision (such as Article IV, §21, regarding vetoes). In *Coleman v. Lewis* the South Carolina Supreme Court drew the same conclusion, “The Constitution empowers each House to determine its rules and proceedings.”

I have analyzed with great care arguments that Article III, §12 doesn’t really mean what the words plainly say, and the Supreme Court has clearly held, and that roll call voting requirements can be imposed by statute. I find them lacking. They seem to (i) not address the meaning of the actual words of Article III, §12 and the holding in *Coleman v. Lewis*; (ii) acknowledge a statute to impose roll call voting may be unconstitutional but indicate a court may never actually rule that way; (iii) fail to even acknowledge the existence much less the importance of the underlying separation of powers issue that is clearly at stake; (iv) fail to acknowledge that the handful of statutes controlling legislative procedure do so only when addressing joint action of both chambers acting in concert (such as our S*ine Die* statute), and that legislative rules always govern procedures, including roll call voting procedures, of an individual chamber acting unilaterally (Article III, §12 rule-making authority refers to “each house” acting alone); or (v) opine that a judge may create some unwritten constitutional provision and use it to strike down the explicit written provision of Article III, §12.

The latter argument is particularly disturbing, as it would be an act of judicial activism of the highest order. Judges should interpret law, not make it up - particularly when it comes to constitutions. This type of judicial activism has undermined state sovereignty by eviscerating the 9th and 10th amendments and consolidated too much power in a bloated federal government. We must never abandon our commitment to strict construction of written constitutions and the rule of law.

And don’t be misled. This is not about the empowerment of any one branch or its members. In fact, the opposite is true. These constitutional provisions, taken in concert, create the most brilliant governmental structure ever conceived. They ensure the branches “have a will of their own” so that “ambition counteracts ambition” as Madison prescribed. The result is limited government and preservation of liberty, as the branches check and balance one another.

**Burke’s Prescription.** The recording of votes has been a procedural aspect of legislative chambers at the state and federal levels - and governed by legislative rules - from time immemorial. Governor West’s 1969 Constitution Commission dubbed legislative rule-making a “time-honored” principle. The principle is ubiquitous because these constitutions are modeled after John Adams’ Massachusetts Constitution, the first to meaningfully embody the separation of powers. In *Thoughts on Government* Adams, like Madison and Locke, considered independent branches a prerequisite for effective checks and balances, “judicial power ought to be distinct from both legislative and executive, and independent upon both, that so it may be a check upon both, as both should be a check upon [judicial power].”

In his defense of conservatism the great Edmund Burke argued that “prescription”, or prevailing concepts and standards that have withstood the test of time, should not be discarded lightly. Having been refined in the crucible of human experience, they are the repository of the collective wisdom of the ages. Russell Kirk captured the essence of Burke’s prescription in *The Conservative Mind* when he said, “Even the shrewdest of men are puffed up with vanity if they set the product of their reason against the consensus of the centuries.”

The separation of powers doctrine and its requirement that each branch be independent with “a will of its own” is the consensus of the centuries. The greatest of political minds - Locke, Adams, Madison and Burke - conceived and preserved it for us. It molds the structure of constitutions throughout this land, and its brilliance has limited government and preserved liberty throughout the ages. We should heed Burke’s principle of prescription and not discard it lightly.

On motion of Senator KNOTTS, with unanimous consent, the remarks of Senator CAMPSEN were ordered printed in the Journal.

Senator DAVIS argued in favor of the adoption of the amendment.

**Remarks by Senator DAVIS**

We have debated the issue at length both last session and again this session, in subcommittee, full committee and on this floor. And, some excellent points were made today by the Senator from Charleston, the President *Pro Tempore*. As always, excellent points were made by the Senator from Charleston, Senator CHIP CAMPSEN, and the Senator from Pickens, Senator LARRY MARTIN.

I wanted to give a brief explanation of why I’m going to cast my vote in favor of the Senator from Pickens’ amendment. I take a little bit of a different position than the Senator from Pickens, but I arrived at the same place. I looked at Article 3, Section 12 of the State Constitution, in particular, the part that says “each house shall determine its own rules of procedure,” and especially the words “rules of procedure.”

I believe the public’s right to know how its elected officials cast votes on their behalf is not simply a procedural concern that this Senate, at its whim, can grant or withhold by virtue of its rules. Rather, it’s a substantive right. It is a substantive right for the people of Beaufort who send me up here on their behalf to know how I cast my vote.

If the Senate’s right to set rules of procedure was as broad as suggested by the Senators from Charleston, then the Senate could shut the Chamber doors as a matter of procedure, we could turn off cameras as a matter of procedure, we could vote in secret as a matter of procedure. If you take their argument to its logical extreme, then this Senate has the right to shut out the public completely when we vote on the budget or on any number of things. That’s their argument taken to the logical extreme; that the Senate’s right to set rules of procedure means it decides what the people know and don’t know about how Senators cast votes on their behalf. I don’t buy that argument.

Now, I pay close attention to the Constitution, and I am a strict constructionist. I take words at their literal meaning, and I think that “determine its own rules of procedure” can be read so expansively as to permit this Senate, as it is so chooses, to lock the door to the Chamber, shut the blinds, turn off the TV, turn off the audio – conduct voting in absolute secrecy.

I listened with particular interest when the Senator from Charleston, Senator McCONNELL, told us about the colloquies between delegates at the 1868 State Constitutional Convention because he is right when he says we should look at what these delegates said in trying to determine what they meant certain constitutional provisions to mean. And, I was interested in a quote attributed by him to a Mr. Langley at the Constitutional Convention of 1868 when Mr. Langley said, “As the section stands a small minority might clog the wheel of legislation by simply calling the yes and no from every question, however unimportant in the wishes of the majority prevented from being carried in effect.”

My ears pricked up, Senator from Greenville, because that quote from Mr. Langley seemed to suggest that my interpretation of Article 3, Section 12 might be incorrect. But, after reviewing those comments in context, I discovered that Mr. Langley wasn’t commenting on Article 3, Section 12; instead, he was commenting on Article 3, Section 22 which sets forth the right of Senators to ask for a roll call vote. There apparently was some discussion among the delegates as to whether one-fifth of the body was necessary to call for such a vote, or whether the number should be reduced, and there was disagreement among the delegates in that regard. In fact, Mr. Whipper, speaking right after Mr. Langley, said, “I hope this amendment will not prevail; I think it is the right of the people or I hope that the votes will be cast whenever possible.”

The South Carolina Supreme Court in the *Coleman* case held that “neither house may by its rules ignore constitutional restraints and violate fundamental rights.” Rules may not violate fundamental rights, and, I believe, the peoples’ right to know how we are casting votes on their behalf is a fundamental right. Now, there are certainly things the Senate has the right to decide as matters of procedure – the order of the day, the protocols, requiring appropriate dress, that sort of thing. But in a representative democracy, in a republic, as it is the peoples’ right to know how we are casting votes on their behalf is beyond, in my judgment, a matter of procedure, and that’s why I will cast my vote in favor of the Senator from Pickens’ amendment.

Thank you.

On motion of Senator SHANE MARTIN, with unanimous consent, the remarks of Senator DAVIS were ordered printed in the Journal.

Senator THOMAS argued in favor of the adoption of the amendment.

**Remarks by Senator THOMAS**

We’ve heard a lot of very eloquent, interesting observations that you’ve presented very well under a plethora of questions coming at you. I was impressed by that.

I rise, gentlemen, to support the Senator from Pickens’ amendment. I like the argument of substantive rights and that strikes real positively because there does seem something very fundamental about what we’re talking about, which is why we’re here and why we push this subject matter. But if someone is listening to the subtleties of the argument, they are probably wondering what in the world we are talking about. It comes down to this. Our State Constitution says that each body makes its own rules. Now we’re about to pass a piece of legislation and the question is what comes first? Can you really pass a rule by legislation?

Let me lay one logical point out that has probably already been mentioned, but it seems to me to be rather fundamental in the debate. Assuming that it’s only our adoption of the Rules, it’s usually on the first day of session that establishes our Rules. That’s a presupposition. That’s basically always how it’s done. What if we passed a piece of legislation to accomplish the same thing? The Senator from Pickens says the two are coincidental instances. There’s no unconstitutionality because you don’t have a mismatch, one with the other. If we passed a statute that revised our Rules, the statute, because it came through the Senate as a body, through committee, through sub-committee onto the entire floor, was debated and then passed, that would be an adoption of a Rule made firm and secure by a statutory change. It was our decision; if we didn’t like it, we didn’t have to let it out.

So, my argument is very simple. We’re assuming something in the counterargument to the Senator from Pickens’ proposal that is not necessarily the case. The adoption of a statute relative to rules is just as firm as the adoption of Rules at the beginning of a session.

Senator GROOMS: So the Rule on roll call voting, you believe, is that we should have statutory language, a statutory law establishing that?

Senator THOMAS: I say if we adopt it, that would be just as firm and secure as the adoption of a rule. As a matter of fact, I would say that the statute trumps the rule because the statute is a rule built into law.

Senator GROOMS: Should there be a Senate Rule or should they all be by statutory language?

Senator THOMAS: Well, then you would be in the position of always having to change the operation by sending a Bill through, which is always cumbersome. I don’t think that was the intent certainly now as we look at Jefferson’s. That’s not been the history. I’m just saying that the adoption of the statute as a rule change is just as authoritative, if not more so, than what we’ve been assuming is the preeminent idea. And that’s not necessarily the case.

On motion of Senator SHANE MARTIN, with unanimous consent, the remarks of Senator THOMAS were ordered printed in the Journal.

Senator ROSE argued in favor of the adoption of the amendment.

**Remarks by Senator ROSE**

Members of the Senate, I’m going to tell you very briefly a very substantive reason why I will vote for this amendment -- a reason that has not been laid on the table.  I am like the Senator from Beaufort;  I want to do the right thing; I’ve listened to the arguments offered in this Senate and some of them have moved me in the right direction.

To educate myself on this issue I contacted the American Legislative Exchange Council  and asked it  to give me the names of some  experts on the Federalist Papers who  I could consult.  I  received  three names. The first one I contacted was unavailable to speak with me as he was getting on an airplane.   But I did talk with the other two this past this weekend. One of them, a Professor Nadelson, agrees with the Senator from Charleston, Senator CAMPSEN, that Federalist Paper 51 supports the conclusion that we should not have a statute that defines or  requires roll call voting.  The other professor, John Baker, Professor Emeritus of Louisiana State University, said the Federalist Papers were not applicable to our issue of whether a state statute can or should require roll call voting.  He said the Federalist Papers were not guides for the states but were intended only to be guides for how to structure the federal government.   He said the Federalist Papers were critical of the constitutions of the states because they had separations of power only in theory but not in practice, and because they had too strong of a Legislative branch and too weak of an Executive branch.  He said the main message or thrust of the Federalist Papers was to create a federal government with  a strong Executive and a strong Judiciary to make them co-equal with the Legislative branch in order to offset the excessive power of the Legislative branch.   He pointed out that one of the Federalist Papers criticizes a Legislature as consisting of “140 despots” who collectively  could be  more abusive than a Governor or a Judiciary.  This professor said that our issue does not involve what the Federalist Papers mean or say because the context of the Federalist Papers had to do with what the federal government should do different from what  the states were doing -- about how the federal government needs strong Executive and Judicial branches to offset the potential abuses of the Legislature, based on experiences of Legislative abuse in the various states.

He said that whether in South Carolina a statute may require roll call voting instead of a Senate or House Rule doing so is  really just a question of interpretation of our S.C. Constitution. As you know, different legal experts have given opposite opinions about whether our S.C. Constitution allows roll call voting to be defined by statute or requires that it be done only by Rules of the Senate and House.

Professor Baker  said that  our federal system works only with a  separation of powers that require  the Legislative branch not to be  any stronger than the Judiciary and the Governor.  He said that Federalist  Papers 48, 51, 78, and 81 taken  in  context, along with frequent comments by  U.S. Supreme Court Justice Antonin Scalia quoting from the Federalist Papers,  criticize the Legislative branch for being too powerful.  The purpose and intent of the US Constitution, according to  Professor Baker, was to weaken the federal Legislative branch by strengthening the federal Executive and Judicial branches.

Now what is the relevance of this?  Where am I going with this, as Senator FORD from Charleston asked me?  Where I am going is to offer a reason why I am going to vote for this amendment that is different than what other Senators have stated.  I agree with the rationale of the Senator from Beaufort that the right of the public to a roll call vote by legislators is a “fundamental right” that is best protected by statute. And, I understand the rationale of Senator CAMPSEN from Charleston not to vote for the amendment based on his interpretation of our S.C. Constitution and the doctrine of separation of powers.  However, I believe that our S.C. Constitution can be interpreted to allow this amendment and that, as discussed in the Federalist Papers, our S.C. state government has a Legislative branch that is too powerful and that needs to be checked by a more powerful, co-equal Executive branch and Judiciary.  So, I am deciding to vote for this amendment based on my making a judgment  that a statute requiring and defining roll call voting  by legislators not only is constitutional but causes more good than harm by helping to limit the power and potential for abuse by our S.C. Legislature.  I believe our state Legislature has too much power.  I believe it is abusive.  I believe we need more power in our Executive branch, especially to offset our Senate.   I cannot bring myself to rationalize that depriving people of the right to know how we legislators vote is in the public interest or is required by the S.C. Constitution, and believe that only by requiring roll call voting by binding statute instead of by waivable Senate and House Rules will it be guaranteed that legislators will provide more roll call voting in the future than they have in the past.

I have  seen too much of what I consider abuse here in the Legislature, which hoards nearly all governmental power.  “We’ve had enough, we had a belly full, all the local home rule we can take”, say some Senators,  so we are not going to give local governments more authority.  Other Senators say  the Governor is too strong, so we are going to rule  out giving more authority to the Governor.    We are the only State that elects all the judges. The Legislature is not going to give up that power over the Judiciary.  We are not going to give power to the people by giving them the initiative, referendum, recall or  term limits.  We certainly would  not want to be like Wisconsin,  Colorado,  Texas or California, by giving power to the people, some Senators say.  We say we don’t even like the S.C. House  and the way it does things.  So it comes down to that the only body, other than church, that is acceptable to us in the S.C. Senate is us, the S.C. Senate.  And, of course, we all know how that works based on the seniority and the hierarchy here.   In the Senate it comes down to a handful of people deciding  whether something is going to be done or not done, including whether a Bill will be even considered by a subcommittee.  So, the way I look at it is that our Legislature has a stranglehold on the exercise of power in South Carolina; that nothing fundamentally good or important in our government will change if  left only to this Legislature; and that requiring roll call voting by statute is an all-important safeguard and check on the power of our overly powerful Legislature by ensuring people know how their legislators vote.

As a result,  when we come down to a close call like this where we can reason either  for or against the constitutionality of giving people the safeguard of requiring roll call voting by statute, I am going to opt for restraining  us Senators and ensuring voting transparency by voting to pass a Bill that would require  us Senators to do roll call voting.   By doing so I am  voting how I think is best for my constituents and how my constituents think is best.  By doing so I am opting for an interpretation of our state Constitution that allows for transparency, openness and accountability in government, instead of an interpretation that helps maintain Legislative secrecy and excessive, inadequately checked power.

I am going to leave you with this one last thought:  when the federal Constitution was formed and for many decades thereafter, slavery was institutionalized by law.  African Americans legally were considered property without basic constitutional rights and did not get to fully vote.  That alone shows that our founding fathers did not always get it right.  We should not  mechanically follow something our founding fathers adopted  just because they thought it was a good idea when they adopted it.  We should not “follow [stock notions and habits] staunchly but mechanically, vainly imagining that there is a virtue in following staunchly which makes up for the mischief of following them mechanically.” (M. Arnold, Culture and Anarchy 6 (W. Knickerbocker ed. 1925)). When what the founding fathers adopted is wrong or not in the best interests of the people of South Carolina, we should reject and change it.  In this case, the S.C. Legislature has too much power and has a history of abuse and failing to do roll call voting that makes me conclude that it needs to be checked by a statute requiring legislators to do roll call voting.  Thus, I am  for passage of  the roll call voting Bill not only because I think passage of the Bill can be interpreted to be constitutional but also because I think doing so to be good public policy.  We can  select whatever rationale or argument we want to justify our position on this issue, but the way I am going to elect to justify my vote is  by accepting the evidence that requiring roll call voting by statute is constitutional and doing what I think  is   best for the citizens of South Carolina. I think what is best for S.C. is to pass the roll call voting Bill to provide people information with which to hold legislators accountable by  placing  statutory limits on the ability of the S.C. Legislature to vote by voice instead of recorded vote.  Failing to pass a statute requiring roll call voting would help perpetuate indefinitely the stranglehold of  power exercised by our Legislature facilitated by its ability to make decisions secretly with “off the record” voice voting.

Thank you.

On motion of Senator SHANE MARTIN, with unanimous consent, the remarks of Senator ROSE were ordered printed in the Journal.

Senator VERDIN spoke on the amendment.

**Remarks by Senator VERDIN**

Thank you Mr. President, members of the Senate.

I’ll concur with the Senator from Dorchester, Senator ROSE, that the founding fathers had feet of clay. The senators of the nineteenth century had feet of clay. The senators of the twentieth century had feet of clay. And those of us serving South Carolina today certainly have our faults, and yet there is a reason so manifested in our very presence here in having this argument, having this debate, and having this discussion; we absolutely require governance. I think that every one of us here would declare a fealty and a loyalty to the Constitution of South Carolina, this State and the United States.

I appreciate the Senator from Dorchester pointing out again that the Constitution of South Carolina and at least 12 others predated the U.S. Constitution. I also appreciate the fact that the Senator from Dorchester demonstrated or pointed out that the U.S. Constitution is an evolution of the separation of powers improved upon what we would have seen in the thirteen states.

When Governor Sanford was elected and not yet sworn in, he visited Greenville for a big Republican gathering up there. Boy they don’t meet them in a phone booth up there, Senator from Clarendon. There was a big crowd. The Governor certainly had lots of friends and admirers up there. At the time it was just a bunch of long-standing Republican activists; there weren’t any Tea Partiers there; just a bunch of folks that had been active in the trenches for a long time working for good government through their chosen party. I remember though, I couldn’t help myself. Though I had tongue firmly planted in cheek, I reminded the Governor that I was the speaker that day that he made a surprise visit to the First Monday Club. I just couldn’t help myself. The Governor took a few questions before I spoke, and, of course, the Governor already had the General Assembly in his sights -- a pretty good target of his here for the last decade or so. And I couldn’t help myself. I said, “Governor, I just want to remind you. You’re talking about that legislative dominance. It used to be a lot greater than it is now prior to the modifications to the S.C. Constitution over the centuries.” I said, “We used to have such confidence in the voice of the people and the assembly of the people that if they so chose, they put the Governor back on a ship in the harbor in a hurry. They kept one out there in the harbor so the Governor could get on it in a hurry.”

Now I firmly had my cheek implanted in tongue at that point, but I just have to say this, Senator from Dorchester. I couldn’t concur with you more about the fact that we need improvement. I think it would be disingenuous for us to announce that we’ve arrived. But that very reason that we have not arrived, that we are still mortal, in the flesh, still with feet of clay, still prone to err, even in our best intentions, even in our best day -- we are none too good. That’s the reason that we manifested here even when we don’t know it, even when we pat ourselves on the back -- we can still be faulted for our failures. It is the failure of mankind that drives me so tenaciously to the arguments that are presented this day in the favor of constitutional respect and supremacy. Because I know enough about the history of the country, and the history of great people, not only in this country but in the whole of civilization, to know that when they are compacted together, when they are covenanted together, when they are constituted together it is with respect for something inviolable.

Now for me, I profess Christ, we honor God, we honor the Lord, we hold His law. I think we would say that is inviolable for us a rule of faith and practice. But how do you extend that? How do you extend something that superior into your secular life? I can’t. I can’t divorce the secular and the sacred. I guess I come from too long a line of Scottish Presbyterian preachers -- there’s only about ten of them in my line going back to about 1753 when the first of them hit South Carolina. As the Senator from Charleston said, it is not politically expedient to argue his particular persuasion of the supremacy of the Constitution and its hierarchal order in the way that we conduct affairs within this body. I’ll concur with the Senator from Pickens in that it is not necessarily easily accomplished to have this discussion and conversation with your constituents. But I do have confidence and knowledge that it can be done.

Senator FORD, I’ve met with those Tea Party folks and let me tell you, I don’t know what our communities would be like, particularly in Laurens county if it weren’t for the self-ascribed and negatively labeled Tea Partiers. It doesn’t matter if you’re a constitutionalist or a conservative, if you’re in a new political movement like the Tea Party.

I’d like to just bring it back to South Carolinians and covenant keepers. Now the Senator from Beaufort and I can agree to disagree, but I can see going forward that I’m going to spend a lot of time in the foreseeable future having these 45 minute long discussions with my constituents. But you know what? I look forward to it. I relish it. I look forward to the opportunity, Senator from Pickens, that we as statesmen of South Carolina can elevate political discussion in a State from populism to constitutionalism. And I’m not demeaning populism. I come from a long line of populists. All my roots are from the backcountry. I’m from the northwest corner of the State. If you look at my political pedigree and my family’s associations, I’m sure I’d be right in there with the populists.

But this is an opportunity, regardless of where the vote falls, for South Carolinians of goodwill to make progress and I don’t have any illusions about trying to carry the day. It’s been well-carried as far as the arguments by the esteemed Senators from Charleston, but I did want to have the opportunity to say to you that we need to consider just what the Constitution is. It might be inconvenient, but there are a lot of things enshrined in that Constitution and I’ve heard many of you say so in years gone by that we’ve put too much there. But what is there is not insignificant. Not because of the content, but because of how it’s there and who it’s there with. It’s not just you and me; it’s not just our constituency.

So that oath to protect, preserve, and defend the Constitution is an oath that we take before the Lord God Almighty for the proper relationship of man to man and I don’t think it can be done effectively when man is not rightfully related to God. My interpretation of constitutions are that they are an extension of a covenant or a compact. Covenants and compacts are sworn between men, with God as their witness. I’m thankful that we have it. Senator from Dorchester, I’m thankful that we were enlightened post-revolution, even though as a South Carolinian I would have been happy enough under the Articles of Confederation in certain respects. I don’t know when we’ll get back to having a constitutional debate in this body. This is the only one I’ve ever had in this body in eleven years and it might be my last, but I appreciate the opportunity for those of us who serve to be able to consider these matters. Now I don’t know what kind of errors I’ll collect over the foreseeable future, but I will to the best of my ability work in my corner of the vineyard to help South Carolinians understand how they are related to each other. And that the Constitution and everything that it embodies or enshrines is not emblematic or symbolic of anything pernicious.

I appreciate your time.

On motion of Senator KNOTTS, with unanimous consent, the remarks of Senator VERDIN were ordered printed in the Journal.

Senator MALLOY argued contra to the adoption of the amendment.

**Remarks by Senator MALLOY**

I rise to talk about a particular issue with which I have some concerns. About eight or nine years ago, I was one of the folks that was fortunate enough in my first bid for political office to get elected to the Senate. I spoke to a consultant at that time. He said, “You know who wins elections?” I said, “no.” He said, “The one who gets the most votes.” And so, when you get the most votes, I do understand that the majority gets a chance to rule. It’s their job. The minority gets an opportunity to make comments generally. You set the policy in the body that you are setting forth. I would say that we’ve heard very eloquent remarks today, not that I agree with totally, but I appreciate the passion that each person has and that’s what makes South Carolina great because we are very different.

I was not going to speak, but I had to end up speaking as I heard parts of it. I would just say simply -- there are two Senators from Charleston who talk about the separation of power issue and I really believe that. You know the body can do whatever it wants to when you talk about a statutory scheme and a statutory law. But that brings me great concern. Because what I am hung up on at this time is not transparency. With all due respect to all the legal scholars that have spoken, I think we are correct in stating that the Senators in this State want transparency. I think that our Clerk’s Office knew it and our body knew it.

I will get away from what I wanted to end up talking about -- the amendments -- just to say that we started the Senate right at 12 Noon and it is now 4:30 P.M. and the Senator from Pickens, LARRY MARTIN, was talking about Japan and the moral issues. I was just sitting at my desk and thinking about how Marion County is suffering, Senator from Marion, while we talk about roll call votes with 21% unemployment. We need jobs. I just want us as we go forward to see if the roll call vote is going to help my friend from Marion who has 21% unemployment. I want to see what’s going to happen to Union with 17.7% unemployment. Is roll call voting going to help Allendale? Senator from Fairfield, Senator from Greenwood -- Allendale is at 17.7%. Senator from Chester has 17.6% unemployment. I chair Marlboro with 17.6% unemployment. Barnwell has 15.6% unemployment. McCormick has 15.5% unemployment. These are January numbers. Clarendon County has 15.3% unemployment. Dillon has 15.2% unemployment. Orangeburg has 14.9% unemployment. There are people willing and able to work. Bamberg has 14.9% unemployment. York has 14% and Lancaster has 14%. Williamsburg is at 14% and Fairfield has 14%. Lee County -- one of my counties -- has 13.8%. Cherokee has 13.8%, Hampton has 13.8%, Chesterfield -- my birthplace -- has 13.7%, Horry has 13.4%, Colleton is at13.1%, Abbeville is at 12.3%, Georgetown has 12.3%, Greenwood has 11.6%, Darlington has 11.5%, Calhoun is at 11.3%, Florence has 11.1%, Sumter has 11.1%, Laurens has 10.8%, Oconee has 10.7%, Newberry has 10.5%, Spartanburg is at10.4%, Anderson has 10.3%, Kershaw has 9.6%, Jasper has 9.5%, Pickens has 9.1%, Saluda has 9%, Berkeley is at 9%, Edgefield has 8.8%, Richland has 8.5%, Dorchester is at 8.3%, Greenville has 8.2%, Aiken has 8.1%, Beaufort is at 8.1%, Charleston is at 8.1% and Lexington has 7.4%.

And by everyone’s account we already do everything that this amendment will require us to continue to do. Notwithstanding the fact that I just saw a news article that one of my colleagues showed me that 34 people were laid off at LLR. These sorts of tides that are rising in our State that we are talking about -- roll call voting, with a fierce debate as to whether or not we do it by the Constitution or by statutory scheme -- raises the question do the people care? Or do they care about the jobs we need? How do you accomplish this?

It scares me such that I want to vote for roll call voting. I want the folks to know how we are voting. I want to say we’re not going to close the doors and close the blinds to conduct the business over here because no one is going to tolerate that. And if you do, you’ve got a short term in the Senate. You have to make sure you represent the interests of the people. So, if we’re representing the interests of the people and we’re already doing what this legislation is doing and this legislation doesn’t change the way we act in any way, then why are we beating a dead horse?

The people in South Carolina are suffering. The tide is rising. We’re at 10.5% unemployment. I hope that my votes that I’ve cast in the Senate over here this year help represent my feelings and what I am saying over here. I voted against the Immigration Bill. I voted against the Voter ID legislation. There are people in the community that don’t understand it because it sounds good. Someone asked me, “Senator, why won’t you vote for Voter ID?” Voting is just like driving. It’s a privilege. I had to explain that driving is a privilege, but voting is fundamental. Everything that sounds good isn’t necessarily good. What is perplexing and hard to understand is that we already do what the statute said to do and we’re already doing it and we’re already doing it by Senate Rule. If another body comes in then they could end up changing it and if they change the rule, the rule is going to trump the statute.

The question is, “What are we doing?” With all due respect and I will be candid. I am not where many of you think I am with this issue. As it relates to the Executive -- I like the Executive. We have a good relationship. I think she’s very bright. I think that this issue is very political because what we’re doing is making certain we’re playing to a certain group. As I look and try to reach deep down inside, I realize that some of the guys on my side will end up voting for this legislation too, because they tell me, “they can’t explain why I would not” to the public. We’ve heard great arguments over here. I could be influenced if I didn’t know about any number of folks that came up here on both sides of the issue because they make sense. It makes sense to have roll call voting and we do have it. We’ve got it. I was stumbling across our website and saw that we have a roll call to look and see exactly how each person votes. It’s incredible.

Let me tell you what scares me. I will give you a situation. If the Bill that we are just amending is passed, it goes over to the House. I look back. I am looking back at a matter that came before the body and they ended up asking for an Attorney General’s opinion. Article 3, Section 12 of the State Constitution states that, “Each House shall determine its rules of procedure.” Now, we’ve heard a lot about “rules of procedure” and what it means. This particular House Rule governs as to when the legislation was introduced in the House for consideration. The opinion goes on to state, “Application of the rule appears to have been modified somewhat by the Act that was passed.” Though the Act would not constitute a change or amendment in the rule itself as indicated in the Supreme Court case, application of a rule may be affected by application other than the rule itself. However, each house has an absolute, a continuing constitutional right to amend it based on rules at any time. So that you have in fact an Act that may have some effect upon your rules -- you then go back to the rules.

I submit to you this situation. The Senator from Pickens did a really good job of deferring the question and his question was, “What is going to happen now?” I’m not interested in speculating as to what would happen in a short period for now. Because we amend a statute over here, Senator from Kershaw, Senator from Orangeburg, Senator from Horry, Senator from Charleston, Senator from Greenville, the other Senator from Beaufort, Senator from Pickens, Senator from Dorchester and Senator from Charleston, please help me understand -- what happens if the House sends something back in a constitutional proviso that amends statutory law? And by the way, they add something in there that substantially changes our Senate Rules? Then we have to go in and address it and if we trump it, it may have $25 million stuck in a section in the budget that we would have to disband in order to make a statement that they didn’t change our rules by statute coming back in a constitutional proviso. Why would that not send this Senate stir crazy on having the House of Representatives dictate to us as to how we handle the Rules of the Senate?

I’ve heard my good friend, the Senator from Cherokee, say that “it sounded like a good idea when you left home to have roll call voting.” What scares me is that the body across the Hall could amend our rules by statutory scheme and at sometime even though the Senator from Pickens tells me, “that as long as he is here and has breath in his life, he will, as the Rules Chairman, make sure that it is deep-sixed.” Well, Senator from Pickens, you can’t do that. You can’t make that promise. You can’t make promises that you can’t keep. Mr. PRESIDENT *Pro Tem*, Senator from Charleston, if that change in our rules is placed in the budget and it survives and we tolerate that, please explain to me what happens when you give the other body the opportunity to change statutory scheme.

I will also add that I am concerned about the language. We have great folks that can draft, and I don’t have a copy of it, but I am concerned about Section B, the first two lines, as to the House of Representatives and the Senate. I am trying to see who interprets that. They’re not going to come back and say, “What did this really mean?” They’re going to come and go where? Somebody’s going to get it to the Supreme Court of South Carolina for interpretation -- showing intent. That’s what’s going to happen and then we’ll get the Supreme Court to tell us what we meant by our rule change --that we did in a statutory way.

I’m concerned that my friends who support this amendment say, “You don’t understand. This is red meat for us back home in our districts.” So, let’s talk about where the rubber really meets the road? That’s where it is. The moment we say it’s not about politics, it’s about politics. It’s about politics because of our primaries and the folks who will end up running. That’s what this is about. And for those who will take courageous stands, as much as I want to end up supporting everything that comes up with roll call voting, this is a difficult one.

Then another part of it that I am concerned about is that everyone has an absolute right to do whatever they want to have done on these amendments. But the Judiciary Committee voted overwhelmingly for roll call votes on amendments and resolutions. So if you want transparency, then give the people transparency. There is something wrong with voting for transparency on a Bill, but on the very matter that would shape this legislation from going forward we’re not required to have a roll call vote on it under the amendment that’s on the Desk. It would not be required. There’s something that seems a little odd with that picture. Up until the last few minutes as I sat back there, I tried to see how I could justify voting for the amendment on the Desk. How could I justify it? I think that what convinced me as to how I’m going to vote is not going to be confusing to you all. I’m not going to vote for it. As the Senator from Pickens says, “it’s a moral contract.” And the Senator from Laurens got up and gave us a great discourse on his belief. But we all took the oath to the Senate and the oath was to uphold the Constitution. So I understand that you can be a strict constructionist. You can be a liberal constructionist. Some talk about the runaway courts. Some talk about how we should interpret the rules procedures. Article 3, Section 12 doesn’t talk about rules; it talks about procedures. What is happening now is that we are throwing the enabling legislation that came out of committee to the side.

Thank you.

On motion of Senator KNOTTS, with unanimous consent, the remarks of Senator MALLOY were ordered printed in the Journal.

**RECESS**

At 4:49 P.M., on motion of Senator MALLOY, the Senate receded from business not to exceed five minutes.

At 5:00 P.M., the Senate resumed.

Senator McCONNELL moved under Rule 1B to change the time the Senate would convene tomorrow from 2:00 P.M. until 11:00 A.M.

Senator SHANE MARTIN moved to lay the motion on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 1; Nays 41**

**AYES**

*Martin, Shane*

**Total--1**

**NAYS**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Fair Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--41**

The Senate refused to table the motion under Rule 1B. The question then was the adoption of the motion to change the time the Senate would convene tomorrow from 2:00 P.M. to 11:00 A.M.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 42; Nays 0**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Fair Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Nicholson O'Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--42**

**NAYS**

**Total--0**

The motion to change the meeting time was adopted.

Senator SHANE MARTIN spoke on the motion.

**Remarks by Senator SHANE MARTIN**

Gentlemen of the Senate, I rise today to talk to all of you.

I was telling the PRESIDENT *Pro Tem* that I was going to oppose any changes to our Senate schedules. We already have made appointment times with constituents and have scheduled subcommittee meetings when we have time available. Coming in at five o’clock in the evening and making changes to the schedule when you can’t contact people and you have to leave them hanging for the day is why I oppose changing the Senate schedule.

I wish the Senate would consider that when they make changes on the fly -- where we could stay here tonight and work on this legislation. We waste a lot of time in this Senate and we could already get a lot of things done. So, I will ask the Senate to be sensitive to the schedules that are published before we make changes. If we know we are going to come in at eleven o’clock we could have known that today or yesterday and let everybody know that information. So, that is why I did what I did and I ask the Senate be sensitive to others’ schedules. We were sensitive when the Senator from Orangeburg had an event with the Boy Scouts the other night -- very sensitive -- and I’d do it again, but I think on the flip side we also need to be sensitive to people who do meet with business owners, teachers and people in their communities that they represent. So, we know what we need to do down here and that’s all I wanted to say.

On motion of Senator BRIGHT, with unanimous consent, the remarks of Senator SHANE MARTIN were ordered printed in the Journal.

The question then was the adoption of Amendment No. P2.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 32; Nays 12**

**AYES**

Alexander Bright Bryant

Campbell Cleary Coleman

Courson Cromer Davis

Elliott Fair Hayes

Jackson Land Leatherman

Leventis Lourie *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O'Dell

Peeler Rankin Rose

Ryberg Setzler Shoopman

Thomas Williams

**Total--32**

**NAYS**

Campsen Ford Grooms

Hutto Knotts Malloy

McConnell Pinckney Reese

Scott Sheheen Verdin

**Total--12**

Amendment No. P2 was adopted.

**Statement by Senators McCONNELL, KNOTTS, VERDIN**

**GROOMS, CAMPSEN, MALLOY and REESE**

We voted against Amendment P2 because we believe that, while the goal of the amendment is commendable, the method in achieving it is not.  We must do what we think is right, not what is just politically good for us. The amendment would discard the requirement of a constitutional amendment being passed before the statute goes into effect.  This would create a situation where we are convinced that what we are doing is unconstitutional.  We think the Constitution is very clear on this point and that each house must determine its rules of procedure.  We also believe that the Constitution must be strictly construed.  That naturally leads to the conclusion that if we want to change the manner that rules of procedure are done, then it must be done by changing the Constitution.  We believe that we cannot discard the Constitution in order to do what we want quicker than it could otherwise be done.  We cannot be hypocrites in condemning Congress for ignoring the Constitution to get Obamacare when we are equally guilty in ignoring the Constitution to get this Bill quickly.  We fully support what this Bill is attempting to do and we all want to see it made permanent.  Our statements on the subject and the details of how we feel on the subject are here in the Journal.  However, we have made a covenant with our constituents and ourselves to uphold the Constitution and it was one that we sealed with an oath to our Maker.  There is no issue of such pressing concern that justifies breaking that oath or starting down the slippery slope to where our Constitution becomes only a means to an end instead of a limitation on the power of our government.  For that reason, we voted “no”.

On motion of Senator McCONNELL, debate was interrupted by adjournment.

**MOTION ADOPTED**

On motion of Senator COURSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. George Edwin Summers of Chapin, S.C. Mr. Summers was the beloved husband of Lou Ann Poston Summers, a devoted father and step‑father and was a doting grandfather. Mr. Summers was a Navy veteran having served in the Korean War, a businessman and had served on the Lexington/Richland District 5 School Board from 1996-2000.

and

**MOTION ADOPTED**

On motion of Senator LOURIE, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Rhett Davis, 37, of Blythewood, S.C. Mr. Davis was a firefighter and passed away unexpectedly March 10, 2011. He was the beloved husband of Aggie and a devoted father of Blake, Jackson and Blythe. He was a great Christian individual and was a Sunday School teacher at Trinity United Methodist Church in Blythewood.

**ADJOURNMENT**

At 5:16 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

**Recorded Vote**

Senators BRYANT, BRIGHT, SHANE MARTIN and RYBERG desired to be recorded as voting against the motion to adjourn.

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