

# Journal of the Senate

## Of the STATE OF VERMONT BIENNIAL SESSION, 2011

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WEDNESDAY, JANUARY 5, 2011

Pursuant to the provisions of the Constitution and the laws of the State of Vermont, the Senate convened at the State House at Montpelier, on the first Wednesday, after the first Monday, the fifth day of January in the year of two thousand eleven.

At ten o'clock in the forenoon, eastern standard time, the Senate was called to order by the President, Lieutenant Governor Brian E. Dubie.

### Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

### Pledge of Allegiance

Pages Amelia Sherman of Montpelier and Adara North of South Burlington then led the members of the Senate in the pledge of allegiance.

### Roll Call

The roll of the Senate was thereupon called by the Assistant Secretary, Steven D. Marshall, and it appeared that the following Senators were present.

|                     |   |
|---------------------|---|
| Addison District    | Senator Claire D. Ayer<br>Senator Harold W. Giard   |
| Bennington District | Senator Richard W. Sears, Jr.<br>Senator Robert M. Hartwell   |
| Caledonia District  | Senator Joe Benning<br>Senator M. Jane Kitchel  |
| Chittenden District | Senator Timothy R. Ashe<br>Senator Philip E. Baruth<br>Senator Sally G. Fox<br>Senator Virginia V. Lyons<br>Senator Hinda Miller<br>Senator Diane B. Snelling |

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| Essex-Orleans District | Senator Vincent Illuzzi<br>Senator Robert A. Starr                                 |
| Franklin District      | Senator Randolph D. Brock<br>Senator Sara Branon Kittell                           |
| Grand Isle District    | Senator Richard T. Mazza   |
| Lamoille District      | Senator Richard A. Westman   |
| Rutland District       | Senator William H. Carris<br>Senator Margaret K. Flory<br>Senator Kevin J. Mullin  |
| Washington District    | Senator Ann E. Cummings<br>Senator William T. Doyle<br>Senator Anthony Pollina     |
| Windham District       | Senator Peter W. Galbraith<br>Senator Jeanette K. White                            |
| Windsor District       | Senator John F. Campbell<br>Senator Richard J. McCormack<br>Senator Alice W. Nitka |

#### **Oath Administered**

The Senators-elect were duly sworn by the Assistant Secretary and severally subscribed the oath of office.

|                        |   |
|------------------------|---|
| Addison District       | Senator Claire D. Ayer<br>Senator Harold W. Giard   |
| Bennington District    | Senator Richard W. Sears, Jr.<br>Senator Robert M. Hartwell   |
| Caledonia District     | Senator Joe Benning<br>Senator M. Jane Kitchel  |
| Chittenden District    | Senator Timothy R. Ashe<br>Senator Philip E. Baruth<br>Senator Sally G. Fox<br>Senator Virginia V. Lyons<br>Senator Hinda Miller<br>Senator Diane B. Snelling |
| Essex-Orleans District | Senator Vincent Illuzzi<br>Senator Robert A. Starr  |

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|---------------------|--|
| Franklin District   | Senator Randolph D. Brock<br>Senator Sara Branon Kittell                           |
| Grand Isle District | Senator Richard T. Mazza   |
| Lamoille District   | Senator Richard A. Westman   |
| Rutland District    | Senator William H. Carris<br>Senator Margaret K. Flory<br>Senator Kevin J. Mullin  |
| Washington District | Senator Ann E. Cummings<br>Senator William T. Doyle<br>Senator Anthony Pollina     |
| Windham District    | Senator Peter W. Galbraith<br>Senator Jeanette K. White                            |
| Windsor District    | Senator John F. Campbell<br>Senator Richard J. McCormack<br>Senator Alice W. Nitka |

#### **Election of Officers**

The President announced that the next order of business was the election of officers, and that nominations for Secretary were in order:

Senator Carris of Rutland District nominated

**JOHN H. BLOOMER, JR.**

of the Town of Wallingford.

Senator Snelling of Chittenden District seconded the nomination.

There being no further nominations, on motion of Senator White, the nominations were closed and the Assistant Secretary was instructed to cast one ballot for

**JOHN H. BLOOMER, JR.**

of the Town of Wallingford, as Secretary of the Senate for the two years next ensuing.

Thereupon, he presented himself at the bar of the Senate and received the oath of office from the President.

#### **Election of President *Pro Tempore***

The President then announced that the next order of business was the election of a President *pro tempore*.

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Senator Sears of Bennington District nominated

**JOHN F. CAMPBELL**

of Windsor District.

Senator Snelling of Chittenden District seconded the nomination.

There being no further nominations, on motion of Senator Mazza, the nominations were closed and the Secretary was instructed to cast one ballot for

**JOHN F. CAMPBELL**

of Windsor District as President *pro tempore* of the Senate for the two years next ensuing.

Thereupon, he presented himself at the bar of the Senate and received the oath of office from the President.

#### **Election of Third Member of Committee on Committees**

The Senate then proceeded to the election of a Senator to serve with the President and President *pro tempore* as a member of the Committee on Committees, which appoints the committees of the Senate.

Senator Campbell of Windsor District nominated

**RICHARD T. MAZZA**

of Grand Isle District.

Senator Carris of Rutland District seconded the nomination.

There being no further nominations, on motion of Senator Mullin, the nominations were closed and the Secretary was instructed to cast one ballot for

**RICHARD T. MAZZA**

of Grand Isle District to serve with the President and President *pro tempore* as a member of the Committee on Committees.

Thereupon, he presented himself at the bar of the Senate and received the oath of office from the President.

#### **Appointments**

The President announced the appointment by the Secretary of

**STEVEN D. MARSHALL**

of Swanton, as Assistant Secretary of the Senate, and he presented himself at the bar of the Senate and received the oath of office from the Secretary.

The President announced the appointment by the Secretary of

**VANESSA J. DAVISON**

of Hardwick, as Journal Clerk, and

**PRISCILLA L. ALEXANDER**

of Montpelier, as Calendar Clerk, and

**ROXANNA T. QUERO**

of Montpelier, as Office Assistant.

### **Senate Resolutions Adopted**

Senate resolutions of the following titles were severally offered, read and adopted, and are as follows:

By Senator Mazza,

**S.R. 1.** Senate resolution relating to the rules of the Senate.

***Resolved by the Senate:***

That the Senate be governed by the Permanent Rules of the Senate for the 2011 biennial session, as adopted in 1989, with amendments adopted in 1997, 2003, 2004, 2007, and 2008, until others are adopted.

By Senator Doyle,

**S.R. 2.** Senate resolution relating to appointment of a committee to inform the Governor of the organization of the Senate.

***Resolved by the Senate:***

That a committee of four Senators be appointed by the President to wait upon His Excellency, the Governor, and to inform him that the Senate has organized and is ready on its part to proceed with the business of the session.

By Senator Sears,

**S.R. 3.** Senate resolution relating to informing the House of the organization of the Senate.

***Resolved by the Senate:***

That the Secretary be directed to inform the House of Representatives that a quorum of the Senate has assembled and organized by the election of **John H. Bloomer, Jr.**, of Wallingford, as Secretary, and **John F. Campbell**, a Senator from Windsor District, as President *pro tempore*, and is ready on its part to proceed with the business of the session.

By Senators Campbell, Carris, Miller, Doyle and Mullin,

**S.R. 4.** Senate resolution relating to meeting dates of the Senate.

***Resolved by the Senate:***

That for the 2011 session, beginning with the week of January 5 and extending through the week ending February 26, Rule 7 of the Permanent Rules of the Senate, as adopted in 1989 and as amended in 1997, 2003, 2004, 2007 and 2008, is suspended and the following Temporary Rule 7 is adopted:

**Temporary Senate Rule 7.** The Senate shall meet every Tuesday at nine o'clock and thirty minutes in the forenoon and Friday at eight o'clock and thirty minutes in the forenoon, unless otherwise ordered. In the discretion of the President *pro tempore* additional sessions of the Senate may be called on short notice.

**Joint Senate Resolutions Adopted on the Part of the Senate**

Joint Senate resolutions of the following titles were severally offered, read and adopted on the part of the Senate, and are as follows:

By Senator MacDonald,

**J.R.S. 1.** Joint resolution relating to joint rules.

***Resolved by the Senate and House of Representatives:***

That the joint rules of the Senate and the House as adopted in 2009 be adopted as the joint rules of this biennial session until others are adopted.

By Senators Mazza and Doyle,

**J.R.S. 2.** Joint resolution to provide for a Joint Assembly to hear the farewell message of the Governor.

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Wednesday, January 5, 2011, at two o'clock in the afternoon to receive the message of the outgoing Governor.

By Senator White,

**J.R.S. 3.** Joint resolution to provide for a Joint Assembly to receive the report of the committee appointed to canvass votes for state officers.

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, January 6, 2011, at ten o'clock in the forenoon to receive the report of the Joint Canvassing Committee appointed to canvass votes for Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts and Attorney General, and if it shall be declared by said Committee that there had been no election by the freemen and freewomen of any of said state officers, then to proceed forthwith to elect such officers as have not been elected by the freemen and freewomen.

By Senator Campbell,

**J.R.S. 4.** Joint resolution to provide for a Joint Assembly to hear the inaugural message of the Governor.

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, January 6, 2011, at one o'clock and thirty minutes in the afternoon to receive the inaugural message of the Governor.

By Senators Miller and Mullin,

**J.R.S. 5.** Joint resolution relating to Town Meeting adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, February 25, 2011, or Saturday, February 26, 2011, it be to meet again no later than Tuesday, March 8, 2011.

**Committee Appointed**

Pursuant to the provisions of S.R. 2, the President appointed a Committee to wait upon His Excellency, the Governor, to inform him that the Senate is ready on its part to proceed with the business of the session:

Senator Carris  
Senator Miller  
Senator Mullin  
Senator Brock

**Report of Committee**

Senator Carris, of Rutland District, for the Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate is ready on its part to proceed with the business of the session, appeared at the bar of the Senate and reported that it had performed the duties assigned to it.

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**Canvassing Committee Elected**

The President nominated as a committee on the part of the Senate to canvass votes for state officers,

Senator Giard, of Addison District  
Senator Hartwell, of Bennington District  
Senator Benning, of Caledonia District  
Senator Baruth, of Chittenden District  
Senator Starr, of Essex-Orleans District  
Senator Brock, of Franklin District  
Senator Mazza, of Grand Isle District  
Senator Westman, of Lamoille District  
Senator Flory, of Rutland District  
Senator Pollina, of Washington District  
Senator White, of Windham District  
Senator Nitka, of Windsor District

Thereupon, Senator Campbell moved that the nominees be elected by the Senate, which was agreed to.

Thereupon, the President declared the nominees elected, and the Committee so elected received the oath of office from the Secretary.

The President designated Senator White, of Windham District, as Chair of the Joint Canvassing Committee to canvass votes for state officers.

**Message from the House No. 1**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

A quorum of the House has assembled and organized by the election of

**Shapleigh Smith Jr.**

the Representative from Morristown, as Speaker, and

**Donald G. Milne**

of Washington, as Clerk, who in turn has appointed William M. MaGill of Montpelier as First Assistant Clerk and H. Gwynn Zakov of Barre as Second Assistant Clerk, and is ready on its part to proceed with the business of the session.



The House has considered joint resolutions originating in the Senate of the following titles:

**J.R.S. 1.** Joint resolution relating to joint rules.

**J.R.S. 2.** Joint resolution to provide for a Joint Assembly to hear the farewell message of the Governor.

**J.R.S. 3.** Joint resolution to provide for a Joint Assembly to receive the report of the committee appointed to canvass votes for state officers.

**J.R.S. 4.** Joint resolution to provide for a Joint Assembly to hear the inaugural message of the Governor.

And has adopted the same in concurrence.

#### **Recess**

The Chair declares a recess until o'clock and fifty-five minutes in the afternoon.

#### **Called to Order**

At one o'clock and fifty-five minutes in the afternoon the Senate was called to order by the President.

#### **Joint Assembly**

At two o'clock in the afternoon, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

**J.R.S. 2.** Joint resolution to provide for a Joint Assembly to hear the farewell message of the Governor.

The Senate repaired to the hall of the House.

Having returned therefrom, at two o'clock and forty minutes, the President resumed the Chair.

#### **Message from the House No. 2**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has appointed as members of the Joint Canvassing Committee on the part of the House to canvass votes for state officers:

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|                        |  |
|------------------------|--|
| Addison District       | Nuovo of Middlebury<br>Lanpher of Vergennes<br>Smith of New Haven        |
| Bennington District    | Morrissey of Bennington<br>Wilson of Manchester<br>Browning of Arlington |
| Caledonia District     | South of St. Johnsbury<br>Reis of St. Johnsbury<br>Toll of Danville      |
| Chittenden District    | Hubert of Milton<br>Aswad of Burlington<br>Pearson of Burlington         |
| Essex-Orleans District | Lewis of Derby<br>Higley of Lowell<br>Johnson of Canaan                  |
| Franklin District      | Gilbert of Fairfax<br>Howrigan of Fairfield<br>Savage of Swanton         |
| Grand Isle District    | Krebs of South Hero<br>Condon of Colchester<br>Spengler of Colchester    |
| Lamoille District      | Howard of Cambridge<br>Nease of Johnson<br>Scheuermann of Stowe          |
| Orange District        | Davis of Washington<br>Townsend of Randolph<br>Masland of Thetford       |
| Rutland District       | French of Shrewsbury<br>Fagan of Rutland City<br>Shaw of Pittsford       |
| Washington District    | Stevens of Waterbury<br>Taylor of Barre City<br>Donahue of Northfield    |
| Windham District       | Burke of Brattleboro<br>Marek of Newfane<br>Mrowicki of Putney           |

Windsor District

Bohi of Hartford  
Clarkson of Woodstock  
Mitchell of Barnard

### **Farewell Message of Lieutenant Governor**

The Incumbent Lieutenant Governor addressed the Senate as follows:

“Good Afternoon.

“Thank you for the opportunity to serve you as your Lt. Governor for the last eight years.

“It has been a privilege to have the opportunity to serve our state in elected office.

“I would like to recognize a few special people who are here this afternoon.

“My wife, Penny and my daughters, Emily and Casey – my brother, Gen. Mike Dubie -- Gen. Jon Farnham, who has just returned from a year of service in Afghanistan, and Martha Hanson, my Chief of Staff and Only Staff.

“And a special salute to Lt. Governor-elect Phil Scott. Congratulations, Phil.

“Some of you have served for many years; others will start your service here in Montpelier today. As I conclude my service as your Lt Governor, I would like to recognize the service of some special Vermonters.

“We members of the American Legion have a saying: “many gave some, some gave all”. The mother of a fallen service member is given the title of “Gold Star Mother”

“A Gold Star Mother named Marion Gray is with us today. Marion and Steve lost their son, Army Sgt. Jamie Gray, in Iraq, on June 07, 2004. He was 29 years old.

“Marion has chosen to serve others.

“In May 2006, Vermont’s Gold Star families chartered a bus together to go to the National Day of Remembrance in Washington DC.

“Army Spc. Chris Merchant died in Ar Ramadi, Iraq, on March 1, 2006. His parents, Gary and Janet, wrote at the time, “This weekend we find ourselves on a bus with many people just like us. They know and feel the same things as we do. We see that it is okay to cry, to laugh, to joke, to live.”

“From that bus ride the Vermont Fallen Families was born, with Marion Gray as its binding force.

“Last November 11, Vermont dedicated a new Vermont Global War on Terror Memorial at the Veterans Cemetery in Randolph, dedicated to all the state’s military who have served in war since the Sept. 11, 2001 attacks.

“The Grays, the Merchants, Ray DeGiovine, and all the other Gold Star families made the memorial at the Vermont State Cemetery a reality. Ray’s 25-year-old son, Marine Corporal Christopher DeGiovine, was killed in Anbar province in 2007. We must never forget these brave Vermonters and their sacrifice. Marion, thank you for your service. Thank you to all of Vermont’s Fallen Families.

“Another Gold Star Mother that I would like to recognize is Vicky Strong.

“Nate and Vicky Strong lost their son, Marine Sgt. Jesse Strong, in Iraq on January 26, 2005. He was 24. Jesse was loved by his community, and by his fellow students at Liberty University. Vicky has chosen to serve her state in a new way. She will serve alongside you here in Montpelier, as a member of the House from Albany, Vermont. She has much to offer. Vicky, we wish you the best of luck as you open a new chapter of service here in Montpelier.

“On Monday, Sept. 19, 2005 Army Lt. Mark Dooley was killed in Ar Ramadi, Iraq. Mark was 27 years old.

“Mark’s mom, Marion said, "Mark had a unique sense of dedication, care and responsibility toward his family, friends, his military companions and his country. I remember the sensitivity in which he gave me a sealed envelope prior to his deployment to Iraq and his request that I promise not to open it unless he did not return. As promised, this document was only opened after his death and I am confident that sharing it will allow everyone to have the insight into the remarkable person who was my son."

“In that letter, Mark wrote, "Mom, I have no delusions that reading or even hearing this letter read can fill my absence. Please forgive me for not being able to be there; but also remember that my leaving was in the service of something that we loved, and that most people can't comprehend its scope. Cherish in your heart that it wasn't done for any abstract reason like a flag or a foreign government's success, but our sacred honor."

“Friend and fellow Wilmington police officer Greg Murano now organizes an annual 5K race in Wilmington. A portion of this year’s proceeds was donated to help complete the Vermont Global War on Terror Memorial. His service has life and meaning.

“Kyle Gilbert was a soldier from Brattleboro. Sadly, Kyle was killed in Iraq on August 6, 2003. He was 20 years old. His mother Regina wrote me a letter that I would like to share with you today.

“She wrote: “I want you to hear this, my dream, I really never thought I would have a dream but now I do, I will one day travel to the road my son was on, on 6 Aug 2006, and touch and feel the ground he where he took his last breath, feel his pain and pray for him on that night. When Iraq is free, I will prevail and make my dream come true, please be there with me”.

“After Kyle’s death, Regina’s husband Herbert chose to join the Guard and was deployed to Afghanistan for a year. I received a text message from Regina when Herbert landed in the United States after his year in Afghanistan. Please join me in thanking Herbert for his service and Regina for her dream.

“We all need a dream to focus our service. What is your dream?”

“I would also like to recognize another special mother. She lived in Bennington. Her name was Sally Goodrich.

“Sally and Don Goodrich lost their son, Peter, on Sept 11, 2001. Peter was a passenger on United Airlines Flight 175, the second plane to crash into the World Trade Center towers in New York City.

“Shortly after Peter’s death, Sally learned she had ovarian cancer.

“Reflecting on her situation then Sally said, “Everything was destroyed, my life, my faith, my ability to live. I had nothing left.”

“Then in August 2004, a friend of Peter’s who served as a Marine major in Afghanistan sent an e-mail asking the Goodrich family to collect supplies for the children of a village in dire need of assistance.

““That was the beginning,” Sally said then. “I call it the moment of grace. I knew Peter would have responded to that e-mail. I knew I had to, in his name. For the first time, I felt Peter’s spirit back in my life.”

“Peter’s father Donald said, “Peter was always searching for a better understanding of the human condition, suddenly it shone upon us, that here is a path that Peter would be on. Because he would be on that path, we were going to take it.”

“To honor his memory, the Sally and Donald created the Peter M. Goodrich Foundation, and conducted fund-raising to build and support three schools and an orphanage in Afghanistan.

“Don says, “Sally saw a need or saw something that would be fun, and that big old Irish smile would come out and things would happen.”

“Sally says of her work in Afghanistan, “I wouldn’t say it was a journey of faith, but I would say it was a journey that restored my faith, and it also changed my faith. I think about my faith, and I think about God in more open

ways than I did before. I don't know how to explain it except to say that my faith is now about action to help people. Helping these children with education, which is the future of Afghanistan, gave us our lives back. I'm so lucky to have found that. I don't know how to thank them." Sally passed away on December 19, 2010.

"Thank you, Sally.

"We face challenges in our state. You have run for office to serve. The lives of these special Vermonters serve as inspiration to all of us. Each had a dream, like each of you. Each took a first step, like each of you. Each faced setbacks, as you will, and each served in a special way. Each of you can and will serve in a special way.

"These Vermonters made a difference. So will you.

"The Vermont State Senate lost its guiding beacon last August. David Gibson served as Secretary of the Senate from 2000 till the time of his death.

"When I was first elected lieutenant governor, the presiding officer over the Vermont Senate, I must admit I had never been in this Senate chamber.

"I met David, and David explained Mason Rules, rules of the Vermont Senate, the unwritten rules, and the traditions of the Vermont Senate.

"It has been my privilege for the last eight years to learn the traditions of the Vermont Senate. They were written on the heart of David Gibson.

"For the past half-century, Ernest – David's father; Robert – David's brother; and David wrote those rules and kept them alive.

"David really only had one rule. It ruled his entire life and was the basis for all the rules of the Senate: Do unto others as you have them do unto you.

"We serve in a legislature where strongly held beliefs carried by strong-minded people are bound to clash.

"David Gibson was a beacon of kindness, grace and integrity.

"He made us all better people than we would have been without his friendship. And we all loved him for this.

"David, we will miss you.

"May God bless you.

"I know that David would approve of your choice to succeed him, former state senator John Bloomer. John, I know you will wear the mantle well. Congratulations, and best wishes to you.

“I would also like to recognize and thank those others who serve year in year out to keep this chamber working well.

“Assistant Senate Secretary Steve Marshall.

“Journal Clerk Vanessa Davison.

“Calendar Clerk Priscilla Alexander.

“Office Assistant Roxy Quero

“Cornelius Reed, Theresa Randall, and our Doorkeepers and pages.

“Thank you all for your service to our state.

“Serving in elected office is a unique way to serve one’s fellow citizens.

“But there are many ways to serve. I look forward to assisting Vermont by continuing my work with our friends in Quebec. Next time you are in Quebec City, look in the phonebook; I have a lot of cousins up there.

“As I reflect on my service, many have asked me about my post-election thoughts.

“Here is my perspective. I have run for office and lost before.

“As a matter of fact, one man I lost to will soon be Vermont’s new Secretary of Human Services. In November 2000, I lost to a fine gentleman named Doug Racine.

“A few months later, in April 2001, I was on a long run on Miami Beach, training for an upcoming marathon, on a layover with my airline job. I must admit, I was thinking about the election when a frantic boy ran up to me, asking for my help.

“I followed this young person to the water’s edge -- looked out – and saw three heads in the water a couple of hundreds yards out. Immediately, I headed out into the surf. As I swam out, I thought of the advice of my loving wife Penny -- who happens to have been a lifeguard. “Never go in the water without a floatation device”-- and I am thinking, “What do I do now honey? Oh well,” I think, as I keep swimming.

“Soon, I had reached the first person in the water. It was a school-aged girl, and the look in her eyes confirmed that she was in trouble. Just like my wife predicted, she grabbed me frantically with her arms and legs around my neck. Fortunately, I was able to get her to shore.

“Then I headed back into the water, to assist another rescuer who had followed me out to bring the next young girl in.

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“The short version of this story is my girl made it, and the second girl did not. I was on that beach because I had lost an election.

“The way I see it is, there is another person, on another beach for each one of us. Our job is look for the person and do our best in that moment.

“Marion, Vicky, Regina and Sally by their service remind us that there are many ways to serve. Thank you all for your service. I wish you the best of luck. God Bless you all.”

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until nine o'clock and thirty minutes in the morning.