

# Journal of the Senate

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FRIDAY, JANUARY 21, 2011

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Rabbi James Glazier of Burlington.

## Joint Resolution Referred

### J.R.S. 11.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Lyons, Sears, Ashe, Ayer, Baruth, Fox, Giard, MacDonald, McCormack, Miller and Pollina,

**J.R.S. 11.** Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

*Whereas*, free and fair elections are essential to American democracy and effective self-governance, and

*Whereas*, individual persons are rightfully recognized as the human beings who actually vote in elections, and

*Whereas*, corporations are legal entities that governments create and can exist in perpetuity and simultaneously in many nations, and

*Whereas*, they do not vote in elections and should not be categorized as persons for purposes related to elections for public office, and

*Whereas*, corporations are not mentioned in the United States Constitution as adopted, nor have Congress and the states recognized corporations as legal persons in any subsequent federal constitutional amendment, and

*Whereas*, during the 1885–1886 United States Supreme Court term, in the midst of oral arguments leading to the decision Santa Clara vs. Southern Pacific Railroad Company, 118 U.S. 394, Chief Justice Waite stated that all the justices agreed that the Fourteenth Amendment's prohibition on a state

denying equal protection to a person applies to a state's treatment of private corporations, and

*Whereas*, this brief but extraordinarily significant comment of Chief Justice Waite sanctioned private corporations to sue municipal and state governments for adopting laws that violate a corporation's rights even when those laws serve to protect and defend the rights of human persons, and

*Whereas*, the United States Supreme Court has continued to adhere to this legal position in its jurisprudence for over a century, and most recently applied it in its decision Citizens United v. the Federal Election Commission, 130 S.Ct. 876, that eliminated many restrictions, including any total prohibition, on corporate spending in the electoral process, and

*Whereas*, the Court in Citizens has created a new and unequal playing field between human beings and corporations with respect to campaign financing, negating over a century of precedent prohibiting corporate contributions to federal election campaigns dating to the Tillman Act of 1907, and

*Whereas*, the Citizens decision has forced candidates for political office to divert attention from the interests and needs of their human constituents in order to raise sufficient campaign funds for election, and

*Whereas*, corporations are not and have never been human beings and therefore are rightfully subservient to human beings and the governments that are their creators, and

*Whereas*, the profits and institutional survival of large corporations are often in direct conflict with the essential needs and rights of human beings, and

*Whereas*, large corporations have used their so-called rights to successfully seek the judicial reversal of democratically enacted laws passed at the municipal, state, and federal levels aimed at curbing corporate abuse, and

*Whereas*, these judicial decisions have rendered democratically elected governments ineffective in protecting their citizens against corporate harm to the environment, health, workers, independent business, and local and regional economies, and

*Whereas*, large corporations own most of America's mass media and employ those media to loudly express the corporate political agenda and to convince Americans that the primary role of human beings is that of consumers rather than sovereign citizens with democratic rights and responsibilities, and

*Whereas*, the only way to reverse this intolerable societal reality is to amend the United States Constitution to define persons as human beings and not corporations, *now therefore be it*

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

That the General Assembly urges Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Government Operations.

**Joint Resolution Placed on Calendar**

**J.R.S. 13.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Brock, Illuzzi, Kittell and Starr,

**J.R.S. 13.** Joint resolution urging the United States Department of Homeland Security not to close the international port of entry at Morses Line in the town of Franklin.

*Whereas*, the communities along the Quebec–Vermont border have been culturally and economically intertwined for generations, and many local residents are bilingual in English and French, with friends and relatives on both sides of the international border, and

*Whereas*, the United States Department of Homeland Security has announced its intention to close the small, but locally essential, port of entry at Morses Line, and

*Whereas*, this decision was reached following a locally held public hearing at which the discussion centered exclusively on the proposed federal acquisition of privately owned farmland to accommodate a much larger port of entry building and not on the question of whether there should be a port of entry, and

*Whereas*, since the closure decision was announced, there has been an overwhelming outpouring of opposition from local residents, the business community, and governmental officials to retain the Morses Line border crossing, and

*Whereas*, this strong consensus of opposition was expressed at a second public hearing held in Franklin in September 2010, and

*Whereas*, the president of the Franklin County International Firefighters Association, which includes members of firefighting companies on both sides of the Vermont–Quebec border that provide mutual aid, stated the closure would increase cross-border emergency response time, and

*Whereas*, the owners of the Tyler Place Family Resort in Highgate Springs and general store proprietors from both Highgate and Franklin spoke of their strong reliance on the Morses Line border crossing for their economic vitality, especially tourist-related business, and

*Whereas*, agriculturally, farmers would lose a local crossing to drive their equipment across the border for repairs, and the next nearest port of entry would not be legally accessible for this purpose as it is a state highway, and

*Whereas*, as a result, fertilizer deliveries from Canada to local farmers would be reduced in number and promptness of delivery, and

*Whereas*, at the second public hearing, now Governor Peter Shumlin spoke in favor of retaining the Morses Line port of entry, and a similar message of support was presented on behalf of former Lt. Governor Brian Dubie, who now serves as the governor's special liaison with the government of the province of Quebec, and

*Whereas*, Christian Ouellet M.P., who represents the Brome-Missisquoi constituency of Canadian border communities across from Franklin and Highgate and is a member of the parliamentary border caucus, appeared at the hearing to express his support for the Morses Line facility, and

*Whereas*, staff representatives of Senators Leahy and Sanders and Congressman Welch each appeared at the meeting in support of the port of entry and subsequently sent a joint letter to United States Secretary of Homeland Security Janet Napolitano, urging that the Morses Line port of entry remain open, and

*Whereas*, far less traffic passes through the Morses Line port of entry than its counterpart in Highgate at the northern terminus of Interstate 89 and should not need to be housed in as elaborate or as large a facility, and

*Whereas*, every effort should be made to minimize the amount of private farmland required for the continuance of the Morses Line port of entry, and

*Whereas*, if a minimal amount of private farmland must absolutely be acquired, then the landowner is entitled to truly fair and reasonable compensation, and

*Whereas*, the Department of Homeland Security is now receiving additional public comments on the future of the Morses Line port of entry before a final determination is rendered, *now therefore be it*

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

That the General Assembly urges the United States Department of Homeland Security to retain the port of entry at Morses Line; that any renovations to the existing building be less elaborate than previously proposed in keeping with the realistic expectation of future traffic flow; that the acquisition of private farmland for building renovations be minimized to the greatest degree possible; and that if any land is acquired, the landowners be provided with a reasonable compensation that accurately reflects the fair market value of the land, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Homeland Security Janet Napolitano, to the town clerks of Franklin and Highgate, to Christian Ouellet M.P. in Cowansville, Quebec, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Senate Resolution Adopted**

Senate resolution of the following title was offered and is as follows:

By Senators Miller, Ashe, Ayer, Baruth, Benning, Carris, Doyle, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

**S.R. 6.** Senate resolution commemorating the 38th anniversary of Roe v. Wade and reaffirming support for its fundamental holding and principles.

*Whereas*, on January 22, 1973, in a landmark decision, the U.S. Supreme Court issued its historic ruling in Roe v. Wade, affirming that women, not politicians, should make the most personal decision of when or whether to have children, and

*Whereas*, the constitutional right to abortion as embodied in Roe v. Wade recognizes women's right to exercise reproductive choice, saves women's lives, and strengthens families, and

*Whereas*, prior to the Roe v. Wade decision, thousands of American women died every year as a result of complications from unsafe and illegal abortions, and an untold number of women suffered grievous injuries, a situation that

created a serious public health problem that has virtually been eliminated by providing access to safe and legal abortion, and

*Whereas*, it is a public health goal of the state of Vermont to protect and enhance the health of all Vermonters, including women of all ages, and to strengthen families by encouraging and promoting access to comprehensive family planning services, and

*Whereas*, violence against providers and restrictions against abortion endanger the lives of women and men, and have continued to erode access to abortion, and

*Whereas*, safe, legal, and accessible abortion services are still under attack, especially for women for whom English is a second language or who do not speak English at all, poor women, rural women, and women who are minors, and

*Whereas*, it is critical for the economic health of our country, and the personal health and happiness of American women, that the right of women and their families to make their own personal medical decisions about reproduction and gynecological issues be vigilantly preserved and protected, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont reaffirms the right of every Vermont woman to privacy, autonomy, and safety in making personal decisions regarding reproduction and family planning, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the question, Shall the Senate resolution be adopted?, was decided in the affirmative on a roll call, Yeas 28, Nays 0.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Baruth, Benning, Brock, Campbell, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Ayer, Carris.

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**Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

**S. 20.**

By Senator White,

An act relating to financing campaigns for elected office.

To the Committee on Government Operations.

**S. 21.**

By Senators Lyons and Pollina,

An act relating to solid waste management and recycling.

To the Committee on Natural Resources and Energy.

**S. 22.**

By Senator Mullin,

An act relating to school choice for students who have been subject to harassment.

To the Committee on Education.

**S. 23.**

By Senator Lyons,

An act relating to funding stormwater utilities in municipalities with stormwater-impaired waters.

To the Committee on Natural Resources and Energy.

**S. 24.**

By Senators Lyons and McCormack,

An act relating to the regulation of toxic substances.

To the Committee on Natural Resources and Energy.

**S. 25.**

By Senators Lyons and Snelling,

An act relating to the use of pesticides in proximity to water and in utility rights-of-way.

To the Committee on Natural Resources and Energy.

**S. 26.**

By Senators Miller and Illuzzi,

An act relating to recognition of the Koasek Abenaki of the KOAS as a Native American Indian tribe.

To the Committee on Economic Development, Housing and General Affairs.

**Message from the House No. 6**

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 considered joint resolution originating in the Senate of the following title:

**J.R.S. 9.** Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

And has adopted the same in concurrence.

**Message from the House No. 7**

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 considered joint resolution originating in the Senate of the following title:

**J.R.S. 10.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Message from the House No. 8**

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 adopted joint resolution of the following title:

**J.R.H. 8.** Joint resolution honoring women veterans and requesting that



state and federal officials work cooperatively to assure that women veterans receive their due recognition and essential support services.

In the adoption of which the concurrence of the Senate is requested.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, January 25, 2011, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 10.