

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Wednesday
March 24, 1999

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Reverend Charles Ihloff of the Casco Village Church in Casco.

REVEREND IHLOFF: Holy One, it is right and proper that we acknowledge Your dominion over our lives and over our institutions. It is prudent to seek guidance and help in order that we may undertake the significant tasks for which we have been chosen. It's necessary that we be equipped to do a far better job of public service than our individual talents and inclinations would otherwise produce. We are aware that our state has many assets, a lively and intelligence citizenry, great natural beauty and abundant natural resources, some fine business enterprises, and a significant variety of dedicated public servants. As we gather in this State House to work on the people's business, to consider how we may legislate and how we shall fund the services that will make this a better place to live and to work, we would seek both Divine guidance and increased wisdom to enable us to better fulfill our tasks. We would to that end seek discernment that we may understand not only what might be politically possible but what might lead in the long run to a realistic improvement in our communities. We seek to lead rather than to merely manage the achievement of goals others have set. We pray for the wisdom to be more far seeing. We pray for the courage to make the hard decisions, for it is normal to wish that everyone like us, though we know that not everyone will approve some of the choices which must be made. As individuals we seek the extra strength to properly manage and discipline ourselves to the end that others may find in our lives examples of temperance, humility and wisdom. Finally, we remind ourselves in Your presence that we are primarily chosen to be servants of the public and not merely those parts of the public who make the most noise or the largest contributions. We pray that the whole people of this state may come to support and value a more public spirited government. We pray in the name and in the faith which best informs our lives. Amen.

Doctor of the day, John Garofalo, M.D., of Hallowell.

Reading of the Journal of Tuesday, March 23, 1999.

Off Record Remarks

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

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, to Name the Route 160 Bridge in Brownfield Spanning the Saco River the Charles E. Hill Bridge (EMERGENCY)
H.P. 551 L.D. 772

In Senate, March 16, 1999, **PASSED TO BE ENGROSSED**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-65)**, in **NON-CONCURRENCE**.

On motion by Senator **PINGREE** of Knox, the Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act to Change the Names of Divisions within the Bureau of Forestry to More Accurately Reflect the Roles and Duties of Those Divisions"
H.P. 1362 L.D. 1960

Bill "An Act to Require the Labeling of Irradiated Food Sold at Retail"
H.P. 1378 L.D. 1985

Bill "An Act to License Hikers, Canoeists, Kayakers and Off-road Bicyclists"
H.P. 1380 L.D. 1987

Resolve, to Create a Committee to Establish a Memorial Dedicated to the Civilian Conservation Corps
H.P. 1394 L.D. 1999

Resolve, to Establish the Maine Forest Policy Round Table Study Commission
H.P. 1400 L.D. 2005

Bill "An Act to Eliminate the Dog Licensing Requirement"
H.P. 1401 L.D. 2006

Bill "An Act to Amend the Laws Concerning Abuse of Domesticated Animals"
H.P. 1402 L.D. 2007

Come from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

Bill "An Act to Protect Customers of Nonbank Cash-dispensing Machines"
H.P. 1384 L.D. 1991

Come from the House, **REFERRED** to the Committee on **BANKING AND INSURANCE** and ordered printed.

REFERRED to the Committee on **BANKING AND INSURANCE** and ordered printed, in concurrence.

Bill "An Act to Establish the State Revolving Loan Fund for Small Business Initiatives"
H.P. 1364 L.D. 1962

Bill "An Act to Require Disclosures in Connection with Transfers of Residential Property"
H.P. 1368 L.D. 1966

Bill "An Act to Require All Businesses in the State to Obtain a License to Operate in the State" (EMERGENCY)
H.P. 1396 L.D. 2001

Bill "An Act to Amend the Maine Lemon Laws"
H.P. 1405 L.D. 2010

Come from the House, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed.

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Bill "An Act to Allow the Forfeiture of Firearms Seized during a Lawful Search for Scheduled Drugs"
H.P. 1391 L.D. 1996

Bill "An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed"
H.P. 1404 L.D. 2009

Bill "An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana"
H.P. 1407 L.D. 2012

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

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed, in concurrence.

Bill "An Act to Revise Certain Provisions of the Medical Examiner Act"
H.P. 1371 L.D. 1969

Committee on **CRIMINAL JUSTICE** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act to Require Reimbursement to Municipalities for the Education of Foster Children"
H.P. 1359 L.D. 1957

Bill "An Act to Establish Educational Excellence for the Towns of Mechanic Falls, Minot and Poland"
H.P. 1360 L.D. 1958

Bill "An Act to Establish the Charter School Authority"
H.P. 1366 L.D. 1964

Bill "An Act to Establish the Maine Dental Education Loan Program"
H.P. 1367 L.D. 1965

Bill "An Act to Assign Responsibility for Juveniles Who Are Not Receiving Schooling"
H.P. 1369 L.D. 1967

Bill "An Act to Establish the Position of Early Childhood Consultant"
H.P. 1395 L.D. 2000

Come from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act to Establish the Maine Council on Aging"
H.P. 1365 L.D. 1963

Bill "An Act to Establish Department of Human Services Review Panels"
H.P. 1377 L.D. 1984

Bill "An Act to Amend the Health Care Receivership Laws"
H.P. 1410 L.D. 2015

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Bill "An Act to Ensure Access to Prescription Drugs for the Elderly"

H.P. 1347 L.D. 1947

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **TAXATION**.

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

Bill "An Act Concerning Recreational and Commercial Trapping"

H.P. 1370 L.D. 1968

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

Bill "An Act to Amend the Laws Regarding Unlawful Cutting of Trees"

H.P. 1389 L.D. 1994

Bill "An Act to Institutionalize Substance Abuse Treatment Courts in Maine" (EMERGENCY)

H.P. 1409 L.D. 2014

Come from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act to Allow A Municipal Officer to Accept Forfeited Assets to Expedite the Administration of Drug Case Prosecution"

H.P. 1398 L.D. 2003

Committee on **JUDICIARY** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE**.

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

Bill "An Act to Amend the Laws Regarding Asset Forfeiture"

H.P. 1406 L.D. 2011

Committee on **JUDICIARY** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **CRIMINAL JUSTICE**.

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

Bill "An Act to Provide for Benefits to Surviving Dependents of Employees Who Die as a Result of Work Injuries"

H.P. 1381 L.D. 1988

Bill "An Act to Amend Binding Arbitration to Include Salaries, Pensions and Insurance for State, Legislative and Municipal Employees and to Provide a Process for Voting when a Public Employer's Last Offer is Not Selected"

H.P. 1382 L.D. 1989

Bill "An Act to Clarify the Workers' Compensation Laws Regarding the Agricultural Laborer Exemption"

H.P. 1390 L.D. 1995

Come from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

REFERRED to the Committee on **LABOR** and ordered printed, in concurrence.

Bill "An Act to Amend the Election Laws to Prohibit Signing Nomination Papers for More than the Number of Seats Available"

H.P. 1392 L.D. 1997

Bill "An Act to Amend the Maine Clean Election Act"

H.P. 1403 L.D. 2008

Come from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

Bill "An Act to Authorize Sly Brook to Secede from Eagle Lake and to Deorganize"

H.P. 1379 L.D. 1986

Bill "An Act to Clarify the Duties of the State Auditor"

H.P. 1399 L.D. 2004

Bill "An Act to Allow the East Side of Machiasport to Annex with East Machias"

H.P. 1408 L.D. 2013

Come from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

Bill "An Act to Require Economic and Taking Impact Analyses to Protect Individual Rights"

H.P. 1383 L.D. 1990

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

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

Bill "An Act to Limit the Number of Appeals Concerning a Property Tax Assessment"

H.P. 1358 L.D. 1956

Bill "An Act to Require Payment of the Excise Tax for First-time Vehicle Registration Only"

H.P. 1361 L.D. 1959

Bill "An Act to Assist Independent Contractors to Comply with State Tax Laws"

H.P. 1376 L.D. 1983

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** and ordered printed, in concurrence.

Bill "An Act to Repeal the Mandatory Seat Belt Law if Approved at Referendum"

H.P. 1397 L.D. 2002

Comes from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

**Pursuant to Public Law
Department of Labor**

Report of the **Department of Labor** pursuant to Public Law 1997, chapter 745, section 4 asked leave to report that the

accompanying Bill "An Act to Address the Solvency of the Unemployment Compensation Fund"

H.P. 1372 L.D. 1970

Be **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Comes from the House, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Public Law
Joint Standing Committee on Marine Resources**

Report of the Joint Standing Committee on **Marine Resources** pursuant to Public Law 1997, chapter 747, section 2 asked leave to report that the accompanying Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery"

H.P. 1385 L.D. 1982

Be **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Public Law
Joint Standing Committee on Marine Resources**

Report of the Joint Standing Committee on **Marine Resources** pursuant to Public Law 1997, chapter 747, section 2 asked leave to report that the accompanying Bill "An Act to Limit Entry into the Lobster Fishery by Zone"

H.P. 1386 L.D. 1992

Be **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Public Law
Joint Standing Committee on Marine Resources**

Report of the Joint Standing Committee on **Marine Resources** pursuant to Public Law 1997, chapter 747 asked leave to report that the accompanying Bill "An Act to Establish an Appeals Process for Lobster Fishing License Denial"

H.P. 1387 L.D. 1993

Be **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

Comes from the House, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **MARINE RESOURCES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Criminal Law Advisory Commission**

The **Criminal Law Advisory Commission**, pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asked leave to report that the accompanying Bill "An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code"

H.P. 1411 L.D. 2018

Be **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed pursuant to Joint Rule 218.

Comes from the House, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed pursuant to Joint Rule 218, in concurrence.

Joint Resolutions

The following Joint Resolution: H.P. 1375

**JOINT RESOLUTION RECOGNIZING THE 50TH
ANNIVERSARY OF THE UNIVERSAL DECLARATION OF
HUMAN RIGHTS AND HONORING THE RIGHTS OF
WORKERS TO FORM AND JOIN UNIONS**

WHEREAS, on December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights, which recognized the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world; and

WHEREAS, the 50th Anniversary of this declaration offers an occasion to celebrate this common standard of achievement for

all peoples and all nations, as well as the source of inspiration and the basis of subsequent progress in the field of human rights; and

WHEREAS, human rights are universal, and regardless of the historical, cultural, religious and economic backgrounds of people, we must honor the rights of all people on this globe; and

WHEREAS, in our own country, federal law offers protection to its citizens, including the right for employees to form or join unions; and

WHEREAS, the right to form and join a union has resulted in valuable contributions to democracy and the well-being of America's working families and our communities in general; now therefore be it

RESOLVED: That We, the Members of the 119th Legislature, now assembled in the First Regular Session, recognize the 50th Anniversary of the Universal Declaration of Human Rights and we honor the rights of workers in this nation and the world to form and join unions for the betterment of all people.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

The following Joint Resolution: H.P. 1388

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

WHEREAS, We, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine, now assembled, in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, became an international treaty on September 3, 1981 and as of December 1997 has been ratified or acceded to by 161 nations; and

WHEREAS, although the United States is considered a world leader in human rights, supports and has a position of leadership in the United Nations, was an active participant in the drafting and is a signatory of the convention, the United States is one of the few nations that have not ratified the treaty; and

WHEREAS, the spirit of the convention is rooted in the goals of the United Nations and the United States, which seek to affirm faith in fundamental human rights, in the dignity and worth of the person and in the equal rights of men and women; and

WHEREAS, the convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based on sex against half of the world's population and the 161 nations that have ratified the convention have agreed to follow the convention prescriptions; and

WHEREAS, although women have made major gains in the struggle for equality in social, business, political, legal and educational fields, there is much more to be accomplished; and through its support, leadership and prestige, the United States can help create a world where women are no longer discriminated against and have achieved one of the most fundamental of human rights, equality; now, therefore, be it

RESOLVED: That We, your Memorialists, request the President of the United States and the United States Congress to ratify the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States; the President of the Senate or the equivalent officer in the 49 other states; the Speaker of the House or the equivalent officer in the 49 other states; the United Nations Secretary-General, Kofi Annan; and each member of the Maine Congressional Delegation.

Comes from the House, **READ** and **ADOPTED**.

READ and **ADOPTED**, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 149

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 22, 1999

Honorable Mark W. Lawrence
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Lawrence:

Pursuant to "A Resolve to Implement the Recommendations of the Commission to Study Poverty among Working Parents with Regard to an Annual Report Card on Poverty" I am pleased to

submit the enclosed 1998 Report Card on Poverty in Maine to you.

I hope you find the information contained therein of use to you. If you have questions or would like further information, please feel free to contact Joyce Benson at this office. (tel 287-1461 or e-mail www.joyce.benson@state.me.us)

Sincerely,

S/Evan D. Richert, AICP
Director

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

The Following Communication: S.C. 147

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 19, 1999

The Honorable Mark W. Lawrence
President of the Senate of Maine
119th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 119th Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of John M. Joseph, Jr. of Hallowell, for appointment to the Maine Milk Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Nutting of Androscoggin, Kieffer of Aroostook
	Representatives	8	Pieh of Bremen, Carr of Lincoln, Cowger of Hallowell, Cross of Dover-Foxcroft, Foster of Gray, Gillis of Danforth, Gooley of Farmington, Watson of Farmingdale
NAYS		0	
ABSENT		3	Rep. Gagne of Buckfield, Sen. Kilkelly of Lincoln, Rep. Volenik of Brooklin

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of John M. Joseph, Jr. of Hallowell, for appointment to the Maine Milk Commission be confirmed.

Signed,

S/John M. Nutting
Senate Chair

S/Wendy Pieh
House Chair

READ and **ORDERED PLACED ON FILE.**

On motion by Senator **PINGREE** of Knox, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

SENATE PAPERS

Bill "An Act to Prohibit Deceptive Charitable Solicitations"
S.P. 714 L.D. 2036

Sponsored by Senator KONTOS of Cumberland.
Cosponsored by Senator: MackINNON of York, Representative:
BOLDUC of Auburn.

Bill "An Act to Revise the Lienholder Notification Law"
S.P. 715 L.D. 2037

Sponsored by Senator BENNETT of Oxford.

Bill "An Act to Update, Clarify and Amend Licensure
Requirements for Occupations and Professions and
Registrations"
S.P. 720 L.D. 2042

Sponsored by Senator KONTOS of Cumberland.
Cosponsored by Representative O'NEAL of Limestone and
Representative: JONES of Pittsfield.
Submitted by the Department of Professional and Financial
Regulation pursuant to Joint Rule 204.

REFERRED to the Committee on **BUSINESS AND ECONOMIC
DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act to Provide the Opportunity for Students from All Parts
of the State to Benefit from funding for Higher Education"
S.P. 711 L.D. 2033

Sponsored by Senator LONGLEY of Waldo.
Cosponsored by Representatives: BELANGER of Caribou,
RICHARD of Madison.

REFERRED to the Committee on **EDUCATION AND CULTURAL
AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act to Improve Access to Residential Care in Rural Maine" (EMERGENCY)

S.P. 717 L.D. 2039

Sponsored by Senator MILLS of Somerset.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

Sent down for concurrence.

Bill "An Act to Eliminate Legislative Pensions"

S.P. 719 L.D. 2041

Sponsored by Senator MILLS of Somerset.

REFERRED to the Committee on **LABOR** and ordered printed.

Sent down for concurrence.

Bill "An Act to Clarify Maine's Campaign Finance Laws"

S.P. 710 L.D. 2032

Sponsored by Senator BENNETT of Oxford.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges"

S.P. 716 L.D. 2038

Sponsored by Senator KONTOS of Cumberland.
Cosponsored by Representative DAIGLE of Arundel.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Set a Date for Submission of Legislation by the Governor

S.P. 712 L.D. 2034

Sponsored by Senator CAREY of Kennebec.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act to Clarify That Sales Catalogs and Fliers are Exempt from Sales Tax when Purchased for Redistribution at No Charge"
S.P. 713 L.D. 2035

Sponsored by Senator MILLS of Somerset.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

REFERRED to the Committee on **TAXATION** and ordered printed.

Sent down for concurrence.

Bill "An Act to Amend the Charter of the Norridgewock Water District" (EMERGENCY)

S.P. 718 L.D. 2040

Sponsored by Senator MILLS of Somerset.

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed.

Sent down for concurrence.

ORDERS

Joint Order

On motion by Senator BENNETT of Oxford, the following Joint Order:

S.P. 709

WHEREAS, the Legislature finds that there is a need for a study on the current E-911 system; now, therefore, be it

ORDERED, the House concurring, that the Task Force to study the E-911 System is established as follows.

1. Task force established. The Task Force to Study the E-911 System, referred to in this order as the "task force," is established.

2. Task force membership. The task force consists of 15 members appointed as follows:

A. The President of the Senate and the Speaker of the House shall jointly appoint 7 members who serve on the Joint Standing Committee on Utilities and Energy;

B. The Public Advocate or the advocate's designee;

C. The Commissioner of Public Safety or the commissioner's designee; and

D. The President of the Senate and the Speaker of the House shall jointly appoint 4 members who represent a state, county or municipal government entity that provides fire, emergency medical or police services and 2 members who represent personnel who directly dispatch emergency service calls.

3. Appointments; convening task force; chair. All appointments must be made no later than 30 days following the effective date of this order. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. Within 15 days after the appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the task force no later than August 1, 1999. At its first meeting, the task force shall select a chair from among its legislative members.

4. Duties. The task force shall conduct a study of the State's E-911 system to assess the use of the E-911 system throughout the State. The study must include a complete analysis on the progress of implementation of the system, including the percentage of the state currently utilizing the system, and must address any difficulties encountered by municipalities in using the system. The task force may also address other issues that are relevant to the E-911 system.

5. Staffing. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the task force.

6. Compensation. Members of the task force who are Legislators are entitled to receive the legislative per diem and expenses, as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at meetings of the task force. The members of the task force who are neither employees of the State nor Legislators are entitled to a per diem and expenses equal to the legislative per diem and expenses.

7. Report. The task force shall submit its findings, together with any recommendations, including legislation, to the Joint Standing Committee on Utilities and Energy by January 15, 2000.

READ.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by same Senator to **PASS**.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

H.P. 951 L.D. 1349

Reported that the same **Ought to Pass**.

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin

Representatives:

QUINT of Portland
FULLER of Manchester
LOVETT of Scarborough
WILLIAMS of Orono
KANE of Saco

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

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

SNOWE-MELLO of Poland
BRAGDON of Bangor
BROOKS of Winterport
DUGAY of Cherryfield
SHIELDS of Auburn

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

Reports **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence.

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit Sale of Tobacco from Vending Machines"

S.P. 14 L.D. 10

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

Signed:

Senators:

BERUBE of Androscoggin
MITCHELL of Penobscot

Representatives:

SHIELDS of Auburn
BROOKS of Winterport
DUGAY of Cherryfield
WILLIAMS of Orono
LOVETT of Scarborough
BRAGDON of Bangor
SNOWE-MELLO of Poland

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

Signed:

Senator:

PARADIS of Aroostook

Representatives:

KANE of Saco
FULLER of Manchester
QUINT of Portland

Reports **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil"

S.P. 203 L.D. 592

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-29)**.

Signed:

Senators:

PENDLETON of Cumberland
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
McDONOUGH of Portland
TWOMEY of Biddeford
BUMPS of China
JODREY of Bethel
RICHARDSON of Greenville
GERRY of Auburn

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

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

KASPRZAK of Newport
RINES of Wiscasset

Reports **READ**.

Senator **PINGREE** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

SECOND READERS

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

Senate

Bill "An Act to Amend the Law regarding Reportable Motor Vehicle Accidents"

S.P. 123 L.D. 320

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

Sent down for concurrence.

Bill "An Act to Change the Percent of Gross Sales of Tri-State Lotto That May Be Paid Out As Prizes"

S.P. 373 L.D. 1074

READ A SECOND TIME.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**.

Senate As Amended

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Timing of Elections Following the Submission of a Petition for People's Veto

S.P. 52 L.D. 122
(C "A" S-24)

Bill "An Act to Amend the Beano and Games of Chance Statutes"

S.P. 61 L.D. 131
(C "A" S-25)

Bill "An Act to Allow the State's Laboratory Certification Program to be Consistent with National Environmental Laboratory Accreditation Program Standards"

An Act Regarding General Assistance

H.P. 179 L.D. 257
(C "A" H-45)

S.P. 263 L.D. 758
(C "A" S-23)

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

Sent down for concurrence.

ENACTORS

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

Emergency Measure

An Act to Delay Implementation of a Separate Community Rate for Individuals Eligible for Medicare

H.P. 23 L.D. 33
(C "A" H-36)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Mandate

An Act to Extend the Management Plan Requirement for Forest Owners under the Maine Tree Growth Tax Law

H.P. 647 L.D. 897
(S "A" S-26 to C "A" H-61)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, with 2 Senators being absent, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act to Require Auctions for Confiscated Firearms

H.P. 86 L.D. 99
(C "A" H-39)

An Act to Release Estate Tax Liens on Certain Real Estate

H.P. 161 L.D. 223
(H "A" H-54)

An Act to Clarify the Membership of the Somerset County Budget Committee

H.P. 416 L.D. 558

An Act to Clarify the Duty of Insurance Agencies to Keep Records

H.P. 438 L.D. 601
(C "A" H-46)

An Act to Rename the Harassment Based on Characteristic Law

H.P. 582 L.D. 822

An Act to Repeal the Authorization of Lucerne-in-Maine Village Corporation to Construct Dams and Fishways

H.P. 717 L.D. 1007

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act to Establish the Endowment Incentive Fund

H.P. 77 L.D. 90
(C "A" H-47)

On motion by of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Increase the Amount of State Contribution to Out-of-district Placements

S.P. 96 L.D. 235
(C "A" S-21)

On motion by of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

On motion by Senator **LIBBY** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/23/99) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require Legislative Approval to Lease Land to the Federal Government"
H.P. 275 L.D. 383

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-35)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - March 23, 1999, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 18, 1999, Bill and Accompanying Papers **RULED NOT PROPERLY BEFORE THE BODY.**)

(In Senate, March 23, 1999, Reports **READ.**)

Senator **PINGREE** of Knox posed a parliamentary inquiry as to whether the Bill was **PROPERLY BEFORE THE BODY.**

TABLED pending **RULING OF THE CHAIR.**

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

H.P. 951 L.D. 1349

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

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

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

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

(In House, March 23, 1999, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**)

(In Senate, March 24, 1999, Reports **READ.**)

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

Senator **HARRIMAN:** Thank you Mr. President. Good afternoon ladies and gentlemen of the Senate. I noticed in the Ought to Pass Report that there are several pieces of so-called smoking debate. I'm wondering if someone could answer for me why this was not included in the Report before us.

More specifically Mr. President, I've come to understand that this legislation has evolved over time from one of rights of smokers to one of work place safety. Certainly we all can embrace the need for our work places in Maine to be as safe as they possibly can be. So I'm wondering if someone can explain to me why the legislation that we're being asked to vote on today does not take into account the fact that Maine citizens in the work place working in taverns and lounges, are not included in this Report. It seems to me that if we are going to take a firm strong stand on work place safety, and second hand smoke is one of those areas that we need to pay particular attention to, then why are we discriminating against people who work for employers who operate taverns and lounges. Thank you Mr. President.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President. Men and women of the Chamber, it's a very easy question to answer. We have been working on these issues incrementally. We do as much as we can, when we can do it. We did not think that a Bill that would ban smoking in taverns would pass. So we are taking a half of loaf instead of the full loaf.

If I may continue Mr. President, the testimony in front of us, we had dozens and dozens of people coming in to testify for the ban, many, many of the individuals this year in addition to all the health care professionals that took the time out of their day to come, were the employees themselves. One of the big issues that we absolutely are dealing with is the fact that I know that many of them are going to be looking at workers' comp. They were told by some of our Committee members that they should go find another job if they don't like the circumstances that they are working under. They took umbrage at that, they said, this is their profession, they had chosen this career. They just were trying to mitigate at this point, being forced to inhale a class A carcinogen.

We need not lose the big picture here. The numbers are overwhelming. We have 39% of our high school students and there are a lot of younger students who are smoking. We have 13% of our young males chewing smokeless tobacco. The children who are exposed to second hand smoke in the home is 79,000. Many, many times in our Health and Human Services Committee we freely feel we're a status quo Committee, because we have been 30% of the budget of this whole State of Maine. We have really diligently tried to change that reality.

The bills from our very ill cancer patients are rolling in and we're paying that. In addition to that, because they are so completely disabled, the taxpayers have to pick up their whole living expense. Let's not lose the big picture of this. If there are issues, we're going to continue working on the issues. I urge you, my colleagues, to support this ban. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, in brief supplemental response to the good Senator's inquiry, it seems to me that the Bill that lies before the Chamber at this time makes a very sensible and appropriate line. In that it would prohibit smoking in public areas where children are permitted entry and where children are permitted to work.

The distinction between restaurants and class A restaurants included on the one hand and taverns and bars on the other, is that people under age are freely permitted both to work and to patronize the places which we propose to ban in the Bill that lies before you. Thank you.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I thank my good friends from Aroostook, Senator Paradis and from Somerset, Senator Mills for their helpful explanations. I think what I've heard today, men and women of the Senate, is that this is a journey of a thousand miles and there's a few more steps to take. We will address the issue of smoking in the work place in taverns and lounges, presumably at another time.

I hope you will keep an open mind if this Report Passes, as I suspect it will, that we can come back and have the courage to visit these issues now, because if this is a work place safety issue than we have the opportunity before us to fix it. I hope you'll join me in doing that. Thank you Mr. President.

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

Senator **MITCHELL:** Thank you Mr. President. I do rise to answer again, Senator Harriman's question and concern. I think that it's only appropriate that when the vote in the Committee was 7 to 6 that I explain to our good Senators in our congressing here the reason it was so close was not because any of us were against reducing the number of people that smoked. Six people who voted against the ban were all in favor of changing the behavior and working diligently and putting money into eliminating the number of people that smoke in our state. What we were opposed to was the unfairness of the way the Bill was written, which addresses Senator Harriman's concerns.

What are we doing to the businesses there is a conflict in the law. It is not clear as to what fair competition would be in the arena. This is why we were trying to address Amendments or have a Study Group, with representatives from the City of Portland, who have observed the local option of putting a law into effect, which is working with the businesses that have both restaurants and bars and addresses the many Bills that allow smoking in taverns and closes the doors at 5:00 pm to minors and allows smoking and food to be served for their smoking environment.

We were encouraged, perhaps, to have a study to look at people from both restaurants who have smoking and restaurants who don't have smoking. Also some of the general public as well as representatives from the towns and municipalities that have already implemented laws to ban smoking. To look at which is better, do we want this state again put on regulation or

overcoming what the towns and cities have already made an effort to accomplish? Do we want to continue to hold the position of being the number one state in this Nation for our legislation on regulating health services? So I do feel that health care is very important, and we have many Bills this Session, that we're working very diligently, to improve our state. I do feel that there is a concern for business. However, we're not addressing it at this time. Thank you.

The Chair ordered a Division. 26 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

READ ONCE.

TOMORROW ASSIGNED FOR SECOND READING.

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit Sale of Tobacco from Vending Machines"

S.P. 14 L.D. 10

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

Minority - **Ought to Pass** (4 members)

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report.

(In Senate, March 24, 1999, Reports **READ**.)

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

Senator **MITCHELL:** Thank you Mr. President. I would ask you to join me and members of the Senate to vote against this Bill, so that we can then vote for the Majority Report. The reason being that in our Committee, as you can see from the vote in Committee, the majority of the people were very understanding to the fact that vending machines actually keep children from stealing cigarettes off counters. They have to have money to put them into the machines. The current law already specifies that vending machines must be in a supervised location and they are posted that minors are restricted from purchasing cigarettes from those vending machines.

We had testimony from owners of vending machine companies and from many small businesses that would be greatly hurt by us putting this Bill through and eliminating the sale of cigarettes through vending machines.

It's an effort for us to micro manage business and for us to put our hands into the decision making of businesses when they elect to have vending machines. It's probably more profitable for them than having people man the counters and selling the

cigarettes over the counters in certain situations. It also monitors the sales and it does give a profit margin of a great degree to small businesses who decree most of their profits are from either cigarettes or alcohol. I would encourage you to join me in voting against this motion at this time, so that we can vote for the Majority Report.

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

Senator **PARADIS:** Thank you Mr. President. Men and women of the Senate, again this was one way that we're trying to get to teen smokers. We know that most adults started smoking when they were teens. A Minnesota study showed us that 79% of the time young people were able to access cigarettes from machines.

When someone gets a vending machine it's a one time license. We have said that the vending machine should be in an area that is supervised. That is not always possible. Young people can come into these establishments where these machines are with adults. There are children accessing cigarettes in vending machines. That was the message that the Committee was sending. That is another loop hole where children can get their hands on cigarettes. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, I've been asking what the situation is in regard to vending machines. How many there are, and what sort of presence they have in this state. My understanding is there are 460 machines that are licensed. They may not all be in service, so the number may actually be considerably smaller than 460. I would suggest on the basis of those figures that this is not an issue that has a very large economic impact.

My understanding is that the businesses that do sell these products also sell many other products through vending machines. It's not an exclusive line for any one business.

The question that I have always asked when this issue has come up is if it is a requirement that a vending machine be located only in a place that an adult is near by. Typically someone tending the bar or otherwise servicing the area. What could possibly be the harm in requiring that the same cigarettes be sold by that person? Why not create a situation where there is a need for an in-person sale? Why not put the cigarettes behind the bar? Let the bartender sell them and make change. Do it that way rather than have a machine in some remote corner that may be within sight of the bartender, but not in a place where it would be free from use by minors. That's the point. I urge you to support the pending motion. Thank you.

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

Senator **BERUBE:** Thank you Mr. President and ladies and gentlemen of this Chamber. Banning smoking in an eating

establishment is a little different than the Bill that confronts us right now. I supported the other one wholeheartedly because in my view it protects the smoker, as well as the nonsmoker. But when it comes to banning the product in the vending machine your infringing once again on the ownership of a business. Your telling them how to run their business. I don't think that's free enterprise.

If we want to be really honest and we don't want to have the sale of tobacco in vending machines or on store displays which will be coming up again, let's be honest and ban the import of tobacco in our state totally. We don't want to be that honest because we would also lose a little bit of the tax revenues that we expend elsewhere. So my main reason was that it was once again stepping on the rights of businesses to run their own affairs. That's the reason I supported the Majority Report. Thank you.

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

Senator **DOUGLASS:** Mr. President, I rise in support of the motion to Pass this prohibition, selling tobacco from vending machines. I just returned from a seminar at which all 50 states were represented by their legislatures, a seminar on health. I was very sorry to once again hear that Maine has one of the highest rates of tobacco use among its adults. And, it has one of the highest rates of tobacco use among its children and its adolescents. This is the period of time in which people become addicted to the dangerous drug nicotine. We must protect our children from the harms of that drug and require that an adult be present whenever sales of tobacco are made. The idea that cigarettes should be sold in vending machines probably comes from that era when men and women were given cigarettes in the armed forces and various other individuals. There was a time when everyone in society thought it was no big deal to smoke. We now know better. It's time for us to make sure that we act in conformity with that knowledge. I urge you to ban the sale of tobacco from vending machines.

The Chair ordered a Division. 14 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Minority **OUGHT TO PASS** Report, **FAILED**.

Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Off Record Remarks

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

NOMINATION - of John M. Joseph, Jr. of Hallowell, for appointment to the Maine Milk Commission.

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**.

(In Senate, March 24, 1999, Communication (S.C. 147) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 119th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#42)

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, SMALL, TREAT, PINGREE, THE PRESIDENT - MARK W. LAWRENCE

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **John M. Joseph, Jr.** of Hallowell, for appointment to the Maine Milk Commission. was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil"
S.P. 203 L.D. 592

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-29)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - March 24, 1999, by Senator **PINGREE** of Knox

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, March 24, 1999, Reports **READ**.)

On motion by Senator **PINGREE** of Knox, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

On motion by Senator **GOLDTHWAIT** of Hancock, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **GOLDTHWAIT:** Thank you Mr. President and men and ladies of the Chamber. This may seem like a non earth shaking item, one for which I apologize taking a bit of your time considering the Report out of the Committee. But I simply do want to make a few comments about this Bill and explain my support for the Minority Report, which is the Ought Not to Pass Report. This is a Bill that was considered in the last Session and the arguments made at that time against it were compelling enough that the Bill was defeated at that point. This is a reintroduction of the same issue. The arguments were based on the fact that this soil is not universal to the state of Maine. It exists in about 8 counties. There is none of it to the east and in the northern portion of the state. Again, that is not necessarily an issue on which to oppose this legislation. However, it is a sufficient one from my point of view.

I would urge you to consider the impact and the potential fall out, if you will, in which we have designated something that is not common to our whole state. This has been the source of great debate on other issues regarding everything from herbs to dances. I would respectfully request your consideration of the Minority Report, which would mean that you were voting against the pending motion. Thank you.

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

Senator **PENDLETON:** Thank you Mr. President. All due respect to my colleague, the good Senator from Hancock, Senator Goldthwait. We do agree on most issues, but on this one we do seem to part in different directions, so to speak. The reason it does seem frivolous, and it does seem kind of strange that we would involve ourselves in naming a specific soil, but the information that was brought before our Committee was quite interesting. There are 47 States that have a designated soil. The interesting thing is if we designate a particular soil it allows for education, in regards to suitable agriculture, wet land management, forest sustainability, even septic systems. It seems to me that perhaps this is the first step in educating young people, and our populous in general, how important soil is and that Maine does have a soil. There is no soil that is specific to all the counties. This soil is a good soil for growing things and it's also a good soil for building on. So I just hope that you will go with the Majority Ought to Pass Report. Thank you.

The President requested the Sergeant-At-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President retired from the Chamber.

The Senate called to order by President Pro Tem **CHELLIE PINGREE** of Knox County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Madame President. Ladies and gentlemen of the Senate, when this Bill was before us last time, I spoke against it then, and I guess that I will speak against it today. I thought about preparing an Amendment for it but I didn't want to waste the taxpayers dollars in so doing.

If we're going to have a State Soil what about a State Water? How are we going to select a State Water? Are we going to use ocean water, or river water, or bog water, or swamp water, or what are we going to do? The only water that I know of that's probably prevailing in all 16 counties, if that's what we're looking for, is probably polluted water. So maybe we ought to make that our State Water. Then we could mix the two together and make State Mud Pies I suppose. Then we could file them in our school systems across the state to demonstrate how we in the Legislature waste our time.

I just don't believe these are the kind of things that we should be acting on here in State Government. Thank you Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART:** Thank you Madame President. Madame President and men and women of the Senate, I rise today to ask you to vote in favor of this small Bill. The Chesuncook Soil Series was chosen through a statewide survey and voting process conducted several years ago, among the state soil scientists and other professionals and the soil and water conservationists. It was overwhelmingly picked. I don't want to waste the time of the Senate either. I think this is very important to the people who chose this soil. This soil is the most prevalent in the state, it's present in 9 counties including covering over half the land area and the Northern most counties including; Aroostook, Penobscot, Washington, Piscataquis, Somerset, and Franklin and it's present in other Maine counties as well.

It's strongly supported by the Director of the Northern Maine Museum of Science, which is located in Presque Isle, as well as letters that I've had from soil conservationists and soil scientists both State and Federal and private from around the state. I won't take anymore of your time to urge you to support this. I think it's very important to those people and it would be a good educational tool. Thank you Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Madame President. May it please the Senate, Senator Pendleton, the good Senator from Cumberland, entered the magic words on the record as far as I'm concerned when she said septic system. Then Senator Goldthwait, the Senator from Hancock said this isn't an earth shaking item. It is an earth shaking item as far as I am concerned

and that's why I will be voting against the pending motion. I want to share with you why this is to me an earth shaking matter. When Judy and I bought our property in Sandy River, north of Farmington, we hired a soil scientist to put together our septic system. They did the testing and came to us and said, boy are you guys lucky about the soil that you have on your property. I said what do you mean? He said well you have what is called Bangor Silt Loam as your property soil. I said is that good? He said it sure is, you're a lucky dog to have that soil. I asked why? Without that soil, that Bangor Silt Loam, you couldn't have a conventional septic system on your property. I said is that good. He said it sure is. I asked why. Well he said you won't have to elevate your leach field, and you won't have to put a pump in your distribution box. I said is that good? He said it sure is. I asked why. He said money, it's going to save you a lot of money having Bangor Silt Loam on your property. Don't ask me ladies and gentlemen of this Chamber to vote for Chesuncook Soil, under those circumstances, because I can't do it.

The thing that I really object to about this Bill is that, by large things that are State things, a State Flower, a State Bird, by and large they are things that permeate the entire state. The Chickadee, we have them by the hundreds and by the thousands all over the state, it's the State Bird. The pine cone tassel is our State Flower. They are found across the state. I don't have any Chesuncook Soil on my property, quite likely in Sandy River Plantation where I live we don't have a grain of it. I refuse to vote for it for that reason. Thank you Madame President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you Madame President. Ladies and gentlemen of the Senate, I have to confess here this afternoon that personally, I'm an Agi Loam, Silt Loam person myself. We have quite a few acres of it. But seriously, I've received calls from educators on this issue, at all levels in Maine. From University systems, from a local high school and from local elementary school teachers that feel that if we pick this particular soil it will help to raise awareness of school children that certain things don't move very fast in soil. One of them being animal nutrients. Other things in soil like MTBE does move very fast. As far as which soil it should be, this has been chosen by the State Soil Scientist. I'm willing to go along with that. I just feel this will help to raise awareness in our school systems as to what our common properties are in soil. More and more kids today, let's face it, don't have a clue about it. So I am going to be voting for the pending motion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Madam President. I too received some calls over the weekend. Two of them were from soil scientists and I asked a very simple question. How wide spread is this soil? Both of them had to answer that it is limited to Western Maine. Thank you Madame President.

The Chair ordered a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#43)

YEAS: Senators: BENNETT, BERUBE, CATHCART, DAGGETT, DAVIS, DOUGLASS, KILKELLY, LAFOUNTAIN, MICHAUD, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, TREAT, THE PRESIDENT PRO TEM - CHELLIE PINGREE

NAYS: Senators: ABROMSON, AMERO, BENOIT, CAREY, CASSIDY, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LIBBY, LONGLEY, MACKINNON, MILLS, SMALL

ABSENT: Senators: KONTOS, LAWRENCE

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PINGREE** of Knox to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-29)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-29) **READ** and **ADOPTED.**

TOMORROW ASSIGNED FOR SECOND READING.

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

Bill "An Act to Allow A Municipal Officer to Accept Forfeited Assets to Expedite the Administration of Drug Case Prosecution" H.P. 1398 L.D. 2003

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **REFERENCE.**

(Committee on **JUDICIARY** suggested and ordered printed.)

(In House, March 23, 1999, **REFERRED** to the Committee on **CRIMINAL JUSTICE.**)

REFERRED to the Committee on **JUDICIARY**, in **NON-CONCURRENCE.**

On motion by Senator **MURRAY** of Penobscot, the Senate **RECONSIDERED** whereby the Bill was **REFERRED** to the Committee on **JUDICIARY** in **NON-CONCURRENCE..**

On further motion by same Senator, **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE
AMENDMENT "A" (S-30).**

Sent down for concurrence.

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

Bill "An Act to Amend the Laws Regarding Asset Forfeiture"
H.P. 1406 L.D. 2011

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**.

(Committee on **JUDICIARY** suggested and ordered printed.)

(In House, March 23, 1999, **REFERRED** to the Committee on **CRIMINAL JUSTICE**.)

REFERRED to the Committee on **CRIMINAL JUSTICE** and ordered printed, in concurrence.

Off Record Remarks

Senator **DAGGETT** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator **BENOIT** of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **RAND** of Cumberland, **ADJOURNED**, until Thursday, March 25, 1999, at 10:00 in the morning.

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

Bill "An Act to Require Economic and Taking Impact Analyses to Protect Individual Rights"
H.P. 1383 L.D. 1990

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **REFERENCE**.

(Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.)

(In House, March 23, 1999, **REFERRED** to the Committee on **JUDICIARY**.)

REFERRED to the Committee on **JUDICIARY** and ordered printed, in concurrence.

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

Bill "An Act to Change the Percent of Gross Sales of Tri-State Lotto That May Be Paid Out As Prizes"
S.P. 373 L.D. 1074

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **PASSAGE TO BE ENGROSSED**.

(In Senate, March 24, 1999, **READ A SECOND TIME**.)

On motion by Senator **DAGGETT** of Kennebec, Senate Amendment "A" (S-30) **READ** and **ADOPTED**.