

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume I

First Regular Session

December 2, 1998 – May 12, 1999

ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
27th Legislative Day
Thursday, March 18, 1999

The House met according to adjournment and was called to order by the Speaker.

Prayer by Pastor Keith Murray, First Baptist Church, Cherryfield.

National Anthem by Catherine McAuley High School Band and Chorus, Portland.

Pledge of Allegiance.

Doctor of the day, Dr. Paul Dumdey, M.D., Woolwich.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 650)

**JOINT RESOLUTION MEMORIALIZING THE
CONGRESS OF THE UNITED STATES TO INCREASE
INTERSTATE TRUCK WEIGHT LIMITS**

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 issue of interstate truck weight limits is of great concern for a number of reasons; and

WHEREAS, economic development interests in northern and central Maine are increasingly frustrated at their loss of transportation productivity due to the disparity in weight limits between the state highways and the Interstate Highway System; and

WHEREAS, this disparity has resulted in the diversion of heavy through trucks from the Interstate Highway System to more congested State highways, raising safety concerns in the Legislature and in municipal groups. A fatal crash on Route 9 in Dixmont and a fuel truck crash in Augusta have further raised concern; and

WHEREAS, an increase in the interstate gross vehicle weight limit for 6-axle combination vehicles, from 80,000 pounds to between 90,000 and 95,000 pounds, is supported by an engineering review that was recently conducted by the Maine Department of Transportation; and

WHEREAS, a recommendation to increase interstate weight limits is also supported by the Maine State Police, the Maine Department of Economic and Community Development, the Maine Turnpike Authority, the Maine Better Transportation Association, the Maine Chamber and Business Alliance and the Maine Motor Transportation Association; now, therefore, be it

RESOLVED: That We, your Memorialists, request that the President of the United States and the United States Congress amend federal law to increase the interstate gross vehicle weight limits for 6-axle combination vehicles to between 90,000 and 95,000 pounds and maintain the current freeze on longer combination vehicles; 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 and each member of the Maine Congressional Delegation.

Came from the Senate, **READ and ADOPTED.**

READ and ADOPTED in concurrence.

Bill "An Act to Authorize a General Fund Bond Issue for Repairs, Renovations and Additions to Public Schools"

(S.P. 678) (L.D. 1928)

Came from the Senate, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

Bill "An Act to Protect Beneficiaries of Structured Settlements"

(S.P. 680) (L.D. 1930)

Came from the Senate, **REFERRED** to the Committee on **BANKING AND INSURANCE** and ordered printed.

REFERRED to the Committee on **BANKING AND INSURANCE** in concurrence.

Bill "An Act to Amend the Franchise Law"

(S.P. 681) (L.D. 1931)

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

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in concurrence.

Bill "An Act to Deter Environmental Terrorism in the State"

(S.P. 675) (L.D. 1925)

Came from the Senate, **REFERRED** to the Committee on **CRIMINAL JUSTICE** and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE** in concurrence.

Resolve, to Establish Maine's Business Advisory Committee on Prescription Drug Costs and Efficiencies (EMERGENCY)

(S.P. 676) (L.D. 1926)

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Bill "An Act to Ensure that an Eligible Work Force is Promptly Certified for Trade Act Assistance and Has Full Access to Training and Education Services as Provided by Law"

(S.P. 677) (L.D. 1927)

Came from the Senate, **REFERRED** to the Committee on **LABOR** and ordered printed.

REFERRED to the Committee on **LABOR** in concurrence.

Bill "An Act to Create the Beano and Games of Chance Commission"

(S.P. 682) (L.D. 1932)

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

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

Bill "An Act Concerning Damage to Lands and Natural Resources Caused by Natural Gas Pipelines"

(S.P. 679) (L.D. 1929)

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** in concurrence.

**Pursuant to Public Law
Land and Water Resources Council**

Report of the **Land and Water Resources Council** pursuant to Public Law 1997, chapter 722 asks leave to report that the accompanying Bill "An Act to Reduce Mercury in Products"

(S.P. 674) (L.D. 1924)

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

Came from the Senate, Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** in concurrence.

Non-Concurrent Matter

Bill "An Act to Change the Charter of the Eastport Port Authority" (EMERGENCY)

(H.P. 1306) (L.D. 1870)

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in the House on March 16, 1999.

Came from the Senate **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Prohibit the Scalping of Entertainment Tickets"

(H.P. 1318) (L.D. 1901)

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in the House on March 16, 1999.

Came from the Senate **REFERRED** to the Committee in **LEGAL AND VETERANS AFFAIRS** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Establish as an Employee Any Person Who Collects Signatures on Petitions for Direct Initiative or People's Veto Legislation for Any Person, Firm or Organization that Contracts, Subcontracts or Agrees to Collect the Signatures for Anything of Value"

(H.P. 1325) (L.D. 1908)

REFERRED to the Committee on **LABOR** in the House on March 16, 1999.

Came from the Senate **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in **NON-CONCURRENCE**.

On motion of Representative HATCH of Skowhegan, the House voted to **ADHERE**.

COMMUNICATIONS

The Following Communication: (S.C. 113)

**SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 10, 1999

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby Joint Order (H.P. 921) establishing the Commission to Study the Statewide Redemption of Returnable Containers was referred to the Committee on Natural Resources in non-concurrence.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolves were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent for concurrence:

BANKING AND INSURANCE

Bill "An Act to Categorize Pervasive Developmental Disorder as a Neurological Disorder rather than a Mental Illness under the Insurance Laws"

(H.P. 1354) (L.D. 1954)

Presented by Representative MacDOUGALL of North Berwick.

Cosponsored by Representatives: BROOKS of Winterport, SNOWE-MELLO of Poland, Senator: PARADIS of Aroostook.

BUSINESS AND ECONOMIC DEVELOPMENT

Bill "An Act Relating to Unfair Competition Between Nonprofit Organizations and Small Businesses"

(H.P. 1348) (L.D. 1948)

Presented by Representative TRIPP of Topsham. (BY REQUEST)

CRIMINAL JUSTICE

Bill "An Act to Establish the Crime of Assault Against Sports Officials"

(H.P. 1344) (L.D. 1944)

Presented by Representative MacDOUGALL of North Berwick.

Cosponsored by Senator MacKINNON of York and Representatives: BOWLES of Sanford, DAVIS of Falmouth, GOODWIN of Pembroke, MATTHEWS of Winslow, TREADWELL of Carmel, WHEELER of Eliot.

EDUCATION AND CULTURAL AFFAIRS

Bill "An Act to Provide for Safe and Orderly Schools"
(H.P. 1346) (L.D. 1946)

Presented by Representative RICHARDSON of Brunswick.
Cosponsored by Representatives: BERRY of Livermore, BRYANT of Dixfield, POVICH of Ellsworth, SAVAGE of Buxton, Senator: HARRIMAN of Cumberland.

Resolve, to Establish the Task Force to Study the Funding of and to Develop an Improved Decision-making Process for the Residential Treatment of Youth with Mental Health Issues
(H.P. 1351) (L.D. 1951)

Presented by Representative McKEE of Wayne.
Cosponsored by Senator NUTTING of Androscoggin.

HEALTH AND HUMAN SERVICES

Bill "An Act to Ensure Access to Prescription Drugs for the Elderly"
(H.P. 1347) (L.D. 1947)

Presented by Representative SAXL of Portland.
Cosponsored by Representatives: GAGNON of Waterville, KANE of Saco, LEMONT of Kittery, NORBERT of Portland, QUINT of Portland, Senator: RUHLIN of Penobscot.

Bill "An Act to Change the Membership of the Medicaid Advisory Committee and the Board of Directors of the Maine Health Data Organization"
(H.P. 1350) (L.D. 1950)

Presented by Representative BRUNO of Raymond.
Cosponsored by Representatives: BOWLES of Sanford, NUTTING of Oakland, SHOREY of Calais, Senator: MacKINNON of York.

Bill "An Act to Simplify the Process of Determining the Eligibility of Homeless Persons for General Assistance"
(H.P. 1352) (L.D. 1952)

Presented by Representative KANE of Saco.
Cosponsored by Representatives: GAGNON of Waterville, O'NEIL of Saco, QUINT of Portland, SULLIVAN of Biddeford, TWOMEY of Biddeford.

Bill "An Act Regarding Youth Residence Laws"
(H.P. 1356) (L.D. 1955)

Presented by Representative BOLDUC of Auburn.
Cosponsored by Representative MENDROS of Lewiston, Senator BERUBE of Androscoggin and Representatives: CHIZMAR of Lisbon, DUDLEY of Portland, DUGAY of Cherryfield, JACOBS of Turner, ROWE of Portland, SAMSON of Jay, TESSIER of Fairfield, WILLIAMS of Orono.

JUDICIARY

Bill "An Act to Require a Waiting Period After the Completion of Certain Forensic Evaluations"
(H.P. 1349) (L.D. 1949)

Presented by Representative MacDOUGALL of North Berwick.

Cosponsored by Senator MacKINNON of York and Representatives: BROOKS of Winterport, SNOWE-MELLO of Poland, Senator: PARADIS of Aroostook.

LABOR

Resolve, to Require the Workers' Compensation Board to Reverse Its Decision and Find in Favor of Richard N. Pushard, Sr.
(H.P. 1342) (L.D. 1942)

Presented by Representative O'BRIEN of Augusta. (BY REQUEST)

Cosponsored by Senator DAGGETT of Kennebec and Representative: COWGER of Hallowell.

Bill "An Act to Ensure that Workers Are Informed about Their Employers' Cancellation of Workers' Compensation Insurance"
(H.P. 1343) (L.D. 1943)

Presented by Representative WHEELER of Bridgewater.
Cosponsored by Senator O'GARA of Cumberland and Representatives: AHEARNE of Madawaska, CLARK of Millinocket, MacDOUGALL of North Berwick, McALEVEY of Waterboro, O'NEAL of Limestone, SHERMAN of Hodgdon, TRACY of Rome, TREADWELL of Carmel.

LEGAL AND VETERANS AFFAIRS

Resolve, Authorizing the Family of Adam Wilson to Sue the Town of Rockport
(H.P. 1345) (L.D. 1945)

Presented by Representative SAVAGE of Union.

TAXATION

Bill "An Act to Fully Fund Primary and Secondary Education in the State"
(H.P. 1353) (L.D. 1953)

Presented by Representative VOLENIK of Brooklin.
Cosponsored by Representatives: BAGLEY of Machias, CHIZMAR of Lisbon, DUDLEY of Portland, GAGNE of Buckfield, LORING of the Penobscot Nation, PIEH of Bremen, QUINT of Portland.

ORDERS

On motion of Representative MAYO of Bath, the following Joint Resolution: (H.P. 1355) (Cosponsored by Senator SMALL of Sagadahoc and Representatives: DAVIDSON of Brunswick, ETNIER of Harpswell, PEAVEY of Woolwich, RICHARDSON of Brunswick, RINES of Wiscasset, SCHNEIDER of Durham, TRIPP of Topsham, Senator: KILKELLY of Lincoln) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE SECRETARY OF THE NAVY AND THE SECRETARY OF DEFENSE TO NAME A SHIP IN HONOR OF THE CITY OF BATH

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 Secretary of the Navy, the Honorable Richard Danzig and the Secretary of Defense, the Honorable William Cohen as follows:

WHEREAS, the Bath Iron Works Corporation is currently developing and constructing the United States Navy's newest surface combatant, along with the Avondale Shipyard in Louisiana; and

WHEREAS, the 3rd ship to be constructed and launched at the Bath Iron Works Corporation facility in the City of Bath, Maine is identified as LPD 19; and

WHEREAS, the Bath Iron Works Corporation is now in its 115th year of constructing and launching superior quality ships on the shores of the Kennebec River in the City of Bath; and

WHEREAS, the City of Bath has an international reputation for its shipbuilding heritage and shipbuilding activity, which is exemplary of the maritime legacy of the State of Maine; and

WHEREAS, the maritime heritage of the City of Bath is intrinsically linked to the history of the city itself because the success and growth of the city is so closely intertwined with the shipbuilding industry; and

WHEREAS, it would be entirely appropriate and fitting to honor the maritime history and heritage of the City of Bath by naming LPD 19 the U.S.S. Bath; now, therefore, be it

RESOLVED: That We, your Memorialists, request that LPD 19 be named the U.S.S. Bath after the City of Bath, Maine, where it was built, in order to properly honor that city for its role in the shipbuilding industry of the State and for its role in the shipbuilding history of our great seafaring nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Richard Danzig, Secretary of the Navy; to the Honorable William Cohen, Secretary of Defense and to each Member of the Maine Congressional Delegation.

READ.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. The City of Bath has been building ships for over 350 years and, to date, we have never had a ship named after the City of Bath. That is the reason for this Joint Resolution memorializing the Secretary of the Navy and the Secretary of Defense. I would also remind you that the first wooden ship built in this country in 1607, in those days what we now consider to be a part of the lower end of the City of Bath. We have had a proud tradition of shipbuilding. I am honored to be involved in sending this forward to Washington. Thank you.

ADOPTED.

Sent for concurrence.

On motion of Representative SIROIS of Caribou, the following House Order: (H.O. 17)

ORDERED, that Representative William R. Cote of Lewiston be excused March 16th for legislative business.

AND BE IT FURTHER ORDERED, that Representative Roger D. Frechette of Biddeford be excused March 16th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Pamela Henderson Hatch of Skowhegan be excused March 16th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Glenys P. Lovett of Scarborough be excused February 25th, March 2nd, March 3rd, March 4th, March 9th, March 10th, and March 11th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David R. Madore of Augusta be excused March 11th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Kathleen A. Stevens of Orono be excused March 9th, March 10th and March 11th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Carol Weston of Montville be excused March 9th for health reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

In Memory of:

Ret. Captain Stetson Parker Hills, U.S.N., a native son whose distinguished naval career spanned 3 decades. During that time, he was assigned to the Battleship Arkansas conveying troops across the North Atlantic to Europe, was a member of an air-sea rescue squadron, was a Professor of Naval Science and Tactics at Tufts College in Boston and served as the Officer in Charge of Ground School at NAAS Saufley Field in Pensacola, Florida. He retired in 1969 after serving in the Department of the Navy, Washington, D.C. Upon his retirement, he returned to Maine where he was a 3-term mayor of Belfast, a selectman for the Town of Searsport and a member of the Advisory Board of the Bangor Savings Bank. Captain Hills was also a Rotarian and a Mason. He will be greatly missed by his family and many friends;

(HLS 105)

Presented by Representative BERRY of Belmont. Cosponsored by Senator LONGLEY of Waldo, Representative LINDAHL of Northport, Representative WESTON of Montville.

On **OBJECTION** of Representative BERRY of Belmont, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. In one's lifetime many of us have the opportunity to walk with individuals and to work with individuals who have great impact upon all of us. Sted Hills was one of those people. He was appointed to the Naval Academy in June 1940 and his class was accelerated so that he could graduate in 1943. The reason for the acceleration, of course, is very clear to all of us, war. At that time he was assigned to the Battleship Arkansas and conveyed US troops and took part in the landing and the Normandy invasion. He returned to the United States aboard the Arkansas and was ordered to flight training school. He was designated in 1945 a Naval Aviator. He joined VHS1, the Air Sea Rescue Squadron based in Saipan. The next went to VP27, patrol squadron based in Hawaii and his next tour was as Professor of Naval Science and Tactics Tufts College in Boston, Massachusetts. At the start of the Korean War he was ordered to Fleet Air Wing Six in the Pacific. He was next assigned to the Anti-submarine Warfare School in San Diego as officer in charge of that school and of the Ground School at Saufley Field in Pensacola. He transitioned to the helicopter flight training and served in the helicopter squadrons three, nine and ten and finally returned to Squadron Nine as its commanding officer. After a tour of duty as its commander, his last two tours were in

Washington at the Naval Department. He retired in September, 1969.

He returned to serve the people of the State of Maine. That service involved, as mentioned before, serving as Mayor of Belfast, working as an active member in moving back to his home in Searsport. At that point working hard for the development of the dock system at Searsport. This person was a great friend and a wonderful individual serving both the Navy and this state very, very adequately. Thank you ladies and gentlemen.

ADOPTED and sent for concurrence.

In Memory of:

Nina Bitterauf, of Farmington, a graduate of Mt. Blue High School and a student at the University of Vermont, whose death has saddened family and friends. Miss Bitterauf was well-known for her skiing ability and had been instrumental in helping her high school ski team win 4 Class A State Championships;

(HLS 107)

Presented by Representative GOOLEY of Farmington. Cosponsored by Senator BENOIT of Franklin, Representative LaVERDIERE of Wilton, Representative McGLOCKLIN of Embden.

On **OBJECTION** of Representative GOOLEY of Farmington, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. The people of Maine lost a fine young person in January. Nina Bitterauf was an outstanding citizen, student and athlete and a senior at the University of Vermont. She was a member of the Mt. Blue Class A Girls Ski Team. They were Class A State Champions four times. Nina has skied at Sugarloaf on her last day. She was in a vehicle accident on the way home. She loved to ski. Each year we lose a number of young people and it is very, very sad. We sorely miss her and she will never be forgotten. Thank you very much.

ADOPTED and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Fixed Number of Signatures on Initiative Referenda Petitions

(S.P. 219) (L.D. 641)

Signed:
Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

CHIZMAR of Lisbon
MAYO of Bath
TUTTLE of Sanford
HEIDRICH of Oxford
McKENNEY of Cumberland
FISHER of Brewer

Minority Report of the same Committee reporting **Ought Not to Pass** on same RESOLUTION.

Signed:
Representatives:

LABRECQUE of Gorham
PERKINS of Penobscot
GAGNE of Buckfield

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED.**

READ.

Representative TUTTLE of Sanford moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(S.P. 283) (L.D. 801) Bill "An Act to Strengthen Marine Fisheries Conservation Protection" Committee on **MARINE RESOURCES** reporting **Ought to Pass**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

ENACTORS

Emergency Measure

An Act to Close Elver Fishing on the West Side of the Orland River

(H.P. 6) (L.D. 16)
(C. "A" H-62)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 139 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, to Name the Route 160 Bridge in Brownfield Spanning the Saco River the Charles E. Hill Bridge

(H.P. 551) (L.D. 772)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative JABAR of Waterville, **TABLED** pending **FINAL PASSAGE** and specially assigned for Tuesday, March 23, 1999.

**Resolve Pursuant to the Constitution
Public Land**

Resolve, Authorizing the Director of the Bureau of Parks and Land to Convey a Well and Waterline Easement

(S.P. 270) (L.D. 763)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provision of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Acts

- An Act to Designate Wintergreen as the State Herb
(H.P. 12) (L.D. 22)
 - An Act to Give the Probate Court Power to Order Child Support in Cases Involving Guardianship of a Minor
(S.P. 27) (L.D. 38)
(C. "A" S-19)
 - An Act to Make Corrections to the Laws Governing the County Jail Prisoner Support and Community Corrections Fund
(H.P. 113) (L.D. 144)
(C. "A" H-40)
 - An Act to Allow Review of Examination-related Issues in Executive Session
(H.P. 126) (L.D. 157)
(C. "A" H-25)
 - An Act to Allow Police Employees to Issue Temporary Permits to Operate Unregistered and Uninspected Vehicles
(H.P. 233) (L.D. 337)
(C. "A" H-42)
 - An Act to Increase the Amount of Income That a Resident of a Nursing or Residential Care Facility Who Receives Medicaid May Retain
(H.P. 265) (L.D. 369)
(C. "A" H-41)
 - An Act to Prohibit the Negotiation of Severance Pay Lower than the State Minimum
(S.P. 156) (L.D. 476)
(S. "A" S-17)
 - An Act to Exempt Free Clinics from Payment of Pharmaceutical Registration Fees
(S.P. 168) (L.D. 505)
(C. "A" S-20)
 - An Act to Provide Funding for the Beals Island Regional Shellfish Hatchery
(H.P. 579) (L.D. 819)
(C. "A" H-44)
 - An Act to Provide Farm Cooperatives More Flexibility in Establishing Officers and Using Titles for Various Officers
(H.P. 770) (L.D. 1093)
- Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

- Resolve, Directing a Study of the Needs of the Elderly Population with Mental Retardation
(H.P. 82) (L.D. 95)
(C. "A" H-38)
- Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Facilitate the Establishment of Trail Easements"

(H.P. 1340) (L.D. 1923)

(Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested)

TABLED - March 17, 1999 (Till Later Today) by Representative PIEH of Bremen.

PENDING - **REFERENCE.**

On motion of Representative PIEH of Bremen, the Bill was **REFERRED** to the Committee on **JUDICIARY**, ordered printed and sent for concurrence.

MATTER PENDING RULING

Bill "An Act to Require Legislative Approval to Lease Land to the Federal Government"

(H.P. 275) (L.D. 383)

TABLED - March 10, 1999 by Speaker ROWE of Portland.

PENDING - **RULING OF THE CHAIR.**

The SPEAKER: The Chair has considered the question of the Representative from Naples, Representative Thompson, as to the propriety of L.D. 383 under Rule 107 of the House Rules of the 119th Legislature.

L.D. 383 attempts to require the approval of two-thirds of the members of the House in order for the State to lease public lands to the federal government.

House Rule 107 states:

A member may question the appropriateness of a bill that attempts to establish proceedings of the House in statute. Such legislation may be ruled not properly before the House by the Speaker.

The Chair finds that L.D. 383 attempts to establish the proceedings of the House in statute and is thus not properly before the House.

House Rule 107 is based upon the Maine Constitution, Article IV, Part Third, Section 4, which reads in part, "Each House may determine the rules of its proceedings." As the Chair has said before, the working principle upon which the Chair must rely is provided by reading the constitutional phrase, "Each House may determine the rules of its own proceedings," in conjunction with the House's parliamentary manual, Mason's Manual of Legislative Procedure (1989 ed.) (hereinafter Mason's), at section 3, part 4. The principle may fairly be summarized:

Each house may determine:

- A. the rules of the proceedings of the body in ordinary legislative matters; and
- B. the propriety and effect of any action taken by the body in:
 1. the exercise of any power;
 2. the transaction of any business; or
 3. the performance of any duty conferred upon it by the constitution.

The rules of the proceedings of the House in ordinary legislative matters are implicated by L.D. 383 to the extent that it would require a two-thirds vote of approval from the House as a prerequisite for the leasing of State lands to the federal government.

Moreover, the House cannot by its own act require a two-thirds vote to take an action when the Maine Constitution requires only a majority vote. Mason's discusses two-thirds votes in section 512. The parts of section 512 relevant to this ruling are parts 6 and 10:

6. A deliberative body cannot by its own act or rule require a two-thirds vote to take any action where the constitution or controlling authority requires only a majority vote. To require a two-thirds vote, for example, to take any action would be to give to any number more than one-third of the members the power to defeat the action and amount to a delegation of the powers of the body to a minority.

10. Since it is a fundamental principle of parliamentary law that the deliberative will and judgment of the majority shall prevail in the decision of such questions as can properly come before the legislative body, the requirement of a two-thirds vote is exceptional. Such a vote is not required except in the particular cases in which it is prescribed by a controlling authority.

See also Mason's §51(6)

Mason's also provides at section 50, under the heading "Majority Control":

6. The power that establishes a public body can require the vote of more than a majority to take certain actions, but unless more than a majority vote is clearly required a majority vote can take any action which the body has the power to take.

The House is established by the Maine Constitution and, in its internal affairs, is constrained only by the Maine Constitution. Rules of the House, 119th Legislature preamble; See also Mason's §19(3) and §22(3). It is instructive to note that the Maine Constitution does require two-thirds approval for certain actions. For example, the Constitution requires two-thirds approval: to pass emergency measures, Me. Const. art. IV, pt. 3, §16; to impose state mandates on municipalities, Me. Const. art. IX, §21; to propose a general obligation bond issue question to the voters, Me. Const. art. IX, §14; to propose a constitutional amendment to the voters, Me. Const. art. X, §4; to call for a constitutional convention, Me. Const. art. IV, pt. 3, §15; to enact a reapportionment plan, Me. Const. art. IV, pt. 1, §3; and to override the governor's veto, Me. Const. art. IV, pt. 3, §2; among others.

The Chair is aware that the Maine Constitution does require at Article 9, Section 23:

State park land, public lots or other real estate held by the State for conservation or recreation purposes and designated by legislation implementing this section may not be reduced or its uses substantially altered except on the vote of two-thirds of all the members elected to each House. . .

The propriety of L.D. 383 under the Maine Constitution depends on the meaning of the phrase "[State land]. . . may not be reduced." Clearly, the State's interest in land is reduced when it grants leasehold interests to the federal government, though the size of the land is not reduced. The Secretary of State published a pamphlet entitled Maine Citizen's Guide to the

Referendum Election for November 2, 1993, the election at which the people of Maine adopted this Constitutional amendment. The official pamphlet includes a section called "Intent and Content" for the questions. It reads, in relevant part:

This proposed constitutional amendment would enable the Legislature to specify that certain parcels of land owned by the State for conservation or recreation purposes may not be reduced *in size* or substantially altered as to use without the prior approval of two-thirds of the members of each House.

Therefore, the Chair finds that the State transfer of leases falls outside the Constitutional provision requiring two-thirds votes to transfer other interests in land. To summarize, since L.D. 383 proposes to change from a majority to a supermajority the requisite vote necessary for the House to take an action, it attempts to establish the proceedings of the House in statute. It is therefore the ruling of the Chair that L.D. 383 is not properly before the House.

Subsequently, the Chair **RULED** the Bill was not properly before the body pursuant to House Rule 107.

The following item was taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 684)
ORDERED, the House concurring, that when the House stands Adjourned it does so until Tuesday, March 23, 1999 at 9 o'clock in the morning and when the Senate stands Adjourned it does so until Tuesday, March 23, 1999, at 10 o'clock in the morning.

Came from the Senate, **READ** and **PASSED**.
READ and **PASSED** in concurrence.

The following item was taken up out of order by unanimous consent:

ENACTORS

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)
 (C. "A" H-61)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 0 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

On motion of Representative BERRY of Belmont and Representative GOOLEY of Farmington, the House adjourned at 11:20 a.m., until 9:00 a.m., Tuesday, March 23, 1999 pursuant to the Joint Order (S.P. 684) and in honor and lasting tribute to Ret. Captain Stetson Parker Hills, U.S.N. and Nina Bitterauf of Farmington.