

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume II**

**May 26, 1977 to July 25, 1977**

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**Senate Confirmation Session  
September 16, 1977**

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House Amendments "A" thereto were Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Provide for no Smoking Areas in All State Offices." (H. P. 818) (L. D. 991)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-757).

Signed:

Representatives:

TRAFTON of Auburn  
NELSON of Portland  
BRENERMAN of Portland  
GOODWIN of South Berwick  
KANE of Augusta  
KERRY of Old Orchard Beach  
PRESCOTT of Hampden  
TYNDALE of Kennebunkport  
FOWLIE of Rockland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

SNOWE of Androscoggin  
PRAY of Penobscot  
GREELEY of Waldo

Representative:

GILL of South Portland

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President I move we accept the Ought to Pass Report as amended by Committee Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: After having attempted to pass another measure, a no smoking measure, a few weeks ago, I felt at this time we should not further debate the issue. I think at some point you have to draw the line, and I thought that this measure was pretty extensive in prohibiting smoking in all State Office buildings. At this point in time, the Executive Department can pass an Executive Order to designate no smoking areas, and so I feel at this time we should not legislate this measure.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would point out to the Senate, that the other measure that has been mentioned has not been disposed of, it is in a Committee of Conference, and as I understand this particular measure, and I can certainly stand to be corrected if I am not correct on this it does not prohibit smoking throughout the State Capitol area complex, but merely designates certain areas within that complex in which smoking would not be allowed.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would just point out to you that though the other matter is not before it, it has been disposed of.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Redmond, that the Senate accept the Majority Ought to Pass as amended Report of the Committee.

The Chair will order a Division.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been re-

quested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate, in the Bill it does prohibit anybody from smoking in any of the State offices. Heads of Departments can designate smoking areas, so I still think it is rather restrictive, and also it would require that all Departments, agencies, and commissions will make reasonable efforts to prevent smoking in all offices, except those areas designated as smoking areas.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Somerset, Senator Redmond, that the Senate accept the Majority Ought To Pass as amended Report of the Committee.

A yes vote will be in favor of accepting the Majority Report. A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Carpenter, Chapman, Collins, S.; Conley, Cummings, Curtis, Hewes, Hichens, Katz, Levine, Lovell, McNally, Merrill, Morrell, Redmond, Speers, Trozky.

NAY — Collins, D.; Danton, Farley, Greeley, Jackson, Mangan, O'Leary, Pierce, Pray, Snowe, Wyman.

ABSENT — Huber, Martin, Minkowsky, Usher.

17 Senators having voted in the affirmative, and 11 Senators in the negative, with 4 Senators being absent, the Motion to accept the Majority Ought to Pass as amended Report does prevail.

The Bill read once, Committee Amendment "A" Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, An Act to Establish the Legal Rights of Hospital Patients. (H. P. 755) (L. D. 901)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-768).

Signed:

Senator:

PRAY of Penobscot

Representatives:

KERRY of Old Orchard Beach  
GOODWIN of S. Berwick  
BRENERMAN of Portland  
NELSON of Portland  
TRAFTON of Auburn  
PRESCOTT of Hampden  
FOWLIE of Rockland  
KANE of Augusta

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "B" (H-769).

Signed:

Senators:

SNOWE of Androscoggin  
GREELEY of Waldo

Representatives:

GILL of So. Portland  
TYNDALE of Kennebunkport

Comes from the House, the Minority Report Read and Accepted, and, the Bill Passed to be Engrossed as amended by Committee Amendment "B".

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President, I move that we

accept the Majority Ought to Pass Report as amended by Committee Amendment "A".

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now moves that the Senate accept the Majority Ought to Pass as amended Report of the Committee. Is it the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I wonder if some Member of the Committee might enlighten the Senate as to the differences between the two reports.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: I know the motion does appear to be a little bit confusing, but somewhere along the line the committee letters were transposed, so actually the Majority Report is the Minority Report, and the Minority Report is the Majority Report. So I am glad to see that the Senator from Penobscot and I are on the same side. I would like to explain the differences between the two bills before us.

First of all, I think obviously the Committee Report, everybody on the committee had a basic acceptance of the Bill of Rights. We felt that perhaps the hospital should adopt some form of Bill of Rights. I think that the approach was different. Hospital care today, is certainly more involved than just medical treatment. There are other kinds of courtesy extended to patients while they are serving in the hospital.

The Majority Report, first of all, codifies and specifically states the rights of which patients can expect to receive from hospitals and physicians, and, secondly, it also distinguishes which rights are the responsibility of the physician and which are the responsibility of the hospital, and the Minority Report, however, requires the hospitals as a condition of licensure to adopt a patient's Bill of Rights which is comparable to patients' Bill of Rights as adopted by the House of Delegates of the American Hospital Association on February 6, 1973. Also the Bill of Rights, as it states, shall become a part of any contract between a hospital and patient upon admission.

I think simply the differences are in the two Reports, and the reason for supporting one over the other are just several. First of all, I feel in supporting the Majority Report that there is less likelihood of litigation and legal implication because we are codifying and explicitly stating what kind of Bill of Rights there should be, and which kind of Bill of Rights should be adopted by a hospital. I think that if you were going to adopt a standard such as the American Hospital Association Bill of Rights, you are actually requiring a kind of a subjective evaluation. The Department of Human Services in licensing a hospital will also have to interpret whether or not they have a Bill of Rights which is comparable to the American Hospital Association Bill or Rights. I think that also the small hospitals would have to hire lawyers at this time so that they could get a Bill of Rights which would be legally comparable to the American Hospital Association Bill of Rights.

The Committee did send out letters to all of the hospitals in the State to see at what point they are at, if any of them, in fact, had adopted a Bill of Rights. We received responses from 17 hospitals out of the, I guess, 51 hospitals in the State. Half of the 17 had adopted some form of Bill of Rights, and the others had not. I think that the main concern expressed in these letters was the fact that they were afraid of increased litigation, malpractice suits, and I think if we are concerned about those kinds of things, then we should adopt a Bill of Rights that is explicit and intense. We have several measures in the legislature that we are considering this Session and next Session about cost containment in the health care field, and I think if we do have that