

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 10, 1989 to June 14, 1989

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances"

H.P. 254 L.D. 366

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-203).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-203) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Require 5 Commissioners in York County"

H.P. 287 L.D. 399

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-204).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-204) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Resolve, Authorizing the Supreme Judicial Court Plan and Design Commission to Accept Gifts

H.P. 378 L.D. 509

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-208).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-208).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-208) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Increase the Compensation for Part-time Deputy Sheriffs"

H.P. 788 L.D. 1100

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-209).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-209).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-209) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Amend the Laws Concerning Smoking in Public Buildings"

H.P. 439 L.D. 604

Reported that the same Ought Not to Pass.

Signed:

Senators:

GAUVREAU of Androscoggin

TITCOMB of Cumberland

RANDALL of Washington

Representatives:

MANNING of Portland

ROLDE of York

BOUTILIER of Lewiston

CLARK of Brunswick

BURKE of Vassalboro

PEDERSON of Bangor

DELLERT of Gardiner

CATHCART of Orono

HEPBURN of Skowhegan

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-202).

Signed:

Representative:

PENDLETON of Scarborough

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator GAUVREAU of Androscoggin moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Thank you Mr. President. Mr. President, men and women of the Senate. In 1982, when I was running for the Senate, I promised myself that I would try to the best of my ability to represent all of my people, not some, not part, but all of them. To me, there is a small group of people who deserve to have their day in court. They deserve to be heard. I was asked to cosponsor the Bill and I readily agreed to try to give them their day in court.

There is another small group of people who have one of the best champions that they could possibly find. I am referring to the very capable Senator from Cumberland, Senator Andrews. He has taken the cause of the handicap people and he has gotten them many things that they deserve long ago. He has gotten them because he believes in their cause and he is willing to fight for them.

I think that this small group of people deserve their rights, also. Under our Constitution, all people are supposedly equal. I think all of us should examine closely and ask yourself if these people have any rights and if so what are we going to do about trying to give them the rights that I think they deserve. Some people may question whether I smoke or not. I don't. I did at one time when I was a freshman in college. I thought all young engineers should smoke and it took me about three months, but I finally managed a pipe. I quit in 1968, so I smoked for about thirty-one years. As far as the costs of this, let's go back to the handicap. I don't know what it has cost in your home town, but let's take Rumford. In the town hall, we had to put a ramp in the back side of the building and that didn't cost too much. Then we had to put an elevator in and that cost a good bit, but the people in the area are better off for it. The handicap have their pride. Before when they wanted to get into the town office, they had to either call up ahead of time and get someone to help them, or they had to get people to get there to take them there and help them. Now, they can get in with whoever drives them down.

I can understand the people who have lung problems and don't want to be bothered with someone smoking around them. I can understand that and I don't debate that at all. The point that I think we should seriously consider is should these people have some area where they can go and have their cigarette if they so desire, without bothering anyone else. I think they should.

Another very capable champion is the Senator from Kennebec, Senator Bustin. I have learned to respect her highly. When she gets her teeth into something she is going to win or she is going to be there fighting as long as we are here. I can't help but admire a person that has those tendencies and abilities and I respect her for that.

If we continue the policy of not letting people smoke openly, they are going to smoke anyway. You say they are not, but they are going to smoke. If I can briefly review what used to happen at the old Oxford Paper Company, now Boise Cascade, they limited the smoking areas where the workers could smoke. It was highly restricted. So what happened? If they were busy and didn't have time to go to those limited areas, they smoked anyway. Then we had more of our share of fires, whether it was caused by the smokers, we don't know, but when they used a little more common sense in getting smoking areas that were convenient for the workers, somehow the fires weren't quite that often.

How many people last summer noticed the unusual and dirty sight outside on our steps of this building? We were requiring people to go outside if they wanted to smoke. When they finished they put it out on the ground. I don't think that makes a very good impression on our visitors who are coming to see our state capitol.

I ask you to think seriously about whether we have a right to deprive a group of people of their rights. Don't we have an obligation to try to find an area that they at least can enjoy a habit that they have and still continue on with their work? They make a better worker if they do and they are a happier worker if they do. There are petitions, I am told, and I have some letters from different areas of the state being circulated to try to get the Legislature to give them the right to smoke without bothering people in a private area. Thank you.

On motion by Senator ERWIN of Oxford, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I respect and appreciate the well reasoned and articulated comments of the good Senator from Oxford, Senator Erwin. I rise today to explain the rationale of the majority position of the Joint Standing Committee on Human Resources. As you may recall, during the First Regular Session of the 113th Legislature, we adopted significant legislation which prohibits smoking of tobacco products in public buildings, with the exception that such smoking may be allowed in private areas of public buildings. For example, offices. The rationale of the Legislature, at that time, was that public buildings had a distinctive character and role in our society that individuals who present with respiratory problems or otherwise are adversely affected by the inhalation or exposure to tobacco products ought not to be discouraged from transacting routine public affairs in publicly owned properties. It was that rationale because of the distinctive character of public properties and the necessity of the citizenry in enjoying the unrestricted use of

those public properties, that we in fact ought to, in a significant way, curtail the rights of the minority, referred to by the good Senator from Oxford, Senator Erwin.

Therefore, in fact, the Legislature in 1987 decided to prohibit the use of those tobacco products in public areas of public buildings. The Human Resources Committee heard this measure again this year. The measure that was proposed would have allowed smoking in public buildings in certain designated areas. It must be stated that, aside from the sponsors, there were no other members who testified in support of that initiative. There were a wide variety of officials and individuals from the public who urged the Committee to maintain the legislation which we crafted and adopted in the preceding Legislature.

That was the rationale that ultimately persuaded all but one member of the Joint Standing Committee on Human Resources to maintain intact the current law regarding or prohibiting, in large part, the consumption of tobacco products in public buildings. Therefore, I recommend that this Body, in fact, Accept the Majority Ought Not to Pass Report. Thank you.

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

Senator THERIAULT: Thank you Mr. President. Mr. President, men and women of the Senate. I support L.D. 604. I am one of those so-called reformed smokers. Actually, I quit ten years, ten days and twenty-five minutes ago. Let me assure you that it was not an easy task, but I have succeeded in doing it. I am telling you this because I want you to understand that I am not speaking on my own behalf, but I am speaking for some of my good constituents who have gotten in touch with me and would like me to say a few words on their behalf.

I would like to begin by saying that I feel that the laws that we have passed in this Legislature in reference to smoking are good ones. I think that we probably were the leaders, in many ways, for the rest of the nation to follow. But I also feel that we might have gone a little too far in this particular case. I am sure that all of us have seen here, in this public building, owned by all the citizens of this state, and have seen people standing outside in the middle of winter having a last cigarette before coming in here. We have had some of our people, even in public hearings, just be so fidgety because they couldn't wait to get out to have that other cigarette. What is so tragic is to have that other cigarette, they have to go outside.

What adds insult to injury is the fact that the people that work in a public building are allowed to smoke. They can smoke in their designated areas and quite often these designated areas are visible to the public. Can you imagine telling someone in a public place not to smoke while they can observe through a window someone from the staff who is smoking. I guess if I were to tell that person not to smoke I would plan my escape route before telling them.

I think that we have gone too far. I think that those people that do smoke should be given an opportunity or a place to also do so if we allow our own employees in that particular building to do so. I hope that you will support the Bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator GAUVREAU of Androscoggin to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

A vote of Yes will be in favor to ACCEPT the Majority OUGHT NOT TO PASS Report.

A vote of No will be opposed.

Is the Senate ready for the question?  
The Doorkeepers will secure the Chamber.  
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE,  
BOST, BRANNIGAN, BUSTIN, CARPENTER,  
CLARK, DILLENBACK, DUTREMBLE,  
EMERSON, ESTES, ESTY, GAUVREAU,  
GILL, HOBBSINS, KANY, MATTHEWS,  
PEARSON, TITCOMB, WEYMOUTH,  
WHITMORE, THE PRESIDENT - CHARLES P.  
PRAY  
NAYS: Senators CAHILL, ERWIN, GOULD,  
HOLLOWAY, LUDWIG, THERIAULT,  
TWITCHELL, WEBSTER  
ABSENT: Senators BRAWN, COLLINS, PERKINS,  
RANDALL

23 Senators having voted in the affirmative and 8  
Senators having voted in the negative, with 4  
Senators being absent, the motion by Senator GAUVREAU  
of Androscoggin, to ACCEPT the Majority OUGHT NOT TO  
PASS Report, in concurrence, PREVAILED.

Divided Report

The Majority of the Committee on STATE AND LOCAL  
GOVERNMENT on Bill "An Act Relating to Legislation of  
an Emergency Nature Introduced in the 2nd Regular  
Session or any Special Session"

H.P. 637 L.D. 871

Reported that the same Ought Not to Pass.

Signed:

Senators:

BERUBE of Androscoggin  
ESTY of Cumberland  
CARPENTER of York

Representatives:

JOSEPH of Waterville  
LARRIVEE of Gorham  
HEESCHEN of Wilton  
DAGGETT of Augusta  
ROTONDI of Athens

The Minority of the same Committee on the same  
subject reported that the same Ought to Pass as  
Amended by Committee Amendment "A" (H-210).

Signed:

Representatives:

WENTWORTH of Wells  
BEGLEY of Waldoboro  
HANLEY of Paris  
MCCORMICK of Rockport

Comes from the House the Majority OUGHT NOT TO  
PASS Report READ and ACCEPTED.

Which Reports were READ.

On motion by Senator BERUBE of Androscoggin, the  
Majority OUGHT NOT TO PASS Report was ACCEPTED, in  
concurrence.

Off Record Remarks

Senate  
Ought Not to Pass

The following Ought Not to Pass Report shall be  
placed in the Legislative Files without further  
action pursuant to Rule 15 of the Joint Rules:

Senator PEARSON for the Committee on  
APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act  
to Fund the Maine School Science and Natural History  
Enrichment Program"

S.P. 383 L.D. 1019

Leave to Withdraw

The following Leave to Withdraw Report shall be  
placed in the Legislative Files without further  
action pursuant to Rule 15 of the Joint Rules:

Senator EMERSON for the Committee on TAXATION on  
Bill "An Act Regarding Federal Retiree Income Tax"  
S.P. 242 L.D. 572

Change of Reference

Senator HOBBSINS for the Committee on BUSINESS  
LEGISLATION on Bill "An Act to Amend the Law Relating  
to Automobile Leases"

S.P. 236 L.D. 568

Reported that the same be REFERRED to the  
Committee on TAXATION.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on TAXATION.

Sent down for concurrence.

Ought to Pass As Amended

Senator HOBBSINS for the Committee on BUSINESS  
LEGISLATION on Bill "An Act to Regulate the  
Installation of Fire Sprinklers"

S.P. 237 L.D. 567

Reported that the same Ought to Pass as Amended  
by Committee Amendment "A" (S-126).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-126) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND  
READING.

Senator KANY for the Committee on ENERGY AND  
NATURAL RESOURCES on Bill "An Act to Restrict Use of  
Antifreeze or Other Toxic Agents on Lakes, Ponds and  
Streams"

S.P. 499 L.D. 1373

Reported that the same Ought to Pass as Amended  
by Committee Amendment "A" (S-127).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-127) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND  
READING.

Divided Report

The Majority of the Committee on TAXATION on Bill  
"An Act to Create the Individual Income Tax Windfall  
Fund" (Emergency)

S.P. 306 L.D. 805

Reported that the same Ought to Pass as Amended  
by Committee Amendment "A" (S-128).

Signed:

Senators:

ANDREWS of Cumberland  
BALDACCI of Penobscot

Representatives:

NADEAU of Saco  
TARDY of Palmyra  
DIPIETRO of South Portland  
CASHMAN of Old Town  
DORE of Auburn  
SWAZEY of Bucksport  
DUFFY of Bangor

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

Signed:

Senator:

EMERSON of Penobscot

Representatives: