

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 20, 1991 to July 10, 1991

Committee Amendment "A" (H-545) was read by the Clerk and adopted and the bill assigned for second reading Thursday, June 6, 1991.

Ought to Pass Pursuant to Joint Order (H.P. 101)

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1991 (EMERGENCY) (H.P. 1334) (L.D. 1927) reporting "**Ought to Pass**" - Pursuant to Joint Order (H.P. 101) (Representative GRAY of Sedgwick - of the House - abstained)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on **Bills in the Second Reading**.

On motion of Representative Merrill of Dover-Foxcroft, tabled pending passage to be engrossed and specially assigned for Thursday, June 6, 1991.

Ought to Pass Pursuant to Joint Order (H.P. 101)

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1991 (EMERGENCY) (H.P. 1335) (L.D. 1928) reporting "**Ought to Pass**" - Pursuant to Joint Order (H.P. 101) (Representative GRAY of Sedgwick - of the House - abstained)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on **Bills in the Second Reading**.

On motion of Representative Mayo of Thomaston, tabled pending passage to be engrossed and later today assigned.

Ought to Pass Pursuant to Joint Order (H.P. 101)

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1991 (EMERGENCY) (H.P. 1336) (L.D. 1929) reporting "**Ought to Pass**" - Pursuant to Joint Order (H.P. 101) (Representative GRAY of Sedgwick - of the House - abstained)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

Ought to Pass Pursuant to Joint Order (H.P. 101)

Representative JOSEPH from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1991 (EMERGENCY) (H.P. 1337) (L.D. 1930) reporting "**Ought to Pass**" - Pursuant to Joint Order (H.P. 101) (Representative GRAY of Sedgwick - of the House - abstained)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Legal Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-482) on Resolve, to Authorize the County of Franklin to Acquire a Certain Parcel of Land in Coburn Gore (H.P. 774) (L.D. 1106)

Signed:

Senators: KANY of Kennebec
SUMMERS of Cumberland

Representatives: HICHENS of Eliot
PLOURDE of Biddeford
POULIN of Oakland
TUPPER of Orrington
BOWERS of Sherman
RICHARDSON of Portland
LAWRENCE of Kittery
DAGGETT of Augusta
JALBERT of Lisbon
STEVENS of Sabattus

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

Signed:

Senator: MILLS of Oxford

Reports were read.

Representative Lawrence of Kittery moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I would just like to remind all of the veteran members here that this is the famous Coburn Gore dump, so they all feel better about it.

Subsequently, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-482) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, June 6, 1991.

Divided Report

Majority Report of the Committee on **Human Resources** reporting "**Ought Not to Pass**" on Bill

"An Act to Exempt Substance Abuse and Psychiatric Patients from the Prohibition against Smoking in Hospitals" (H.P. 333) (L.D. 463)

Signed:

Senators: GILL of Cumberland
CONLEY of Cumberland

Representatives: MANNING of Portland
GOODRIDGE of Pittsfield
SIMONDS of Cape Elizabeth
TREAT of Gardiner
WENTWORTH of Arundel
PENDEXTER of Scarborough

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-483) on same Bill.

Signed:

Senator: BOST of Penobscot

Representatives: CLARK of Brunswick
GEAN of Alfred
PENDLETON of Scarborough
DUPLESSIS of Old Town

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The reason the majority of the people went against this particular piece of legislation, both the Hospital Association and others will talk to you today, will tell you that this process has worked well. The Hospital Association came in and opposed this piece of legislation. The medical profession feels what is out there now is working well in the community hospitals and we ought not to be fooling around with what has worked well.

I must remind you that the current statute says, "A physician can allow a smoker to smoke", he has to write it down in the chart but this physician, under current law, can allow that to happen.

This original piece of legislation was endorsed by the hospitals, they wanted this piece of legislation. Quite frankly, as I told them, at a symposium that they had two years ago when they asked me to speak about it, they wanted the blame to come on us versus the blame to go on the hospitals but the hospitals wanted this piece of legislation, they wanted it bad. They wanted smoking to stop in hospitals.

It has worked well. Frankly, I have only heard of one incident or one area in the state that it is not working as well as perhaps it should. I am sure we will hear about that but in the rest of the hospitals it has worked well.

I think, as we did a few weeks ago, dealing with the podiatry bill, we should allow the hospitals to work their problems out and not pass this law and override what the hospitals truly want to have.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Duplessis.

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: When a patient goes into the hospital for mental health services and that patient smokes, currently they have to receive permission from their doctor to smoke. The physician has to write an order, "patient may smoke." With this bill, the physician will have to write "patient may not smoke" if the physician feels that for a period of time the patient is not stable enough to leave the unit to go to the designated smoking area, if that area is off the unit. This relieves the doctor from the responsibility of writing such an order which as health care providers, she or he may not wish to write.

I would also like to refer to what was said about the medical profession. The medical profession was not there to testify for this bill, the Maine State Nurses Association was there to testify on behalf of this bill as patient advocates.

Most hospitals have designated smoking areas. Some of them on the unit, some off the unit and, as we learned through work session, one hospital has no smoking areas inside the facility at all.

I am a non-smoker and do not frequent places which allow smoking. But, I am also a nurse who works with people who require mental health services and see that these people have major issues to deal with. It is inhumane for them to be required to deal with nicotine withdrawal at the same time they have to deal with, for instance, a recent suicide attempt.

All this bill does is require hospitals, who choose to provide services for those people with mental illness and/or those people with substance abuse problems, to fully meet their needs.

I urge you to vote against the pending motion.

Mr. Speaker, I request the yeas and nays.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Men and Women of the House: There has been credible testimony from members of the medical profession who object to this change. We heard (in the committee) testimony from Dr. Jacobsohn, senior psychiatric consultant, Department of Mental Health and Mental Retardation, "It does not help in the treatment of psychiatric patients to provide special concessions and allowances."

I called the Chief of Medicine at the Maine Medical Center, Dr. Robert Hillman, and asked his opinion on this bill and he said, "Please do not change the present law. We do not allow and have not provided special designated places in the Maine Medical Center for psychiatric patients, that policy was installed by the former director of psychiatry, it is working extremely well. They have made fine progress and they strongly object to any current changes in the present law. Leave it to the hospitals and the medical staff to determine what works best for their patients."

The SPEAKER PRO TEM: The Chair recognizes the

Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: I am a prime sponsor of this piece of legislation and I am going to tell you a little bit of the history of it.

I have jokingly referred to this piece of legislation as the St. Mary's Hospital Bill and that is because we passed a law a few years ago that enabled hospitals to go non-smoking. In this process of passing that law, we also made an exception for patients at AMHI and BMHI. That is, we recognized that psychiatric patients in Maine at state-run hospitals should have a place to go and smoke. As AMHI and BMHI becomes less the place people go when they have a psychiatric illness and community hospitals become where we temporarily institutionalize people with a mental illness and because also I made an allowance for people with substance abuse problems who find that they must go into a hospital for treatments for their substance abuse problems, we have effectively banned those patients who are going through some of the major traumas in their life, from tobacco.

At St. Mary's Hospital in Lewiston, the law we passed enabled them to designate as their smoking area outdoors and psychiatric and substance abuse patients from those two wards go outdoors four times a day to smoke. Sounds like it should work doesn't it? Sounds like they should be able to not have to deal with their addiction to nicotine at the same time when they are undergoing other major life stresses? Well, it doesn't work, ladies and gentlemen, and it doesn't work because, at that hospital, you cannot leave if you are in the psychiatric ward or the substance abuse ward for the first 72 hours. That is also part of their regulation and part of the agreement you make when you check into those wards that you will be under observation for the first 72 hours and will not be able to leave. That means you are going to go through tobacco withdrawal during your first 72 hours.

I have spent some time in the psychiatric ward, not the substance abuse ward, visiting patients and I can tell you that that is a recurring complaint that while they are in the hospital they must endure 72 hours of non-smoking.

I brought the bill to the committee because I think it is mean to deny them this privilege. Remember this is self-admission, we ask people to voluntarily note you are in trouble here, you are experiencing major life stress, perhaps a psychotic episode, perhaps a bout of alcoholism and you need to voluntarily admit yourself to your hospital that has a psychiatric or substance abuse ward for treatment. It makes patients resist self-admission. It is another added burden for why they don't want to go to the hospital. I don't want to go to the hospital, I don't want to give up smoking. I am giving up control of all the other aspects of my life and I don't want to give that up. That is what happens so we wait for those patients. Family members wait for those patients to become sicker, to become more ill, so that they can be persuaded to check into the psychiatric ward or the substance abuse ward. I will tell you right here and now that I don't know a lot about substance abuse but my imagination tells me, if you are having DT's from alcohol withdrawal or whatever you have from cocaine withdrawal, you don't need an addition to that to have to give up smoking at that time.

I do know something about psychiatric patients with long-term mental illness. This is what I know, they voluntarily take drugs, medication that shortens their life span, that can make them incontinent, that affect their short and long-term memory, that affect their right to drive, that affect their ability to work, that may prohibit them from taking any alcoholic drinks because of the way the drug mixes with the alcohol. It affects their eating and sex drive, it affects just about every other aspect of their life and they voluntarily take these medications and look for the right combinations in these highly toxic medications because it is preferable to psychotic episodes and that is what is true of people with long-term mental illnesses. All of the things that patients voluntarily and knowingly put into their bodies in order to avoid a psychotic episode or devastating depression or suicide tendency — all the side effects of these drugs that they volunteer for — and we passed a law two years ago in this body because we were concerned about the effects of ambient smoke on them — please talk to a few psychiatric patients, ambient smoke is the last on their list of medical concerns.

I can't tell you that I have done a survey and most people with long-term mental illness smoke definitively, but I can tell you most people I have met who recurringly show up at St. Mary's on 3-A do smoke. Many psychiatric patients smoke, many substance abuse patients smoke, sometimes they smoke because it is the last thing in their life that they have left that they have control over. Sometimes they smoke because they have addictive personalities.

This is an undue burden that we inadvertently placed upon them. I am a little chagrined to say inadvertently because we did know two years ago that we shouldn't place this burden on the patients at AMHI and BMHI and we made provisions for them. I have two psychiatrists complain to me that this is an undue burden on their patients and the patients resist going in for treatment when they should because of this burden. I have had many social workers within that and other hospitals say to me that this is absurd.

I would like to point out that the psychiatric ward in the Brunswick hospital, the name of which I do not recall, does allow for a smoking room. St. Mary's has a problem, they do not, and I did try to work it out with them administratively but the interest of the hospital as a whole will dominate over the interests of the patients in two wards, the psychiatric and substance abuse ward. I think that if we are going to control so many aspects of lives of people with these major illnesses that this ought to be one area where we give a little. I think it is mean if we don't and that is why I put in this piece of legislation.

I hope that you will reject the Majority Report so we can go on to pass the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, I would like to pose a question through the Chair, please.

The question is this — does this bill require hospitals to establish designated smoking areas within the hospital even if the hospital doesn't want to or does it simply remove the prohibition and allow that decision to be made by medical personnel?

The SPEAKER PRO TEM: Representative Coles of Harpswell has posed a question through the Chair to

any member who may respond if they so desire.

The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: As it was originally designed, this bill said psychiatric and substance abuse patients shall be given a designated smoking area within the hospital. If you were in for a mental illness or substance abuse problem or psychiatric disorder, you would be provided with a place to smoke.

The bill was amended to try to accommodate the committee and in the process of the amendment (you can look at it, H-483) and it was in response to the Maine Hospital Association, I may add — the Maine Hospital Association drafted this amendment, this is limited to only those hospitals that have psychiatric and substance abuse wards. If your little community hospital occasionally has a psychiatric patient or a patient is in to dry out from alcoholism, that hospital will not have to provide a smoking room. If the patient is a resident of a ward that is treating psychiatric or substance abuse, then the patient must have access to and be permitted to smoke in a designated smoking area. It has to be enclosed and adequately ventilated. There isn't even a credible argument that harm is done to others. Please remember when you look at this legislation that many of the patients in these wards have many other medical and social problems and ambient smoke is the least of their problems and the least of their concerns.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: As I indicated earlier, between 65 and 70 percent of the people in this state, no longer smoke. I guess the only people that go into the wards that we are talking about are smokers. I think that is crazy and we all know that is crazy. If somebody is allergic to smoking, they might also have a real problem with this. It is only one hospital that is having a problem with this and that happens to be St. Mary's. I would hope that St. Mary's would try to address that one problem.

You heard from another Representative that the Maine Medical Center, which is probably one of the largest in the state, is not having a problem with it. They probably serve more mentally ill patients in this state except for Bangor and Augusta and they are not having a problem with it.

I remind this House what we tried to do a couple of weeks ago and that is mandate on the hospitals. If there is a problem at St. Mary's, then St. Mary's ought to fix it, not pass a law that those individuals who don't smoke — remember 65 to 70 percent of the population does not smoke, those individuals will also be going inside. If somebody needs to have a cigarette and it is carte blanche, what about the person sitting next to them who is trying to deal with their problems? How do you think they would feel? I think we ought to leave it up to the doctors of the state who can, under current law, allow that individual to smoke. If St. Mary's has a problem, then St. Mary's ought to fix it, not blanket this for every hospital.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: My husband is a psychiatric social worker and the Assistant Director of the

Mental Health Center in Rockland, so I am very concerned with the patients and what they need. I will tell you what I just did, I got on the telephone and I called my hospital. My hospital has set up a system where eight times a day they take the clients out in a little area outside and that is part of their treatment. The thing that they said was really helpful is the fact that many of these people would never try to quit on their own and when they have an opportunity to break a little bit and the fact that they are allowed to smoke only eight times a day, in many cases, some of these same patients asked for some additional help to help them quit smoking.

I really believe that the people who work in these wards are very, very concerned with the people that they serve. I think they find a way to take care of them and those that need to smoke are allowed to smoke and they find a way for them to do it legitimately. I think if it is a way to help them get off from it completely, it is doing them an extra benefit.

I would support the Majority "Ought Not to Pass" and I hope you would also.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I would urge you to reject the pending motion so we can go on to accept the Minority Report on this bill.

I want to remind you of something you heard earlier and that is that this body has decided that patients at AMHI and BMHI ought to be allowed to smoke, that that ought to be an exception to the hospital smoking laws. We made that decision based on the fact that these people are not asking for treatment of their nicotine addiction even if they admit they have a nicotine addiction, they are in a hospital for another reason and a reason that often demands all of their attention. The withdrawal from nicotine ought not to be complicating that treatment process.

This bill merely says that those patients who are being treated in private hospitals rather than in our state institutions have the same opportunities and privileges.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: That is correct. Two years ago or last year, we addressed the problem, but it is not like it used to be at AMHI and Bangor. You go through there now and you can see. What do I mean by that? There is not a cloud like it used to be for some of us who have been going over there for years. They are allowed to smoke in a room that is off every single ward over there. Some of them can go over to that if they have permission. Others must go over with a mental health worker. It isn't carte blanche over there. The same thing happens in Bangor, they are not allowed to smoke on the wards anymore and, believe me it is cleaner, it smells better. For years, the smoke over there was just hanging right there day after day after day. They now have to go off the ward and it is an enclosed room and they can smoke there and the smoke is ventilated outside but it is not carte blanche at AMHI nor at Bangor.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: When I arrived today, in no

way did I intend to speak on this bill. Listening to this debate has really upset me to the point where something that I wasn't going to get involved in, I am now going to say something.

First of all, I have supported all of the no smoking bills. I voted, albeit in the minority, but I am opposed to smoking. I don't smoke and I have seen in my own family the effects of what happens when you smoke.

However, this is a different issue, an entirely different issue. When you hear the fact that St. Mary's has a problem and we shouldn't pass a bill because St. Mary's has a problem — well, we passed bills, which were good bills, which were accomplishing something but unfortunately, as a result of the good bills that we passed, we have created a situation at St. Mary's which is really unworkable and unfair to people who are trying to resolve a problem they have and cure another disease that they have.

I would urge you, for the purposes of what is happening at St. Mary's, to vote against the Majority "Ought Not to Pass" and allow the Minority "Ought to Pass" bill to go through.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: I am sorry to rise again and I will try to be brief.

I would like to respond to Representative Melendy of Rockland by pointing out that it is very nice that her hospital lets people go out eight times a day. I wonder, do they keep them in for the first 72 hours for the most intensive withdrawal?

I would like you to know something, when you are coming off your medications and adjusting your medications from psychotropic drugs, it is after that first 72 hours that it starts to hit and that you may decompose and that you may be in a psychotic state that will not allow you to go smoke. That is to say — let me be explicitly unpleasant here — at this point, you may not be able to hold the cigarette, to light the cigarette, to put the cigarette out, to even necessarily know how to control your body. That is some of the toxic reactions you have when your medications are being adjusted. So, that first 72 hours, that's St. Mary's problem — please, we pass legislation in here dealing with problems in communities all around this state. I am glad Brunswick doesn't have a problem because they have a smoking facility in the hospital. I would like that for my community. I am glad AMHI and BMHI do not have a problem because they allow for their psychiatric patients a place to go smoke. I would like that in my community.

I have been asked by families, parents and children of people with chronic mental illness to take care of this, that this is a problem in getting their family loved ones to admit themselves to the hospital for treatment.

I would like to say one more thing about smoking outdoors and that is labeling. Eight times a day they leave Rockland, four times a day they leave St. Mary's and they stand outdoors with the traffic going by. We are the people from the psychiatric and substance abuse ward standing here to smoke four times a day. It can be humiliating and they have been through enough humiliating experiences. It is labeling and we all agree we don't want to label the mentally ill. Well, you can drive by my hospital

four times a day and get a current label running of who is dealing with substance abuse problems and who is mentally ill, who leaves the hospital to go smoke because they are all standing outside there as a group and they don't like it and it shouldn't happen. It is not dignified.

There is no cloud in AMHI and BMHI because they provide a well ventilated room. Take a look at the amendment, ladies and gentlemen, the amendment calls for a well ventilated room. Give these people a little dignity, treat them just a little bit like adults. We have made a provision in this so if the doctor decides they are in no condition to smoke because they might be dangerous with matches, with lighted tobacco and please let me tell you the doctor is well aware of whether or not they are a danger to themselves at all times when they are in the hospital. That doctor can prohibit a patient from smoking but, at this point, let's treat these patients with some dignity, let's treat them as much as we can like adults because that is what they are. Let's allow them a room to smoke. I hope you reject the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Men and Women of the House: I know we don't want to prolong this debate much longer but I would like to say what we have heard here today in the debate is that there are different approaches to the problem. It seems to me it is an evidence of some success. This is a difficult thing to manage. We are learning as we go and we need to preserve, it seems to me, the right, the privilege, the opportunity for every hospital to find their own way, their own solutions. All this bill does is say, if you reject the motion "Ought Not to Pass", is to preserve the present law, preserve that discretion and let the medical staff of the hospitals find their best way to this difficult problem.

I urge you to accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Manning of Portland that the House accept the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Hale of Sanford. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Manning of Portland that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 109

YEA - Adams, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Cahill, M.; Carleton, Carroll, D.; Cote, Daggett, Erwin, Farren, Foss, Garland, Goodridge, Gurney, Handy, Hanley, Hastings, Heesch, Heino, Hichborn, Hichens, Hussey, Ketover, Kilkelly, Kutasi, LaPointe, Lawrence, Lebowitz, Lemke, Look, Lord, Luther,

MacBride, Manning, Marsano, Marsh, Melendy, Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paul, Pendexter, Pfeiffer, Pines, Plourde, Pouliot, Powers, Rand, Richards, Ruhlin, Salisbury, Savage, Simonds, Small, Spear, Stevens, A.; Stevenson, Strout, Tracy, Treat, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Aikman, Aliberti, Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Crowley, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Farnsworth, Farnum, Gean, Gould, R. A.; Graham, Gray, Greenlaw, Gwadosky, Hepburn, Hoglund, Holt, Jacques, Joseph, Kerr, Ketterer, Kontos, Larrivee, Libby, Lipman, Mahany, Martin, H.; McHenry, McKeen, Mitchell, E.; Murphy, Nutting, Ott, Paradis, P.; Parent, Pendleton, Poulin, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Rydell, Saint Onge, Sheltra, Skoglund, Stevens, P.; Swazey, Tamaro, Tardy, Townsend, Tupper.

ABSENT - Bowers, Butland, Cashman, Jalbert, Macomber, Merrill, Michaud, Pineau, Simpson, The Speaker.

PAIRED - Hale, Mayo.

Yes, 77; No, 62; Absent, 10; Paired, 2; Excused, 0.

77 having voted in the affirmative and 62 in the negative with 10 being absent and 2 having paired, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Later Today Assigned

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Concerning Smoking in Restaurants" (H.P. 420) (L.D. 603)

Signed:

Senators: BOST of Penobscot
CONLEY of Cumberland
GILL of Cumberland

Representatives: PENDLETON of Scarborough
DUPLESSIS of Old Town
CLARK of Brunswick
GEAN of Alfred

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-486) on same Bill.

Signed:

Representatives: MANNING of Portland
GOODRIDGE of Pittsfield
SIMONDS of Cape Elizabeth
WENTWORTH of Arundel
PENDEXTER of Scarborough
TREAT of Gardiner

Reports were read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.
Representative MANNING: Mr. Speaker, Ladies and

Gentlemen of the House: I move that the House accept the Minority "Ought to Pass" Report.

Two years ago, the legislature passed legislation that required the Department of Human Services to look into how we should be addressing smoking in restaurants. Last June or July, the department held hearings here in Augusta on a proposal that, if it was a one room restaurant, there would be no smoking. At that particular time, many of the one room restaurants operators came up and said that that was not going to be a good procedure, that it would affect them. Since then, a lot of them have said, if you are going to do it, just ban it completely and that way the one room, two rooms, three rooms all are under the same law. Therefore, this year I put in a piece of legislation that did just exactly that.

Currently, if you fly from here to Boston or from here to California, you cannot smoke on an airplane. Currently, if you go in and watch a movie at a theater for an hour and a half or two hours, you cannot smoke. There are many restrictions that are on the books right now whether it is federal or state restrictions that require you not to smoke in certain areas of the state.

What we are saying is, while you are inside a restaurant, you should not be smoking.

One of the things that was brought up at the public hearing were waitresses and waiters who came up and said the real problem for them is being there sometimes as much as eight or nine hours and working in areas with a lot of smoke.

I go back to the argument a few hours ago on Workers' Compensation. I am telling you, ladies and gentlemen, that is going to be a major issue in Workers' Compensation before the year 1994 because it has already started. You start to talk to some of the insurance agents and you go over and talk to the people over in the Bureau of Personnel and they will tell you that already within our own institutions there are problems of Workers' Compensation dealing with smoking.

We have to look at those people who have to spend sometimes as much as eight hours inside those restaurants. We have to protect their health. If not, if that second-hand smoke gets to them, there is going to be a Workers' Compensation claim and they are probably going to be out for a long time.

So there are two issues. Issue one is, we already say to the public, you can't smoke in airplanes, you cannot smoke in theaters. The average flight may be two, two and a half hours, the average movie, as most people know, if it is a 7:30 movie, you are in there at quarter past seven and you don't get out until quarter of ten. If you have to smoke, you go outside, go outside completely.

I would hope that people would take a look at that because that is one of the inconveniences we already have on the books.

The other thing, we are truly thinking about Workers' Compensation. We need to address that with those people who are in those restaurants day in and day out and what effect it is going to have on them. If we don't think about that, believe me, there are going to be people who are going to be putting in claims because of the second-stream smoking. I know of one already and there will be more to come.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Pittsfield, Representative Goodridge.

Representative GOODRIDGE: Mr. Speaker and