

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 19, 1993 to July 14, 1993

FIRST CONFIRMATION SESSION

October 14, 1993

options are available to us. I think we, as a chamber, are faced with a very positive effort of which we can partake this evening and I think that effort is to go along with the Majority Ought to Pass Report. Thank you.

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Senator Begley is absolutely right in the terms that we lack the moral fortitude to make it as wide ranging a Bill as we would have liked to. As you notice, there is a consistent pattern that we at least protected the children. Knowing the political reality and I would be more than happy to vote for any amendment that would do the complete ban. We left in private office options, again trying to protect people. We felt we needed to define tavern because if someone wants to redefine that in terms of taverns that are presently wishing to masquerade as restaurants that is another matter. I urge your positive support on this legislation. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The **CHAIR** who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **PINGREE** of Knox who would have voted **YEA**.

Senator **CONLEY** of Cumberland who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **MCCORMICK** of Kennebec who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **AMERO, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CIANCHETTE, ESTY, FOSTER, HANDY, HANLEY, LAWRENCE, LUTHER, O'DEA, PARADIS, PEARSON, TITCOMB, VOSE**

NAYS: Senators **BALDACCI, BEGLEY, CAHILL, CAREY, CARPENTER, GOULD, HALL, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

ABSENT: Senator **CLEVELAND**

PAIRED: Senators **CONLEY, MCCORMICK, PINGREE, THE PRESIDENT - DENNIS L. DUTREMBLE**

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 4 Senators having paired their votes and 1 Senator being absent, the motion by Senator **PARADIS** of Aroostook, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-358) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act Imposing Term Limits on Legislative Leadership Positions" H.P. 546 L.D. 742

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-364)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-364)**.)

Senator **BERUBE** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **ESTY** of Cumberland, Tabled Unassigned, pending the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

HOUSE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Prohibit Smoking in Restaurants" H.P. 496 L.D. 654

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-357)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **PARADIS** of Aroostook moved that the Senate **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

Senator **BALDACCI** of Penobscot requested a Division.

Senator **SUMMERS** of Cumberland moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is an instance, once again, where the government should not be in the business of dictating to our private businesses how to conduct their affairs and the case in point, several restaurants in the Portland area who have gone completely to no smoking on their own. It is not necessary to regulate these businesses because they are doing it on their own and they are doing an effective job. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do believe that the State has a business in regulating health for people of the State. We have already done that. We have said in restaurants that you have to have a place for people who smoke and for people who don't smoke. I, as an asthmatic, at the present time am satisfied that there has been a sufficient division made in restaurants but to say that we don't have any business in regulating it I think is totally wrong. We have regulated it and I go to restaurants where there is a room for one and one for the other and I am satisfied with that. Thank you.

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

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was very pleased with the response of the industry to this Bill. They came and really testified about why we should completely ban smoking in restaurants. I have a document that was sent to the Maine Restaurant Association by an individual and he listed three or four points that I would like to mention to you. The health issue of secondhand smoke for other customers, wait staff, and other personnel. The restaurant industry is learning more and more about this proven medical fact. It is reported in many industry trade publications and weekly newspapers. Possible owner liability for medical problems associated with secondhand smoke, higher insurance premiums, etc.. The possible productivity loss from the employees that take too many breaks and in pressure situations some people concentrate on their next cigarette instead of the job at hand, costing the employer money and time. If the product delivered to the customer is not appealing or cooked to his or her satisfaction, sanitation problems especially, if you take ammonia or other cleaner you can really see the before and after results. The cleanliness of walls, window treatments, curtains and the smell of cigarette smoke that permeates the clothing, skin, hair, and breath and the possible contamination of food by employees that have to handle, empty, and clean ashtrays, are just a few problems that can

exist in a smoking area restaurant. The most important issue came up today on the front page of the KJ, and Senator Harriman referred to it, the Moody's Diner that finally hit with the death of a long time relative who was an employee for 30 years and the autopsy showed that non-smoker that she was her lungs were black. So there are very strong possible ramifications for restaurant owners and many of them said get it out of our faces. It is really a hard decision for them to make and we can easily make it here for them. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Carpenter.

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm a little reluctant to stand and speak on a smoking Bill. I really would like to go out and have a cigarette but one thing the good Senator Pearson from Penobscot did say that wasn't, I don't believe, exactly correct. He said that every restaurant, by law now, must have a smoking and a non-smoking section in the restaurant. I don't believe that is exactly true. I think any restaurant that wishes in Maine can be completely non-smoking and I would say that if they do not want smoke in the restaurant they have a perfect right to make it a non-smoking restaurant. A lot of them are doing this, there are some in Sanford, actually they are increasing their business. There are quite a few in Augusta now and I certainly don't have any problem with that as a smoker. If I like the restaurant I can have a decent meal and last through the meal, and if I can't or somebody else can't we can run outdoors. It makes it a little awkward but I don't think they should object. I do think that it is an intrusion on the owner of a business, a restaurant, to say it must be non-smoking. They would like to have you do it for them but I've had many discussions with restaurants that I go into in my district and I told them I would not help them but I will buy the sign if they want to make it a non-smoking restaurant. I think the right to make it a non-smoking restaurant should remain with the owner or proprietor. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wanted to thank the Senator from Aroostook, Senator Paradis, for making my point for me. Moody's Diner came to the conclusion to ban smoking on their own. It did not take the government to do it. We don't need this law. Please support my motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I thoroughly appreciate all of the publicity for Lincoln County, Route 1, Moody's Diner. They certainly have taken the step that I would agree with on their behalf and they stood up, like good Maine born and bred people, and said we will handle it ourselves. Again, I am not sanctimonious, again I would say that if this Bill were covering everything I would vote for it. It does not. The Maine Restaurant Association says it is discriminatory against some and therefore not good business. Once again, I thank you for all the advertising and I'm certain they appreciate it as well. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **SUMMERS** of Cumberland, TO **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **SUMMERS** of Cumberland, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **PREVAILED**.

(See Action Later Today)

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

HOUSE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Require that the Clerk-of-the-works on State Construction Projects be Employed by the Owner, not the Architect"
H.P. 219 L.D. 287

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-382)**

Tabled - May 25, 1993, by Senator **WEBSTER** of Franklin.

Pending - **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

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

HOUSE REPORTS - from the Committee on **UTILITIES** on Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power"
H.P. 289 L.D. 376

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-347)**

Minority - **Ought Not to Pass**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 25, 1993, Reports **READ**.)

(In House, May 24, 1993, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

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

Bill "An Act to Amend Maine's Unclaimed Property Act"
S.P. 185 L.D. 621
(C "A" S-132)

Tabled - May 25, 1993 by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 17, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132)**.)

(In House, May 24, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132) AS AMENDED BY HOUSE AMENDMENT "A" (H-405)** thereto in **NON-CONCURRENCE**.)

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Senator **CAHILL** of Sagadahoc, moved that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Bill and Accompanying Papers on:

Bill "An Act to Prohibit Smoking in Restaurants"
H.P. 496 L.D. 654

(In Senate, May 25, 1993, Reports **READ**. Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In House, May 24, 1993, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **HANDY** of Androscoggin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CAHILL** of Sagadahoc, to **RECONSIDER INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

A Division has been requested.