

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 17, 1993 to July 14, 1993

all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 170

YEA - Beam, Bowers, Brennan, Carroll, Cathcart, Chonko, Coffman, Coles, Cote, Daggett, Dore, Farnsworth, Fitzpatrick, Gamache, Gean, Gray, Hale, Heeschen, Holt, Johnson, Joseph, Kilkelly, Kontos, Larrivee, Lemke, Mitchell, E.; Mitchell, J.; Oliver, Pfeiffer, Pinette, Rand, Richardson, Rotondi, Rowe, Rydell, Saxl, Simonds, Skoglund, Stevens, K.; Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn.

MAY - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Cashman, Clark, Clement, Cloutier, Clukey, Constantine, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gould, R. A.; Greenlaw, Gwadosky, Hatch, Heino, Hichborn, Hillock, Hussey, Jacques, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Michael, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Saint Onge, Simoneau, Small, Spear, Stevens, A.; Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend, G.; True, Tufts, Vigue, Whitcomb, Young, Zirnkilton.

ABSENT - Adams, Carleton, Caron, Carr, Chase, Høglund, Jalbert, Melendy, Michaud, Morrison, Murphy, Pineau, Ruhlin, Strout, The Speaker.

Yes, 46; No, 90; Absent, 15; Paired, 0; Excused, 0.

46 having voted in the affirmative and 90 in the negative with 15 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, L.D. 940 was passed to be engrossed as amended by Committee Amendment "A" (S-159) as amended by House Amendment "C" (H-592) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the fifteenth item of Unfinished Business:

An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke (H.P. 666) (L.D. 904) (S. "B" S-232 to C. "A" H-358)

TABLED - June 2, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Motion of Representative SIMONDS of Cape Elizabeth to Reconsider Failing of Passage to be Enacted.

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

Representative SIMONDS: Mr. Speaker, Colleagues in the House: I want to thank those who supported the motion to reconsider the other day and also those who helped me execute that motion.

There are reasons why I think reconsideration is indicated and I would like briefly to let you know what those reasons are.

First and foremost, it was clear in talking with

certain members that there was confusion between this bill and another, namely the restaurant bill, which was debated and earlier defeated. I voted for that bill, I was sorry to see it defeated but nevertheless it was. This bill does not, in any way, change the existing restaurant law. In the same vein, it does not change the laws affecting places of employment, schools or hospitals. Those are all in place.

There were, as you will see from the Senate Amendment to the Committee Amendment, changes made. Some compromises were made, some reasonable and sensible compromises that made the bill better we think. That was done and the large number of health-related organizations in this state, working long and hard on this proposal over the years, have, I think, crafted a good piece of public legislation.

There were also questions raised about the impact on business and the good Representative from Clinton cited the potential for perhaps closing some enclosed indoor tracks that feature radio-controlled cars. All that business needs to do, as is the case with other major public areas of entertainment, is to simply provide an enclosed area, which I think only makes sense because in that case these are places that are frequented by families and by children so you simply need to separate the area where families and children are from those areas provided for smokers.

Questions were raised about fairness, about impact on business and let me tell you why I think that this in essence is a good bill for business. In the first place, all businesses will now operate under the same law. To use a much used phrase, under this Act, there is now a level playing field for all businesses.

The second reason is that now that we know and have such very strong evidence that there is indeed a clear causal effect between environmental tobacco smoke and illnesses that I believe the prudent business person would want to take steps to remove any potential for possible liability and suit. That's a negative motivation, there is a more positive motivation for businesses. I think most businesses in this state are caring people and that they will want to take steps to provide access, understanding now how serious this problem can be. In the end, I think there will be more business. Perhaps for every one person businesses may lose, I am sure, I am convinced there will be at least two more who will now have access and provide additional business.

I have a case in point. It was announced the other day that I had my sixth grandchild, it turns out there were seven, I lost count. I tried taking one of my grandchildren to an event at the Civic Center in Portland, the Ice Capades, I thought this would be fun for all of us, but it so happens that an allergy strain runs through my family and we couldn't tolerate that. I went down and asked where the smoking section was located, I was told that I was standing in it, so it would be possible for me now to take my grandchildren, other children who have tendencies to allergies, other children who have much more serious conditions, respiratory conditions subject to asthma, to places of public enjoyment such as the indoor track for radio-controlled cars that was mentioned in our earlier debate.

Finally, I would ask the members of the body as they consider the motion to reconsider — again the question of fairness — and I would ask members to

ask themselves, is it fair to deny access to children, to families with respiratory problems knowing that there is a serious problem with environmental tobacco smoke and there are, as we know, about 85,000 people who are so affected and do not have access and is it fair to deny protection to these children and their families knowing how serious a health problem this is?

When the vote is taken, Mr. Speaker, I request the yeas and nays.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Ladies and Gentlemen of the House: I think it is rather unfortunate the twist this debate has taken and has made this issue now sort of an unfriendly one towards employers in small businesses.

It almost seems today that if you want to kill a bill, all you have to do is sort of stand up and argue about the fact that it is going to hurt small businesses and employers and I find myself thinking, was that a really legitimate argument that we had last time? I consider myself a business-friendly legislator and I would like to share with you maybe different arguments on how this might affect small businesses.

In the debate that we had prior, several weeks ago on the seat belt issue, I cited statistics where employers in small businesses pay \$54.8 billion annually from injuries suffered by their employees with motor vehicle crashes but the very people who have used the argument to protect small businesses on this issue weren't listening when we were discussing the seat belt issue because it didn't support their cause. I ask you to think about when the airlines banned smoking on domestic flights — did smokers stop traveling? I don't think so. I don't think that the fact that they are not allowing people to smoke on an airline is what is affecting their business today.

Small businesses should be excited about the fact that now 85,000 new clientele who will now be able to use the smoke-free environment can now support their businesses. Employers of small businesses should take notice that ETS is a public health problem and precedence has been set in certain courts where damages have been awarded because of the harmful effects of environmental tobacco smoke. It seems to me that a prudent business owner would welcome legislation such as this.

I ask you to remember the powerful and moving testimony of Representatives Plowman and Sullivan who so descriptively shared with us some real life effects and consequences of environmental tobacco smoke. Let's support L.D. 904 for our colleagues from Hampden and Bangor.

Finally, I remind you of the ETS study done at the Foundation at the Blood Research which showed that nicotine by-products were present in the diapers of infants, 8 weeks of age. As a student nurse many years ago, we had this surgeon (when we did our surgical rotations) who would always make sure that he gathered everybody together when he was doing surgery on a smoker because he always wanted to show us the black lungs of the smoker. I will never forget what that looks like.

Just recently, we had a flyer on our desks with an article that shared with us the fact that the sister-in-law of the owner of Moody's Diner, who

never was a smoker, has lungs as black as a smoker. I think we need to think about that.

I ask you to support this legislation because we know the harmful public health risks that environmental tobacco smoke imposes on our citizens. We have an obligation in the name of public health to protect those who choose not to smoke.

The SPEAKER PRO TEM: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: My wife and I are some of these small business people that we have heard so much about this session. We made a decision when we built our new building in 1988 that we would keep it smoke-free and I don't believe it has hurt our business at all. We certainly have had a lot of people that have thanked us and we never have had anybody complain because we did it.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

To any member of the committee, who is going to implement this non-smoking policy? If we make this a law, who is going to implement it, number one? Number two, who will be fined? Will the storeowner be fined or will the person who is smoking be fined? Who is going to decide this? Could I possibly get some answers, please?

The SPEAKER PRO TEM: The Representative from South Portland, Representative DiPietro, has posed a couple of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Members of the House: The answer to the first question is that the beauty of this Act has been true with the previous public laws prohibiting smoking in certain locations because it is essentially self-enforcing. We know that now from experience and we would expect the same kind of adherence, the same kind of compliance with the additional places covered under this law as did the former.

There is no agency of state government that is designated in the law. Like any other law affecting businesses or individuals, complaints can be made and the local enforcement officials would then take the proper action. This is civil law and there are fines. They are in the Act, I would have to dig them out to find out exactly what they are, but I believe it was a \$200 fine and I know that both the owner and the perpetrator, the person who is smoking in the wrong place, if indeed a complaint is made, would be liable for penalty. I think in practice it is much more apt to be the owner of the establishment. Perhaps someone else on the committee could add to that response.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: I, too, agree that I think that this bill is not a detriment and will be good for business. There are a lot of people who have health problems and they do stay away from certain places that allow smoking because of their condition.

Representative Simonds has brought up a lot of

good points but I would like to refer to what Representative Pendexter spoke about, the memo we had put across our desks the other day regarding Moody's Diner. I know we lost the bill that had to do with smoking in restaurants but, at that very same time, that particular week, Moody's Diner did do away with smoking and that is in my district and I visit there a lot, patronize there a lot. All their workers are real happy with that move that they made but, most of all, business has not gone down and a lot of people now will and are patronizing Moody's Diner even more because at least they can walk to the restrooms without having to walk through the smoke. I think we are finding this is just an example of business in a lot of ways doing what has happened at Moody's Diner, so giving that as an example, I would encourage you to go along with this motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: There certainly was no confusion in my mind between the restaurant bill and this bill when I arose the other day or when I rise today to ask you to vote against the motion on the floor.

We talk about enclosed areas — this is a cost to business that is a mandate. Are we prepared to pay for these mandates? They have already invested in expensive air infiltration systems in their places of businesses. I am very pleased to hear, and I am sure you are too, that the restaurants and businesses that have gone non-smoking are successful but remember this, ladies and gentlemen of the House, it was their decision to do this, not our saying that you must do this. We are here to act in a reasonable manner. This bill here is not reasonable. We have exempted taverns, lounges, private offices, Bingo, Beano, smokeshops, private chartered buses, that's fine, they can make the decision. We also say we did this in the name of children, we did not do this in the name of children, children may go in bars and lounges until 8 o'clock at night, children may go to Beano and do go to Beano with their parents or grandparents. As far as public meetings, AA and Al-Anon are public meetings, anyone is allowed to go in there. In fact, they encourage people to come to encourage them in their fight in life, but they certainly should not be disallowed from smoking if they so choose to do it.

I ask you ladies and gentlemen of the House to stick to your prior motion and vote no.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: I find myself having to rise again on an issue that was very emotional for me a couple of weeks ago and I apologize and will try to present what I need to present to you.

Some of you weren't here and I see the hall has cleared again but I will try to tell you a little bit about what I have to do for my two children who are asthmatic when I want to take them to the mall. The reason I have to do this is because their favorite place in the mall is the toy store and the smoking area in the mall is 20 feet from the toy store, so to take my kids to the mall, I have to dose them up with steroids. The steroids come in a form of a spray or a liquid depending on how old you are. Steroids are not good for them, they fool the body into thinking that what they are breathing is okay. They fool the

lungs into not spasming. They fool the lungs into not constricting so that the child continues to breathe without distress, not visible distress anyway, but the child is still breathing the smoke, we are just not seeing the visible distress on their lungs. The long-term effects of steroids are not good on children and when a child has a bad asthma attack, you have to give huge doses of steroids to them, steroids that can impair the ability of their adrenal glands to kick in.

You never know what is going to happen to a kid, they have accidents, they fall down, they get really sick. They need operations sometimes and they need to have adrenal glands that can kick in when faced with these kinds of situations. So, that is what I do for my kids. There have been times when I have had to hold a kicking, screaming child on my lap, hold a mask over her face with a nebulizer to administer the steroids that she needs so I can take her out and not have to worry about her being exposed to smoke and that's a child.

My friend Sarah is not a child, she is a grown woman, she has a lung disease. Sarah didn't want to be housebound by her lung disease so she had a tube implanted in her chest so she can carry oxygen with her. She is still limited to the places she can go. Sarah is a mean nintendo player — you know why? Because Sarah doesn't get to go very many places because she will be exposed to secondhand smoke.

There are businesses that already have smoking policies, walk through the mall, walk through clothing stores, do they allow you to smoke in there? They may not allow you, they may prohibit you from smoking for different reasons, they don't want damage done to their clothing, they don't want damage done to their stock, they have a whole different reason for doing it. They want you to smoke out in the hall, they don't care if you smoke in the hall. I have to walk through that hall to take my kids to the toy store. Sarah has to walk through the mall to get to CVS.

We didn't make great strides providing access for the disabled until we told businesses that they had to. These people are technically disabled, they can walk very freely where they would like to go but they are very limited as to where they can sit down and enjoy themselves or where they can walk through without distress. The medicines that we have to administer to our children to keep them from being in distress are not without side effects and not without long-term effects. So, yes we are telling businesses, we are sending a strong message to the businesses and to the people in the State of Maine that we really do understand the stress that this causes, a very physical, real distress, this is not an imagined disease. Asthma is not something that is in your head so I ask you to please consider this an access issue for the people who are denied the access, people like my kids and the other 85,000 people in the State of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to stand here and tell you about the health effects of smoking because I think everybody is aware of them. I know them firsthand so I am not going to espouse on that.

What I am going to tell you about is my store that is over 4,000 square feet, we have people that come in the store who don't know that there is a law

in effect right now and what we do is say, "Excuse me but you are not allowed to smoke in the store." So they politely leave and go put their cigarette outside.

We used to have a smoking area for our employees but the company realized that we need to be concerned about the effects on the other employees who don't smoke anymore so now we ask our employees when they need a cigarette to go outside and smoke. The employees didn't quit on us, they are still there, they still smoke and when they need a break, they go outside and do it. This is the same that any customer can do.

If you want to know what really hurts businesses in this state, it is some of the other laws that have been passed in this body, state mandates, Workers' Compensation, high unemployment costs, that's what is hurting my business in this state, it is not the "no smoking" law that went into effect in 1984, 1985 or 1986 or whatever it was. All I know is that it has stopped me from having to replace merchandise that had burn holes in it, everything is much cleaner and we don't have to clean the place every day. This law will only benefit business in this state, it will have no detriment at all to business in this state, so I ask you to support L.D. 904.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Washington, Representative Bowers.

Representative BOWERS: Mr. Speaker, Ladies and Gentlemen of the House: I will keep this brief. There has been much concern about how businesses will be hurt by this bill but let me tell you that business is already hurting from this bill. I am not asthmatic nor do I have medical problems from cigarette smoke, I grew up in a house full of cigarette smoke, and I will not go into a business that has cigarette smoke. I will not transact business with a business that allows people to smoke cigarettes in the building and I think there are a lot of other people like me as well.

I encourage you to vote for the motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Men and Women of the House: I haven't been sitting and listening to the debate because I knew before I came in here how I was going to vote but I came in when Representative Plowman was speaking and I have two questions I would like to ask her and then make a couple of comments on what I have listened to.

I would ask Representative Plowman if she discusses matters about her children with the management of that mall? I believe most business people are concerned and would deal with it responsibly.

The other question I would ask her is, is secondhand smoke the only element in nature that affects her children? I mean this with due respect. I believe most asthmatics have several different things that bother them.

On the other issue that I heard, Representative Bowers said that he made the decision himself not to go in these places — I think it is about time that people were responsible and don't go into businesses that bother them and then businesses would change. For us to dictate every little minute thing in business, that's what is happening, not just Workers' Compensation but everything.

I hope you will not vote for reconsideration.

The SPEAKER PRO TEM: The Representative from

Sedgwick, Representative Gray, has posed a question through the Chair to Representative Plowman of Hampden who may respond if she so desires.

The Chair recognizes that Representative.

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: I have not discussed secondhand smoke with the management of the mall. Yes, my children are allergic to other things, the mere smell of tobacco smoke on my clothes can bring on an asthma attack. The smell of kerosene or gas can bring on asthma attacks. Spraying an aerosol into the air can bring on asthma attacks. These are not the usual things that we run into in the mall but I am sure if we did run into spilled kerosene in the middle of the mall or someone sprayed aerosol that that would probably bring on an asthma attack. No, it is more likely to be something like that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: Yes, I am one of the statistics. I have asthma and, while it is true that other factors will trigger an asthmatic attack once in awhile, they do not always but, without question, every time that I have any prolonged exposure to secondhand smoke, I do have an asthma attack, so there is no question as far as I am concerned.

A couple of times I have run into close calls here when I go into the retiring room to make a phone call. While the room next to it is closed off, when the door is opened and a lot of smoke comes into that retiring room, it does bother me but I simply leave the room so I am not campaigning to have that done away with. My point is that, sure, someone cutting grass if I am out there for a long time, could have some effects, some other molds etcetera will affect it but, without question, every single time that I am exposed to secondhand tobacco smoke, I do have an asthma attack. So, I would appreciate for my own self-preservation if you would support L.D. 904.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I think we have covered the health effects of this quite adequately but I want to get into the dollars and cents of this.

This legislation is probably the most business-friendly legislation this legislature has considered this session. I wrote the law in 1985 and I had yet to have one complaint from any business of 4,000 square feet or larger as a result of that legislation. I have a file that is an inch and a half thick of letters from businesses across the state that were happy that was passed because of the level playing field it presented, because of the tremendous costs that were eliminated with results of secondhand smoke.

Jordan-Marsh spent tens of thousands of dollars a year and gave away clothes that were destroyed by the smell of cigarette smoke, the rugs that had to be replaced, the filtration systems that, not only had to be cleaned but had to be replaced. The smoking public of which we know, 75 percent of the adults don't smoke. If you count the children, it probably would be only 20 percent or 15 percent of our total population who smoke.

Let's not kid ourselves, we know that it is a health issue, we know that it is a Class A carcinogen. It is time that we look at business and treat them fairly and allow a level playing field.

If you want to go to a store that is over 4,000 square feet in the mall, you have to run a gauntlet of cigarettes, secondhand smoke, to get there. That's ridiculous. It is time that the health needs of the silent majority of these innocent people be served.

Let's reconsider this and pass it on its way.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: To respond to Representative Hillock's comments, when I am in Augusta I go out to eat a lot. Two days ago, I went out to eat with Representative Hale. We were accosted by the owner for what goes on in here with the smoking and other regulations. Last night, I went to dinner with Representative Look, the same thing happened, so I do think business is concerned with what we are doing here.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Clinton, Representative Clement.

Representative CLEMENT: Mr. Speaker, Ladies and Gentlemen of the House: I talked to a lot of businesses and I disagree with some of the statements that were said on the floor here. They asked, why are we passing laws that are going to put restrictions on their businesses? Let them decide whether they want smoking in their bowling alley or not.

This bill is not a fair bill. You can smoke in a tavern or lounge or Bingo or Beano halls but you can't smoke in a bowling alley. At twelve o'clock at night in this bowling alley, they have special bowling for adults only. The R.C. radio-controlled racetracks that I talked about, it is an open space, they have large tracks in there, it is a wide open space.

This is not a fair bill. If you want to pass a smoking bill against everybody in every public building it would be a different story, but you categorize these people that own a certain business, it is not a fair bill.

The owner of a bowling alley that I talked to recently spent between \$15,000 to \$30,000 on a recycling air freshener in his building. He doesn't smoke, he did it because he didn't like the smoke in his building that he does business in. He said, if I put a sign on the door that says "no smoking" his business is going to close.

All I am saying is, let's let the people that own the businesses make that decision, they know if they can do it with a sign on the door that says "no smoking." Let's leave it up to the owners. Let's not pass something here that is going to bother the businesses in this state.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: The other day Representative Jacques of Waterville gave one of the most persuasive and articulate speeches I have heard since I entered this body. He was speaking about the environmental arena. He said we always wait and wait to solve these issues. We wait until the evidence is irrefutable, until the consequences are drastic and until the remedy is difficult. I would say that the same applies in public health and I would say that we have arrived at that moment in history on this issue. The evidence is now irrefutable, the EPA study has made it clear that secondhand smoke is

poison, the consequences are drastic. Dotty Moody is now, as far as I know, the first documented case in Maine of a non-smoker dying, dying ladies and gentlemen, not suffering, but dying as a result of being exposed to secondhand smoke.

Yes, the remedy is difficult, it is too late for Dotty Moody, but we can do something now to help other people, the other 85,000 in this state who suffer from respiratory ailments.

I would like to remind you that we are not merely discussing the concerns of customers with this issue, there are workers who must be considered as well. Many of those workers are women and very often they are pregnant, but no matter who they are, we need to consider their health concerns as well. I urge you to support this bill.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: 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: The pending question before the House is the motion of Representative Simonds of Cape Elizabeth that the House reconsider its action whereby L.D. 904 failed of passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 171

YEA - Adams, Aliberti, Ault, Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Campbell, Carleton, Carroll, Cathcart, Clark, Coles, Constantine, Dexter, Donnelly, Faircloth, Farnsworth, Fitzpatrick, Foss, Gould, R. A.; Gwadosky, Heeschen, Heino, Hichborn, Hillock, Hogle, Holt, Jacques, Johnson, Joseph, Kilkelly, Kneeland, Kontos, Kutasi, Larrivee, Lindahl, Lipman, Lord, MacBride, Marsh, Melendy, Michael, Mitchell, E.; Mitchell, J.; Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plowman, Reed, G.; Richardson, Robichaud, Rowe, Rydell, Simonds, Simoneau, Small, Spear, Stevens, K.; Sullivan, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Tufts, Walker, Wentworth, Zirkilton, The Speaker.

NAY - Ahearne, Aikman, Anderson, Bailey, H.; Cameron, Cashman, Chonko, Clement, Cloutier, Clukey, Cote, Cross, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gean, Gray, Greenlaw, Hale, Hatch, Hussey, Joy, Ketterer, Libby Jack, Libby James, Look, Marshall, Martin, H.; Michaud, Nash, Nickerson, O'Gara, Pendleton, Plourde, Poulin, Pouliot, Rand, Reed, W.; Ricker, Rotondi, Ruhlin, Saint Onge, Skoglund, Stevens, A.; Strout, Swazey, Tardy, Thompson, Townsend, G.; Vigue, Winn,

Young.

ABSENT - Caron, Carr, Chase, Coffman, Jalbert, Kerr, Lemke, Lemont, Morrison, Murphy, Pineau, Saxl, True, Whitcomb.

Yes, 79; No, 58; Absent, 14; Paired, 0; Excused, 0.

79 having voted in the affirmative and 58 in the negative with 14 being absent, the motion to reconsider did prevail.

Subsequently, L.D. 904 was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the sixteenth item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-516) - Minority (2) "Ought to Pass" as amended by Committee Amendment "B" (H-517) - Committee on Human Resources on Resolve, to Establish the Health and Social Services Transition Team to Develop the Governor's Restructuring Proposal to Combine the Departments of Human Services and Mental Health and Mental Retardation and the Office of Substance Abuse in a New Department of Health and Family Services (EMERGENCY) (H.P. 1112) (L.D. 1508) (Governor's Bill) TABLED - June 2, 1993 by Representative BRUNO of Raymond.

PENDING - Motion of Representative TREAT of Gardiner to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-516) Report.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House: I find myself in a quandary here, we have one bill with an amendment on it, a Minority Report which I support and an amendment that I support so it makes it tough for me to sit here and argue against the amendment, but what L.D. 1508 does is restructure state government. It restructures the Department of Human Services, restructures the Department of Mental Health into one agency.

The amendment to the bill also restructures and it restructures it in a very good way, that is why I am in a difficult position here. The reason I support the Minority Report was that it save a million dollars more than what the Committee Amendment does. In our budget document, L.D. 283, there is a \$1.5 million savings to restructuring and the only way of achieving those savings is to go along with the Governor's proposal and make one department.

I am not going to go on and on about this but the only reason I am standing up here is for the financial impact of savings. Restructuring needs to be done in the Department of Human Services, we need to be more efficient in the way we deliver these services. I think whichever way you go on this bill, we are going to win.

I am going to ask you to support the Minority Report for the sole reason of saving a million dollars more than what the amendment does.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: Just very briefly on this, we think this is an excellent bill, the Majority Report is —

everyone except two persons who dissented on it, it is a bipartisan approach, it adopts the findings of the Commission on Restructuring as well as the Governor's Task Force on Restructuring of the last two years.

We looked at the initial bill that was presented and it essentially would have established a kind of mega department or the HMHS as some of us put it, putting together the Department of Human Services, which is already one of our largest state agencies and the Department of Mental Health and Mental Retardation. The consensus really was on the Committee that approach was not likely to improve the delivery of services, particularly the Department of Human Services, a department that doesn't work as well as it should, and I certainly had concerns that the suggested savings in fact would not result. In fact, we would end up with more bureaucracy, not less.

The committee discussed this at some length and, at one point in our deliberations, we said, why aren't we really discussing the restriction proposal of last year which passed in both the House and the other body and went on to the Governor? It was only vetoed for the sole reason that it also included the abolition of the State Planning Office so we said maybe we should look at that, we had previously had testimony from the Commission on Restructuring because we knew that we were going to be looking at this issue later on this session and were very impressed by the proposals that they had put forward. So, we went back to the files and pulled out the bill that passed this legislature the year before, took a look at the original Restructuring Commission Bill and put together a joint bill that took the best out of both of those proposals.

What the bill does is outline (on your fact sheet), I was criticized for talking too much about our other bill so I am going to sit down. I assume you have had a chance to read that fact sheet and if you have any questions, you can ask me or other members of the committee.

I hope you will support the Majority "Ought to Pass" Report as amended by Committee Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Ladies and Gentlemen of the House: When I think of restructuring, I am not always moved by the financial benefits. I think the things that drive me more is the fact that we will improve services to the people we serve.

This Majority Report is based on the Governor's proposal of two years ago and it is also based on the Special Commission on Governmental Restructuring, who I think very carefully thought out and worked through its recommendations in a very deliberate calculating process. I feel comfortable standing before you and asking you to support this Majority "Ought to Pass" proposal because it does share bipartisan support and would have passed two years ago were it not for the political games that were playing themselves out at that time.

It is very easy for me to stand before you and advocate for children. A voice at the cabinet level will only enhance the agenda of children and their families, addressing their problems at their point in life. In advocating for preventative and educational initiatives can only provide us with very positive long-term outcomes. I urge you to support the motion