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(In House, May 12, 1997, Bill and Accompanying Papers **INDEFINITELY POSTPONED.**)

(In Senate, May 13, 1997, Reports **READ.**)

On motion by Senator **RAND** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

The Chair laid before the Senate the following Tabled and Later (5/13/97) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Ban All Smoking within Workplaces, Restaurants and Public Accommodations"

S.P. 134 L.D. 413

Report "**A**" - **Ought Not to Pass** (7 members)

Report "**B**" - **Ought to Pass as Amended by Committee Amendment "A" (S-198)** (3 members)

Report "**C**" - **Ought to Pass as Amended by Committee Amendment "B" (S-199)** (3 members)

Tabled - May 13, 1997, by Senator **LAWRENCE** of York.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198).**

(In Senate, May 13, 1997, motion by Senator **MITCHELL** of Penobscot to **ACCEPT** Report "**A**", **OUGHT NOT TO PASS, FAILED.** Motion by Senator **HALL** of Piscataquis to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED.** Motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198), FAILED.** Motion by Senator **LONGLEY** of Waldo to **ACCEPT** Report "**C**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-199), FAILED.**)

THE PRESIDENT: Is it now the pleasure of the Senate to reconsider it's action? The Chair recognizes the Senator from Penobscot, Senator **Mitchell**.

Senator **MITCHELL:** Mr. President, I make a motion that we vote Ought Not to Pass on this reconsideration.

THE PRESIDENT: The Chair would answer that the motion is out of order. The pending motion is to reconsider our action whereby the Senate failed to accept report "B" of the committee Ought to Pass as amended by Committee Amendment "A". Is it now the pleasure of the Senate to reconsider?

At the request of Senator **AMERO** of Cumberland a Division was had. 15 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **LAWRENCE** of York to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198), PREVAILED.**

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

Senator **MITCHELL:** Mr. President, I make a motion Ought Not to Pass on amendment "B".

THE PRESIDENT: That motion is out of order. The pending question is acceptance of report "B" Ought to Pass as amended by Committee Amendment "A". The Chair recognizes the Senator from Piscataquis, Senator **Hall**.

Senator **HALL** of Piscataquis moved to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

The Chair ordered a Division.

On motion by Senator **PINGREE** of Knox, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **ABROMSON, AMERO, BENOIT, BUTLAND, CASSIDY, DAGGETT, FERGUSON, HALL, KILKELLY, LIBBY, MACKINNON, MICHAUD, MITCHELL, O'GARA, PENDLETON, SMALL**

NAYS: Senators: **BENNETT, CAREY, CATHCART, CLEVELAND, GOLDTHWAIT, JENKINS, LAFOUNTAIN, MILLS, MURRAY, NUTTING, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

ABSENT: Senators: **HARRIMAN, LONGLEY**

EXCUSED: Senator: **KIEFFER**

Senator **AMERO** of Cumberland requested and received leave of the Senate to change her vote from **NAY** to **YEA**.

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **HALL** of Piscataquis to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILED.**

On motion by Senator **CASSIDY** of Washington, 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 Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President, ladies and gentlemen of the Senate. I would just like to say that although we have a lot of anecdotal evidence about the effects on businesses of being smoke-free, the actual studied statistical evidence shows that, not only does it not harm those businesses, it enhances them. And I would also like to say that, for those of us who received a number phone calls between yesterday's vote and today, I urge you to think about the people who are perhaps less organized into a network, but certainly as important in this issue, and those are the average, everyday citizen who contends with more in public places. And I would urge your support for committee report "B". Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President, men and women of the Senate. We have certainly spent some time on this and I'm almost out of ink. As I was saying, we have certainly taken a lot of roll calls on this particular issue as the good Senator from Hancock had mentioned, Senator Goldthwait. I got the first call this morning at 7:00 a.m. from my wife saying that I will never be able to smoke again now, because the front page of the Bangor, they told my whole story. And I said that yesterday, that I would regret saying that and I knew I would but I'll have to live with that. On this particular issue, I passed out some things to you that you should have on your desk regarding this and one thing that I want to say to you that just a few years ago 75% of the seats in restaurants, in the State of Maine were in smoking areas. Today, 80% of those seats are non-smoking areas. This issue isn't if smoking isn't good for us, or we need to smoke in public, private or we need to inhale other folks smoke. The issue here is a person's right. Number one, the owner of the restaurant, do they have the right to either post it for smoking or non-smoking? If they want to, under the current law, have no smoking in their restaurant they are entitled to do that. If I, as an individual, want to patronize that restaurant whether it's smoking or non, I have the right to do that. And again, this is another issue where we're trying to control issues that affect everybody and everything they do. This issue isn't about smoking, whether it's good or bad. This issue is about our right to make a choice whether we want to go to a restaurant that smokes or non-smokes, own a restaurant that allows smoking or non-smoking. I urge you to defeat this motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President and members of the Senate. In answer to the good Senator from Hancock, Senator Goldthwait, when she said there was not really any harm to businesses, I think I mentioned earlier and I think most of you know, if you talk to the people at the store where you go, that the most valuable piece of real estate within their store is the counter area. And tobacco companies are in that area because they pay a lot of money to get those cigarettes on the counter. So, in fact, they will be harmed.

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

Senator **MITCHELL:** Thank you Mr. President. Good morning men and women of the Senate. I would ask you again, once again this morning, to please vote against Senate Amendment "B" because this amendment prohibits smoking in restaurants except for those with separate bars in which smoking is allowed. This clearly discriminates against our small businesses, our small coffee shops, the diners and our lounges. It is forcing the people, the percentage of the people who patronize these restaurants, to go to the larger restaurants that have the capability of providing no smoking and smoking in their particular areas. So, it definitely is a loss to these businesses. We can still support the American Lung Association. We can support groups for reducing smoking but let's also support our businesses in this state who take great pride in the decor of their small, little restaurants in the small communities of our towns and tucked in the corners of our large cities that patronize the people who like to go there for the sociability, the friendship and meeting of friends whether it be smoking or non-smoking. Do not take the choice from our great State. Please support the helping and supporting of businesses and vote against amendment "B".

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President and colleagues in the Senate. Yesterday we tried a bunch of different ways to address the tobacco problem that we have in this state. We have a problem. Some of us tried to push a compromise and even that didn't get through for some legitimate reasons, but the sum and substance is we are on the brink of not doing anything. And for me, the choice, having tried a compromise and that compromise not having prevailed, I'm left with the choice, do nothing or do something. Driving in today thinking long and hard, how do I cast my vote on this issue, remembering that I've received letters only from restaurants who want the ban? And then thinking, okay, if I'm voting just for me how would I vote? I would vote for the ban. And then I thought, well let's do some telephone polling. So on my drive in I got on the phone and again I heard, we actually prefer the ban. If you were me would you vote for the ban? And the answer came back, yes. So I was trying to strike a compromise. Even with that people found reason not to vote for that and faced with the decision, doing something or doing nothing, I will be supporting the ban. Thank you.

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

Senator **BUTLAND:** Thank you. Mr. President, could you just restate the motion?

THE PRESIDENT: The pending question before the Senate is to accept Report "B" - Ought to Pass as amended by Committee Amendment "A".

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, BENNETT, BUTLAND, CATHCART, CLEVELAND, FERGUSON, GOLDTHWAIT, JENKINS, LONGLEY, MILLS, MURRAY, NUTTING, PARADIS, PINGREE, RAND, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: AMERO, BENOIT, CAREY, CASSIDY, DAGGETT, HALL, KILKELLY, LAFOUNTAIN, LIBBY, MACKINNON, MICHAUD, MITCHELL, O'GARA, PENDLETON, SMALL

ABSENT: Senator: HARRIMAN

EXCUSED: Senator: KIEFFER

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-198), PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-198) **READ.**

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-225) to Committee Amendment "A" (S-198) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate. Quite simply, this amendment would ban smoking in all restaurants, class A restaurants and the like, but it would not affect bars and lounges. The report that was just accepted would have created smoking and non-smoking areas in bars and lounges. This amendment, if you choose to accept it, would eliminate those provisions that would regulate smoking in bars and lounges but it would continue to ban smoking all together in those areas where people have dinner, where people eat in class A restaurants and other restaurants as well. That's it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President and Senators of Maine. I'm going to urge you to vote against this. This was the big thing that I was opposed to in the original start of this, to ban smoking in restaurants. Telling businesses what they can and cannot do. I find this body to be very inconsistent. A little while ago, by a vote of 19 to 13, you allowed the smoking of a controlled drug. Now, with a vote of 18 to 15, you have reversed yourself. Think about what you are doing. Think about your vote. I urge you to vote this down. Thank you.

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

Senator **RAND:** Thank you Mr. President. Just to make a point, the smoking of marijuana is not allowed in public places therefore it would not be allowed in restaurants or bars.

The Chair ordered a Division. 16 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **MILLS** of Somerset to **ADOPT** Senate Amendment "A" (S-225) to Committee Amendment "A" (S-198), **PREVAILED.**

Committee Amendment "A" (S-198) As Amended by Senate Amendment "A" (S-225) thereto, **ADOPTED.**

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

The Chair laid before the Senate the following Tabled and Later (5/13/97) Assigned matter:

Bill "An Act to Allow a Greater Share of the Transfer Tax to Remain in the Counties Where it is Collected"
S.P. 91 L.D. 271
(C "A" S-126)

Tabled - May 13, 1997, by Senator **GOLDTHWAIT** of Hancock.

Pending - motion by Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR** (Division Requested)

(In Senate, April 29, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-126).**)

(In House, May 9, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-126) AND HOUSE AMENDMENT "B" (H-374) in NON-CONCURRENCE.**)

At the request of Senator **MILLS** of Somerset a Division was had. 25 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **RUHLIN** of Penobscot to **RECEDE** and **CONCUR, PREVAILED.**

The Chair laid before the Senate the following Tabled and Later (5/13/97) Assigned matter:

Resolve, to Establish a Task Force to Review the Regional Applied Technology Centers
H.P. 771 L.D. 1048
(C "A" H-320)

Tabled - May 13, 1997, by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In Senate, May 7, 1997, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320), in concurrence.**)