

MAINE STATE LEGISLATURE

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right to vote. These developmental arguments about whether somebody has the intellectual or the emotional capacity. When we were talking about whether Blacks should have the right to vote and the trials that used to go on at universities in which they would put marbles in people's skulls to see who had the bigger skull and who could have more intellectual capacity based on their race. This is about allowing people the choice to choose who they want to represent them. That's it. We all know that this is an individual argument about individuals and what their capacity is to serve. I believe the voters will make the right choices. Every other state in New England has the age of 18 for their House. They seem to be doing just fine. I think it's about time that we got into the 21st Century and recognized that voters in this state can make the right choices for who they want to have serve them.

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I just want to say that regardless of our age and what Body we serve in, some of us, at times, continue to make poor decisions.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I certainly would concur with my colleague from Kennebec, the good Senator Cowger, about poor decisions. In my 57 years I've had the opportunity to teach, for 26 of them, high school seniors who are 18 years old. It is my strong belief, and always has been my strong belief, that many of those 18 year olds are far more knowledgeable voters than 40 or 50 year olds. Beyond that statement, at the young and tender age of 19 I went off to the Army. I have always been bothered by the fact that a soldier can die in war and not be able to be a member of the Body. Today, resisting the temptation to agree with many of my colleagues that this will enliven and enlarge the Democratic rolls of 18 and 19 year olds, for me it's a more practical notion. I know that 18 year olds are more knowledgeable than 40 year olds in many cases. I know that you can die in war and not be a member of the House of Representatives. This isn't a partisan vote, this is a vote for changing times. When this was instituted it was a far different world than it is today. Just think about your daughters, those of us who are parents and I have three of them. Your concern for their livelihood and wellbeing was when they were about 13 years old, not 18. They know more about life than many of us ever did at 21. This is not a partisan vote. This is a vote for practicality. In a changing world, 18 and 19 year olds are far more qualified than many of us. I'll be supporting the motion. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#323)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, NUTTING, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MAYO, MILLS, MITCHELL, NASS, PERRY, PLOWMAN, ROSEN, SAVAGE, SNOWE-MELLO, WESTON

ABSENT: Senator: MARTIN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-809) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Workplace Smoking Laws"

S.P. 726 L.D. 1926

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass** (2 members)

Tabled - March 21, 2006, by Senator **MAYO** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, March 21, 2006, Reports **READ**.)

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I never pass up the opportunity to pontificate on a smoking opportunity. You have now before you two bills, L.D. 1901 and L.D. 1926. This one is L.D. 1926. If it is enacted it would exempt smoking in any private club that has employees, period. That would strengthen the existing law. The existing law allows you to have smoking if you come over a

threshold that gets you the majority of all members of a private club to indicate that they want smoking. As you know from our earlier discussion, L.D. 1901 is a bill that would allow smoking if a majority of those present and voting, or voting by absentee ballot, in deed wish to have smoking. While we focus on the mechanics of what's allowed or not allowed in voting, I want to remind you once again that this is all about health. We would serve the members of these clubs, whether they are veteran's clubs or not, better to not give them the opportunity to congregate and smoke and to injure the health of their employees. Thank you, ladies and gentlemen of the Senate.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **STRIMLING:** Thank you, Madame President. I just rise in opposition to the pending motion and just to say that for those who earlier were feeling like we needed to solve the problem of the voting but were worried about the fact that we were rolling back health in the state, this is an opportunity for you to solve the voting problem and to advance it forward, to protect more workers. This is the right answer. The state of Maine has gotten A's across the board in our non-smoking provisions. This is the right answer to make sure that we protect as many workers as possible and that we create a competitive environment for businesses out there. It is very unfortunate that we have different rules for different kinds of businesses, and subsequently, they get additional business just because of the guidelines from here. Let's give them an even playing field and protect all the workers of Maine. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise to remind you this afternoon that this bill had an 11 - 2 committee vote Ought Not to Pass. It is dealing with private, and I would reinforce the word private, clubs. The committee had a lot of testimony, spent a lot of time on it, and it felt that it was not a bill that it could support. It supported the previous legislation, which went under the hammer. It did not feel that it could support this particular piece of legislation. I would urge that you support the 11 - 2 report of the Committee on Health and Human Services. Thank you.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. I've had conversations with a number of other private establishments, establishments that are privately owned although I guess they are publicly accessible. In that sense perhaps they are public. Many of the bars, restaurants, and places where the public are admitted to in my county have come to me and said that it's dreadfully unfair that a privately closed club of some kind or another is able to extend the privilege to people who come in and smoke there when they don't have the option of doing so in their own business. The competition is

dreadfully unfair. It violates all of the precepts of public health. It seems to me that it's high time to truly level the playing field among these competing businesses. Make no mistake about it, many of these so-called private clubs, even though they are non-profit, are very much businesses. They are run like businesses and they employ people. When they employ people, they invoke the jurisdiction of this state to define what that employment relationship should look like. It has been the policy of this state, and is the policy of this state, that when you employ someone else you do not have the right to expose that person to secondary smoke. That's true almost universally with one or two exceptions and this bill deals with the primary exception. We've seen the entire country of Ireland go smoke free in recent years. We've seen smoking banned entirely on airlines. We've seen smoking banned in many other venues. It seems to me that this last, or this step, should be taken at this juncture. To leave the law as it is would be dreadfully unfair to those folks who are out there trying to make a profit and competing with these so-called private clubs. I urge you to vote against the pending motion. I will be joining the Senator from Cumberland, Senator Turner, in that regard.

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

Senator **COWGER:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **COWGER:** Thank you, Madame President. If the Ought to Pass report is accepted, if there is a private club out there without any employees, will they be allowed to continue to allow smoking?

THE PRESIDENT: The Senator from Kennebec, Senator Cowger poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. The answer is yes. If I may amplify on my answer, there are some 145 veteran's service clubs, a majority of whom do not have employees and would be unaffected by this law. In fact, I think it's probably closer to ¾ or more who do not have employees. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#324)

YEAS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, DAVIS, DIAMOND, HOBBS, MAYO, NASS, NUTTING, ROSEN, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON

NAYS: Senators: BRENNAN, BROMLEY, COURTNEY, COWGER, DAMON, DOW, GAGNON, HASTINGS, MILLS, MITCHELL, PERRY, PLOWMAN, RAYE, ROTUNDO, SAVAGE, STRIMLING, TURNER, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: MARTIN

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS** Report **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/21/06) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**, on Bill "An Act To Implement the Recommendations of the Attorney General's Working Group Regarding Sentencing Factors for Crimes against Persons Who Are Homeless"

H.P. 1442 L.D. 2046

Majority - **Ought to Pass** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 21, 2006, by Senator **DIAMOND** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, March 16, 2006, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 21, 2006, Reports **READ**.)

Senator **WESTON** of Waldo requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **ROTUNDO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Thursday, March 23, 2006, at 10:00 in the morning.