

MAINE STATE LEGISLATURE

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The Chair laid before the Senate the following Tabled and Later (3/29/06) Assigned matter:

Emergency

An Act To Amend the Law Regarding Smoking in Private Clubs
H.P. 1342 L.D. 1901
(C "A" H-830)

Tabled - March 29, 2006, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, March 23, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-830)**, in concurrence.)

(In House, March 28, 2006, **PASSED TO BE ENACTED**.)

On motion by Senator **MAYO** of Sagadahoc, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-830)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-537) **READ**.

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

Senator **MAYO:** Thank you, Madame President. This is a very simple amendment. What it does is take the emergency off L.D. 1901. I would urge its passage. Thank you.

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

Senator **TURNER:** Thank you, Madame President. Are we dealing with the amendment or the main motion at this point?

THE PRESIDENT: We are dealing with adoption of the amendment.

On motion by Senator **MAYO** of Sagadahoc, Senate Amendment "A" (S-537) **ADOPTED**.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. We've had considerable discussion regarding private clubs and I want to make sure that you clearly understand what you are now voting for. The bill that is before you now will weaken our prohibitions against smoking in private clubs and make it easier for smoking to be allowed. I think that is a mistake. It puts more workers at risk than the current law that is

on the books. There has been some discussion about voting and surprise expressed by some that a ballot not returned would be a no vote. It troubles me that you would be surprised by that because the current law requires the affirmative of all the members. You have to have 50 plus 1% of all the members of a club to vote to allow smoking. If you don't return a ballot, it obviously is counted as a no. Some of you may think that this is a very unique practice. In fact, it is a very common practice. I may have mentioned this in a previous discussion with the chamber. If you are a mutual fund owner or owner of a stock and you are asked by the board of directors of that mutual fund to vote on a matter it requires the affirmative action of all the registered shareholders. Some of you, in fact, may have had an occasion when your vote is solicited and you get a second solicitation. The reason you get that second solicitation is because the directors were not able to get an affirmative vote by the majority of the stockholders. This is a higher standard than some elections, but I think it is an important standard that should be preserved because we're dealing with the health of workers. I would ask that you reject the motion before us. Thank you very much, 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 would hope that this is the last bill dealing with this issue that this Body will have to listen to during this particular session. As someone who was involved with the current legislation, which also was presented to us by the good Senator from Cumberland, I think we made a serious mistake with that legislation when we established the situation that allowed the counting of ballots of people who did not vote. While I do not dispute that some, but not all, corporations act as the good Senator stated, that does not necessarily say that it has to be that way for clubs and organizations in the state of Maine. It has caused problems and it has caused confusion on the part of members of the Elks Clubs, the American Legion organizations, and other clubs and organizations in this state. I urge this Body to support the motion in front of us today, L.D. 1901 as amended, and I hope, as I said earlier, that this is the last time that this Body has to deal with this subject in the 122nd legislature. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **STRIMLING:** Thank you, Madame President. In reference to this voting procedure, about people not being there, and their votes being counted as no, is it not the case in this Body that sometimes you need 2/3 of the elected body, regardless of how many people are in their seats?

THE PRESIDENT: The Senator from Cumberland, Senator Strimling 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. If I understood the question properly, the answer is yes, you sometimes require 2/3 of the entire Body to vote on something. If there are less than 35 Senators present and voting it would still require 24 votes for enactment or affirmation of something.

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

Senator **STRIMLING**: Thank you, Madame President. I, too, hope this is the last time we debate this. I would just say that if it is good for us, why is it not good for others? This is the same procedure we have in this Body. If we are saying that this is too cumbersome then I suppose we should get rid of that process here. Clearly it is okay for us. I think the standard should remain the same. Thank you.

On motion by Senator **BRENNAN** of Cumberland, 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 Turner.

Senator **TURNER**: Thank you, Madame President. While I rise first to agree with the good Senator from Sagadahoc, Senator Mayo, on something that he said this morning, I do think we should not see this before us again in this session. However, when he talks about some votes as I have described, I don't own all of the stocks on the New York Stock Exchange or all of the mutual funds as tracked by Morning Star, but I don't know of any who do not vote as I have suggested. Again, to think now we are just dealing with a matter of voting I think is shortsighted. This remains, as it always is, a matter of health. When you make it easier for smoking to be allowed where there are employees, you make it easier for sickness to follow. I would, again, urge you to vote against the matter before us. Thank you, Madame President.

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

Senator **DAVIS**: Thank you, Madame President. I never planned on speaking on this, but all this discussion about voting and whose vote counts, I don't know if we are going back to the year 2000 or what's happening. If you run for election in the state of Maine for any office, the voters are the stockholders. You only have to get a majority of those that vote. That's the people that usually are the ones that participate and the ones that are interested. I have a number of clubs. I think of East Millinocket Legion. I'm sure they have members all over the state and probably all over the world. There is just a group that goes there. Those who vote, it should be the majority of those votes. Thank you very much.

THE PRESIDENT: The Senator from Cumberland, Senator Turner, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. In response to the comments from the

good Senator from Piscataquis, Senator Davis, I would like to add something else for your consideration. He is indeed, correct that the standard we have for election is relatively low. It's a majority of those who show up and vote. There are many other situations where you need a minimum threshold in order for a vote to count. That can be on matters involving referenda questions at the municipal level or at the state level. We do have varying standards and I acknowledge the standard that he mentioned. However, I would suggest to you, as we have many times before, when it comes to dealing with employee health, the standard should be higher. Again, I ask that you vote against the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. 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 (#359)

YEAS: Senators: ANDREWS, BARTLETT, BRYANT, CLUKEY, COURTNEY, DAVIS, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, BROMLEY, COWGER, DAMON, DOW, MILLS, ROTUNDO, STRIMLING, TURNER, THE PRESIDENT - BETH G. EDMONDS

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-830) AND SENATE AMENDMENT "A" (S-537), in NON-CONCURRENCE.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/29/06) Assigned matter:

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

Tabled - March 29, 2006, by Senator **DAVIS** of Piscataquis

Pending - **ENACTMENT**, in concurrence

(In Senate, March 23, 2006, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 28, 2006, **PASSED TO BE ENACTED**.)