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

House of Representatives

One Hundred and Nineteenth Legislature

State of Maine

Volume I

First Regular Session

December 2, 1998 – May 12, 1999

80 having voted in the affirmative and 65 voted in the negative, with 5 being absent, the Joint Resolution was **ADOPTED**.

Sent for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act to Reduce the Amount of Paperwork Required for Transactions Involving the Sale of Wood"

(H.P. 709) (L.D. 976)

Signed:

Senators:

NUTTING of Androscoggin
KILKELLY of Lincoln
KIEFFER of Aroostook

Representatives:

COWGER of Hallowell
CARR of Lincoln
VOLENIK of Brooklin
PIEH of Bremen
WATSON of Farmingdale
GAGNE of Buckfield

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

FOSTER of Gray
GOOLEY of Farmington
GILLIS of Danforth
CROSS of Dover-Foxcroft

READ.

On motion of Representative PIEH of Bremen, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The following item was taken up out of order by unanimous consent:

SENATE PAPERS
Non-Concurrent Matter

An Act to Extend the Management Plan Requirement for Forest Owners under the Maine Tree Growth Tax Law (EMERGENCY)(MANDATE)

(H.P. 647) (L.D. 897)
(C. "A" H-61)

PASSED TO BE ENACTED in the House on March 18, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-61) AS AMENDED BY SENATE AMENDMENT "A" (S-26)** thereto in **NON-CONCURRENCE**

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass** on Bill "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

(H.P. 951) (L.D. 1349)

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin

Representatives:

QUINT of Portland
FULLER of Manchester
LOVETT of Scarborough
WILLIAMS of Orono
KANE of Saco

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

SNOWE-MELLO of Poland
BRAGDON of Bangor
BROOKS of Winterport
DUGAY of Cherryfield
SHIELDS of Auburn

READ.

Representative KANE of Saco moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. LD 1349 is not merely an act to protect the citizens of Maine and the detrimental effects of tobacco smoke as titled. It can be an act by this Legislature. It protects citizens, especially children from the ravages of cardiovascular and respiratory diseases and cancer. It is an act of mercy, justice and common sense.

In 1985 the state passed workplace smoking laws. The employees of restaurants have been waiting 14 years to gain their protection. This is not an anti-small business law. It is a pro-public health law. There is no more important public health policy that we will deal with in this session than this bill to ban smoking in Class A restaurants in Maine. This bill has all the features of good public policy. It represents the will of the people of Maine. Seventy percent of Maine citizens recently polled expressed support for such a ban.

It saves public tax dollars. It has been determined that it is currently costing Maine taxpayers $6 million a week, nearly $1 million a day to pay for the medical costs of smoking related illnesses. This bill can send a powerful message to all Maine people, especially children and young adults about our concern for Maine's public health crisis. Our public health crisis is this, Maine currently ranks number one in the United States in young adults smoking for those between the ages of 18 and 30. It is among the leaders in teenage smoking in the US. This is not something, ladies and gentlemen, that we can afford to ignore. Banning smoking in restaurants is not designed or intended to specifically prevent young people from beginning to smoke. There are other programs that do attempt to do that. It will send a message to our teenagers that we adults are willing to change our own behaviors in hopes that they will change theirs. Vulnerable employees in restaurants would be protected from second hand smoke, which has as much, if not more, devastating impact on them than on smokers themselves.

The toxicity levels of second hand smoke is actually greater because it lacks the filtration process that most primary smokers have. Employees and restaurants and bars are the largest group of Maine employees deprived of the protection

from workplace second hand smoke. If we were dealing with public exposure to any other chemical carcinogen other than tobacco, we would force that industry to clean up immediately or shut down.

We may hear about possible economic impact on tourism and on restaurants, especially local smaller restaurants. Most of these concerns have, from experience in other states and over 200 cities, proved to be groundless. We will hear arguments for individual freedom of choice, micromanagement, autonomy and individual rights of smokers. We already require workers through statewide licensing regulations to comply with other health and safety practices. I hope, men and women of the House, that as you listen, deliberate and finally vote, that you will appreciate the seriousness of the public health threat facing our people, especially our children. It is a threat no less serious and much more insidious than was the TB threat of the '30s and the polio threat of the '40s and '50s.

This is one of those times, colleagues of the House, when we must act above and beyond any local or special interests, which may have been presented to us and to vote our conscience. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. Because this bill does narrow its focus in on a specific industry in our state, I think we should consider the following. You and I do not own the Miss Meddybumps Diner, but we are about to act as if we did. You and I as individuals can't walk into that diner, take money out of the cash register, redecorate the place, give the workers a raise or change the menu, but yet, as a Legislature, that is what we are about to do. Because this ban on smoking is popular with the people and the public does believe that they own the diner and that their Representatives can make laws about how the place is run, we should consider a few things.

Second hand smoke is less dangerous than two Big Macs a week. If we carry this further in terms of trying to control the lives of individual citizens through legislation, where is it going to stop. What about us who have larger than average girths, should we make a law to lock our refrigerators after we reach a certain weight? After all, it is good for us. We could carry that further and have the state pay for plastic surgery for those of us who don't look appealing to the sponsors of this legislation. The real question is, should we allow people to wrestle with their own lives, their risks and other dilemmas or should we take over their pitiful lives for them? Strap them into safety equipment before they leave their homes. You don't have to go to the Meddybumps Diner, you don't have to work in that diner. You also don't have the right to stop other folks from going there. You don't have the right to interfere with what they serve and to whom.

The real war on smoking isn't on bars and restaurants that inflict tobacco fumes on unwilling customers and employees, the real war is on the customers who don't behave properly and who don't want the things their self-appointed betters say they should. I contend, and I don't disagree with, smoking is bad for our health, but if we are really serious about it, let's bite the bullet and ban tobacco sales in the State of Maine. That is how you are really going to get at this health problem.

I finally might add that the smoke we blow here in this House, does more harm to our citizens than any amount of cigarettes that they might smoke at home. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to set one point perfectly clear before I start. In 1988 my father died of lung cancer. Smoking all of his life or at least as far back as he could remember. He quit 20 years before his death, but it didn't seem to matter. He had worked, by the way, in the paper industry. There were a number of people who thought it was asbestos, but he was convinced that it was smoking.

About 15 years ago after I had been smoking for many, many years up to about four packs a day, I decided to quit. I used both of those because I want you to understand that, to me, smoking is a health issue. I you could figure out a way for me to vote on a bill that would ensure that people didn't smoke, guarantee that young people didn't start smoking, then I would support that. We had several bills in front of the Health and Human Services Committee yesterday, one of which how you move cigarettes away from self-service and out of the aisles and away from the counter and behind the counter, so that the attendant has to deal with it. I intend to support that piece of legislation. I happen to have had the great fortune recently of having a new member of my household. She has friends and she herself, on occasion, smokes, not in my house and not in my car and rarely in my presence. That is a health issue.

The bill that we are dealing with this morning is, to me, not a health issue. The legislation in LD 1349 is a statewide ban. I cannot support this kind of ban. I know the toxic effects of second hand smoke. I have a sister who works in the waitress business and has for many years. She and I had a long heated, not smoke filled because she doesn't smoke anymore either, discussion about the appropriateness of legislation like this. As I said to her at the time and as I just said to you, if we can figure out a way for people to check their cigarettes at the border or we can figure out a way to discourage people from starting or discourage them from continuing, let's do it. Let's not override on all the businesses in the State of Maine the necessity to ban smoking in their restaurants. Let's give them choices.

In my district, 107, which includes seven towns in eastern Waldo County, the last time this vote came up and this time I went out and talked to the restaurateurs. Two of them, Gallagher's Gallery and Brooks and Just Barbs on Route 1 in the Town of Stockton Springs, said to me, why don't you come down to lunch after you vote on this? If you vote to ban smoking, bring a padlock and lock the door when you leave because you will be the last customer. I don't know if that is true or not. I hear stories about Moody's Diner and I hear stories about other restaurants where they banned it and that they have had an increase in revenue. I have to go by the small business recommendations that are made to me by those restaurateurs. There may be and probably are unique circumstances out there that would preclude an appropriate business operation in a community that may be different from Portland or different from Stratton. Two of the towns that I know have put in bans.

I can't vote for something that will hit as many businesses as this does. For example, in Portland where the ban was approved, after much discussion and deliberation and an ultimate vote, there law, as I understand it, allows some smoking in lounges that are a part of the restaurant. If we pass this bill, it precludes the Portland vote and the Portland ban and it would ban smoking in all lounges that are part of restaurants.

As you have seen from some of the material that has been distributed today, Class A lounges would not be covered under this bill. What are we asking people to do? We are going to ban smoking in the lounges such as the one that exists in a restaurant that I frequent in Bangor. It is fully contained within

the restaurant. People go in and wait for their table to be ready and they have a drink and they smoke. That will not be allowed under this legislation. You would have to prevent them from smoking there. You could encourage them to go across the street, as was pointed out earlier to me, and have a cigarette and a drink in a lounge. If it is six miles away and your table is going to be ready in an hour, have four or five drinks and then drive back to the restaurant. What are we encouraging? I am not sure that is an appropriate step for us to be taking. If we were to approve this ban, I want you to tell me what I can say to Bob and Eileen Gallagher who run Gallagher's Gallery and Brooks and to Barb Wilson, who runs Just Barbs over in Stockton Springs, when their business starts to decline. Wouldn't it be better to say to them that the Town of Stockton Springs and the Town of Brooks already have the ability to exercise their own ordinance. If there are enough people in town to fill out petitions and take it to the Board of Selectmen or to the Town Council, they can do this. Why do we need a statewide ban?

Another question that came to my mind this morning is, what am I going to tell my friend who runs a business in Bangor underneath his Class A restaurant serviced by the same kitchen and by the same wait staff to some extent that would now be prevented from having smoking. This is an OTB parlor. It is part of the restaurant. I happen to have gone there a couple of times and I know what their clientele is and I know who they cater to. What are we going to do to his business, to OTB business? Maybe we should shut that down anyway. Maybe people don't agree that there should be off track betting. That is a whole other debate for another day. Frankly, those are the kind of businesses that we are going to be impacting if we pass this legislation. I ask you to help me to go back with the appropriate answer to Bob and Eileen Gallagher and Barb Wilson and those other people that says we are going to leave the decision up to you. Let the restaurant make the choice. If the restaurant wants to make the choice to ban smoking, I applaud them. I will work with them. I told that to the restaurants in my district. If the community wants to do it, I will find the appropriate ordinances. Let's take a look at that and see whether or not a community wants to do that.

There are 400 plus communities in the state, towns and cities. I think the decision should lie with them and not for us to overlay a statewide ban that is going to all but destroy a number of businesses. Not just border communities, ladies and gentlemen, in district 107 and the districts like it. Please join with me in opposing the Majority Ought to Pass Report so we can get to the Minority Report, which, by the way, is only separated from the Majority Report by one vote. We are not talking about a great overloaded, heavily bloated side of one issue or the other. This is split down the middle until a couple of people came back in and voted after having been absent from the first vote because they were off at other committee hearings. It is a very closely divided report in the Committee on Health and Human Services. I have sat through this debate in the committee and in the House, twice. I haven't found it to be compelling enough for me to support a statewide ban. Please join with me in voting against the Ought to Pass report so that we can get to the Minority Report. Mr. Speaker, I ask for the yeas and nays. Thank you.

Representative BROOKS of Winterport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Good morning. The people of Maine are waiting. They are waiting to see if their Legislature has the will and the courage to finally clear the air in all the restaurants throughout the state. They are waiting to see if we will be taken in by the argument that this should remain a free market issue. Perhaps a reasonable argument on the surface, but a closer look will show that restaurants are businesses that welcome and serve the public of all ages and that they operate under an array of laws and rules that exist solely to protect the public health. They employ tens of thousands of people, often young people, whose employment is offered with working conditions that are closely regulated to provide for the safety and health of the employee. The only area in which restaurants differ dramatically from virtually all other businesses is in allowing smoking in a public place and allowing smoking in a workplace. Why does this aberration in public health and workplace safety still exist? There is no good reason.

The people of Maine are waiting to see if their Legislature can see through the dire predictions regarding the economic hardships that allegedly will occur when we finally clear the air in restaurants. Predictions that, were they true, would make Maine unique among the four states and over 200 municipalities nationwide who have already eliminated smoking in restaurants. The facts are clear. Study after study have revealed no detrimental impacts to business. The people of Maine have waited patiently for the past 16 years while the Legislature has slowly whittled down the list of acceptable public smoking areas. We started in 1983 with nursing homes and have steadily added to the list. Jury rooms in 1984. Most workplaces in 1985. Public meeting in 1987. School, hospitals, buses, ferries and most recently in 1994, all enclosed areas where the public is invited. The most notable exception to that law is restaurants and the 44,000 people who work in them. This, the most egregious of the current exceptions, must not stand.

I firmly believe that the people who elected us to represent them here in Augusta are anxious for us to act and to remove this antiquated exception to the public and employee health and safety laws of this state. Please join with me in supporting the Majority, bipartisan, Ought to Pass Report. Thank you for your time.

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

Representative **BRUNO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand before you today as a business owner. I have heard the argument over and over again, let the business decide. You did not allow me to make a decision on whether I want to carry workers' compensation insurance. How many of you would say, let's get rid of that? You don't allow me to not pay my workers and plus you tell me how much at a minimum I need to pay them. Do we need to get rid of that too? How many of you think it is okay to store hazardous material in the workplace? There is no more hazardous material than tobacco smoke. Why do we want to treat wait people, cooks, bust boys and bust girls as second hand citizens? Why do we want to expose them to a hazardous material when we wouldn't do it in any other workplace? You look at the restaurant industry, for which I worked in and my parents owned the restaurant, they are hardworking people. They work long days. Their feet are tired at the end of the day, but they sit there and they have to breath in smoke right now. Why would you want to do that? Why would you say it is okay

for those 44,000 people because we don't care about them as long as the smokers have the ability to smoke in the restaurant.

I am sure that many in the restaurant business do not offer health insurance. Yet, we have bills before us for the uninsured. What better way to prevent health problems than to eliminate smoking in another public area. We have a tough decision to make, but this is a very hard decision. I am sure that there are many of you that really, truly have not made up your mind yet. I ask you to follow the majority of the committee and realize that we need to protect our workers. We need to make Maine a better place, health wise. We can do that by just voting yes on this bill. Please think about the workers. Don't think about the minority of smokers out there. Think about the workers. In America we rule by majority. The majority of us are nonsmokers. The majority of us, in all the polls, if you vote by polling, 70 percent of the people polled say they want to ban restaurant smoking. Please think about that before you cast your vote. I hope you follow my light.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I am intrigued a little bit with the idea that this should be a local option. Down on our tax committee we talk a lot about local option taxes and various issues related to local option. The difficulty, of course, is creating all of these borders that we do and how we can pass an ordinance or a rule for one municipality and not think it will affect people and what their habits are.

In my particular area, the greater Waterville area, there are really four municipalities that work together on most issues. The MTBE border, in fact, came right through the middle of that area. If you went to one gas station you were paying a higher price, you had MTBE. If you went to another gas station on the other side of 95, then you weren't paying it. That was devastating for some of those business that ran there. Imagine the difficulty of passing an ordinance in this environment where only a small group of the restaurants will be covered and the other outlying restaurants maybe would not be covered. It is something that needs to be done at this level. It needs to be done at the state level.

The second point that I wanted to raise is just an experience I had last summer. My wife and I have a camp in northern Somerset County. We went up 201 and across the border to St. George. We walked into a mall, I think a little smaller than the Bangor Mall, on the first floor in the open area and you could see this big blue cloud across the entire mall. Apparently in Quebec and Canada, I love that area so I am not being overly critical, but they still allow indoor smoking in these types of facilities. It reminded me of how these things used to be in this state with these types of open areas. It is time to move along. It is time to ban smoking in restaurants and to take that next step and clean up the restaurants and then we will be looking back in four or five years and reminding ourselves of the work we did here today. I encourage you to support the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. Last time this bill came forward I researched my restaurants and I went with the good Representative from Winterport because they said that they felt that this isn't going to work. When Portland took the risk and I started thinking about it again, I did not go to my restaurant keepers. They phoned me and said let's level the playing field. I don't want smoking in my restaurant. We think that we can survive and work. I do happen to live right close to Moody's Diner. They have expanded twice since they stopped having smoking in that restaurant of their own choice. I think that it is scary for some businesses and restaurants, but I think you can encourage them that if we level the playing field, that their businesses will not only do well, but they will increase. Thank you. I encourage you to support the Majority Ought to Pass Report.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. I have been listening very carefully to this debate. I came here this afternoon really not having made my mind up. I am coming around to the thought that I will oppose the bill. Let me tell you a little bit why I am thinking that way. I have heard talk about leveling the playing field. If we are going to level the playing field, I think I could support this bill. In fact, if I came here thinking we were going to vote on a bill that would ban smoking from restaurants, restaurants, to me, means a place where you go get some food. You sit down and eat. The law is a little different from that. There are other places where you can get food. The bill leaves out a very large class of businesses. It exempts hotel lounges and adult only facilities. What does that mean? Most people would think that a bar room is an appropriate place to smoke, although I am mystified how we make that argument thinking in line of the employees who work there. I suppose if an employee works in the lounge he should be treated differently than an employee who works in a restaurant. I guess the smoke in one place is better than the smoke in the other.

That being aside, we are familiar with Augusta. In Augusta we have a couple of places that we stay at often. One is the Holiday Inn down there and attached to that is the Ground Round. If this bill passes and the Governor signs it and wait 90 days until after we adjourn, you won't be able to go to the Ground Round, order a steak and have a cigarette if that is what you want to do. Okay, that is fine. That, I think, is what I thought we were going to do here today. If you go down to the Comfort Inn and you go down to Sally's down below and you order that same steak, you can sit there and have a cigarette. That doesn't make any sense to me. That is not leveling the playing field, ladies and gentlemen. If you want to level the playing field, let's level it. If we want to talk about employees being subject to this hazardous material, why isn't it good for all employees everywhere? I guess my concern is if we are going to do the job, let's do it. If we are not going to do the job and level the playing field, then let's leave it the way it is. With that, think about it. I think at this point I have a tendency to think this is a bad bill. We ought not to pass it. We ought to kill it and send it back to the committee and let them come back with something that does away with smoking statewide in all public places, restaurants and otherwise. I will vote for it. I don't know if I can vote for this. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Cote.

Representative **COTE**: Mr. Speaker, Men and Women of the House. I am here to vote for the ban due to one factor. I started smoking at a young age. I was about eight or nine years old when I started smoking. When I got to my early 30s, I ended up being put on this inhaler . I have to live the rest of my life with this now because of smoking. I have a smoker in my house, which is my wife, which is second hand smoke. I have to leave the room just so she can smoke. My son has to leave the room just so he doesn't breath it. What are we going to do

about this? We have our future sitting in front of us out in the front. We have futures up in the bleachers. We have our own futures ahead of us. Our children is our future. Do we want to see them grow healthy or do we want to see them grow having this the rest of their lives? As far as Representative Bruno, I have to disagree with you as far as business owners go. My cousin has been in business for 40 years in a restaurant business. His business has been booming ever since. He has not had one smoking in that business in 40 years. His revenue is sky high. Higher than it has ever been before. I know a lot of restaurant owners.

I have worked in a lot of places that ban smoking. You want to smoke, go outside. You don't need to smoke in front of the children or anybody else and jeopardize their health because you want to have a smoke. I hear children crying everyday because of second hand smoke. I hear them crying to their parents to stop smoking because they don't want to inhale it. My son begs his mother everyday to stop smoking. Her own doctor begged her to stop smoking. I have done it. If you want to light up a cigarette, fine, go outside and have it. You don't need to be smoking in front of our next generation. Their health is important to everybody. They live a healthy life as it is. Let's keep it that way. Let's ban the smoking. Businesses aren't going to lose revenue. They are going to have their revenue. They will still be in business. Like I said earlier, my cousin has been in business for 40 years. His business is still booming. If they want to have a cigarette, they go outside and then they come back in. It is as simple as that. We have to think of our children, who is the future once we are gone. They need to live a healthy life. They don't need to be stuck on inhalers the rest of their lives like me and like a lot of others. I urge my fellow colleagues to join me in support of this ban. Vote for it, ban it, get it done and over with and let's think of our children as our future. Let's think of their health. Thank you.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I have done a great deal of soul searching about LD 1349 to ban tobacco from restaurants. My father, William J. Davis, was a fine athlete. At 50, he won a foot race in East Newport, Maine against all comers. At 51, he was gone forever. He smoked three packs of cigarettes per day. My sister-in-law, Janet Hall Davis, just recently died of lung cancer. She was also a very fine active lady, but she smoked two packs of cigarettes a day.

When cigarette smoking first started in Virginia in the 1620s, James Stewart, 1601 to 1625, King James of England said, "Tobacco and Cigarettes were an noxious weed." They were then in the 1620s and they still are. I urge my colleagues to vote to ban LD 1349 and to vote for it and to ban tobacco smoking from restaurants. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. Generally I feel that if something can be handled locally it should be. In fact, I think that should be an amendment to the Constitution. I have to differ with the people that spoke in favor of this saying that it wouldn't be appropriate for local control because it is something to do with borders. I fail to see that. It seems to me that we have already heard that Moody's Diner have banned and they have done well, not only local towns and cities can do, but the individual businesses are doing it. It seems like the Legislature likes to jump on and grab a hold of the train that is already heading for its destination. Society, we are getting away from smoking. I know it is a problem with children in the State of Maine. I submit that if you want to take children somewhere it will teach them a lesson about how miserable smoking is, take them into a restaurant that smokes. They usually gasp and cough. I think it is a good lesson.

The point I am trying to make is it is already happening people. Not to impugn the motives of anybody behind us at all, but sometimes I just feel like it is happening. Rather than make a mistake, let's let the local towns and cities do it. They are doing it all across the country. Somebody referred to this as what a terrible scourge tobacco is. I agree, but comparing this to polio and TB. Some of us remember the viral epidemics and the contagion of it. I just think using those terms in this debate is putting it out of reason. I urge local control on this. It is already happening. We won't get the credit for it.

We like to credit for things. If you look back we have done other things, banning other things, they are already heading in that direction. I hate to keep bringing this one up, but the orange clothing for hunters, if you look at the floor debate on that, 90 percent, one of the game wardens testified in the committee that at the time that mandate came on, 90 percent of the people were wearing orange. If you look at the fatalities, they are already way down. It seems to me that government likes to take credit for things. We still take credit for saving all those lives with that. I think you will see smoking go out of the restaurants by itself. Thank you.

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

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to tell you why I voted in committee to support the statewide ban on smoking. I have felt for many years that it was a business decision. We should leave it to the business and we should leave it to the restaurant owners. I have changed my mind since then because I have felt that I have been discriminated upon along with 150,000 other Mainers who have emphysema, chronic bronchitis and asthma. You see, ladies and gentlemen of the House, if I open a door to a restaurant that allows smoking, whether they have a nonsmoking and smoking section, I open that door and that air comes right to my lungs. I cannot breathe. Do you know how scary that is when you can't get your breath? Yes, I have a ventilator. I have many gizmos to help me. When I am standing there, I panic. I don't care how much ventilation a restaurant has, you can only ventilate so much. You cannot ventilate it all. I can tell you that first hand.

You see, this is about discrimination. I am just hoping that you people will see that all of us in the State of Maine should have a choice to go to the restaurant of our choice. I don't have that choice. I hope you will give it back to me. I want to be able to go and eat where I prefer to eat and where I would like to eat. I hope you will vote with me today to ban smoking in the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Williams.

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who may be undecided on this issue, the debate, clearly, here is whether or not to frame this issue as a health issue or a business issue. I don't think I am telling you anything when I tell you it is both. Clearly, it is both. What helped me in determining how I was going to go on this early on was when I realized in my own mind and I will steal the term that Representative Davis just used and did some soul searching and realized that this is a health issue. Clearly there are situations when health issues supersede

choice. Given the option, some restaurants wouldn't have their water tested. Given the option, some restaurants wouldn't choose to remove the asbestos from their ceilings or their walls, which, by the way, asbestos is a Class A carcinogen, like tobacco smoke. I don't think there would be much debate whether or not a restaurant would need to move that asbestos from their ceilings or their walls. I am sure we have all been affected by buildings where a lot of construction has gone on to do just that to remove the asbestos.

There is also a lot of talk about why not just do this all at once. Why don't we ban it all? I will remind you of what Representative Etnier said, this is an incremental process. This is the next logical and prudent step in this process. Town vs. state control or decision making. I would ask what is the difference between town micromanagement and state micromanagement. Micromanagement is micromanagement. I rely a lot on the testimony of experts, particularly in our committee where the issues are very complex and highly specialized. The Maine Indoor Air Quality Control came out with a very, very strong statement about ventilating and the lack of ability to ventilate smoke. You can ventilate for comfort, so you can pretend like it is not there, your eyes won't get red. You won't cough. Your cloths won't smell, but you are still going to be exposed to the toxin, the poison. You can't ventilate out the carcinogen.

Finally, I just want to respond to the speaker early on who got up and sort of equated this with the second hand smoke as less dangerous than eating two Big Macs a week. I would like to see that. I am intrigued by that notion. I would suggest to you that workers in MacDonalds or any of us don't have those Big Macs being shoved down our throats. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Dugay.

Representative **DUGAY**: Mr. Speaker, Ladies and Gentlemen of the House. I actually smoked at one time, in reference to the Big Macs, I actually tell everyone that I quit smoking 47 pounds ago. I don't know. I got rid of the problems with my lungs, now I may have a problem with my cardiovascular system. I certainly want to protect the citizens from the detrimental effects of tobacco. As an eldercare provider, CNA and EMT, I often see the negative results of cigarette smoking in the field, but I would ask the members of this body to consider some flexibility. That is the important word right there from me. That is flexibility for the small business owners throughout the diverse business areas of the State of Maine. The majority of Maine's restaurants are willing to compromise. I urge you to give them that local opportunity. I think that is important to give them that local opportunity to make that change. In my rural area where several of my restaurants have asked that I oppose the ban. That is what I am talking about. It is just those regions where there are only four restaurants in my entire district. I have to kind of think about it from a business standpoint. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Two years ago I voted against this bill. I have changed my mind over the last few years after talking to a lot of constituents and restaurant owners. The overwhelming support of this bill in my district is incredible. I just did not believe there was so much support for it. I have a couple of issues here where we have heard that small businesses and small restaurants will have to lock up and close their doors. If it is a statewide ban, I find it hard to believe when everybody is on the same playing field that they will go out of business. I have a store in the Town of Eliot that I represent. I was talking to the owners the other day and they hope that this ban goes through. They have a little deli shop on the side and tables where people sit there and smoke all day long. You buy a loaf of bread, it tastes like smoke. You buy a cupcake it tastes like smoke. They urged me to vote in favor of this. When talking to other constituents in Eliot, I asked them how they felt if the smoking was banned in the small store, they said that they would start going back there. They don't go there presently because of the smoke.

I urge you to follow the light of Representative Kane and others and to support this measure. It is very important to most of the citizens of the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I voted against this two years ago. I shall vote against it today. It isn't because I am a bad person. I firmly believe, and always have, that choice, not chance, will determine your destiny. If you make the right choices, that is important, I probably most of you people sitting in this House making this decision, have asked young people to leave school or expel them because they did not abide by the rules of smoking. I ask you people who are going to say to this particular group that we are going to make the decision. My understanding is that they can make their own decision if they want no smoking. I say to you, now they have somebody to blame, our legislators. I wonder how the media, what words they would use tomorrow to say how we voted. Remember the vote for MTBE. We were heroes for a while. Although I didn't vote for that either.

I have never smoked a day of my life, but only because I respected my high school coach. In those days your coaches would always say that if you wanted to grow, don't smoke. Look at me. I am concerned when we speak about young people and what we should do to prevent them from smoking. How many of you people, and you have every right to go to your schools and say, why not change the health curriculum. Have you been to your school to find out how much time they spend smoking? Do it. You may be surprised. We are totally changing the standards of how we are going to affect education for our young people. Yet, some of the social problems which we have are not addressed. Again, check it out. If you believe in education, as I do, that is the place to start. The people who have problems, God bless them, because I certainly think about them. We have got to get the young people not to smoke and we won't have the problem that we have.

I am not saying ignore the older folks. I happen to be in that category also. I do have some meals. A few speakers have said what better way to help. We will encourage to act. Well, if you studied your history, remember all of the legions of people who were told what to do in every part of their life. I won't name a couple of groups of people, but that is what happened until such time as they said enough is enough. You certainly know what happened then.

Last year we okayed a tax on cigarettes and the administrative people governing the welfare of the people said this will do it. During that time, it was stated that it reduced and will reduce. Yet, four days later over TV, the announcement was we had a 7 percent increase in the people entering college. We have 7 percent more smokers.

I married a wonderful lady from Waldoboro. It has been said for many people, look what happened in Moody's, that is in

Waldoboro, by the way. I have eaten there for 50 years. Whether they smoke or not, I am going to eat there because of the food. The food is so darn good you can do anything you want to and you are going to get a crowd. My wife has smoked. Contrary, I don't know, maybe it is my genes, I have not been affected by it. I have had my lungs tested and so forth. I don't like it, but some people are going to react to things where others will not. My dad smoked all of his life and died from emphysema. He tried to get all nine of us not to smoke. My kid sister smoked and she now has cancer of the lungs. As she said to me the other day, I took a chance and it was a poor choice. I think there is a better way for us to take care of this situation rather than this particular bill. I think it ought to be studied further. I believe, certainly from the vote of the committee, I hope that we defeat this and go on and try to present something that is better. If you say no smoking everywhere, I will vote for it. I think we need to do something different than what is stated in this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I just want to respond very briefly to the argument we heard earlier about that this should remain a local decision. I think all of us in this body have made a very conscience decision to operate on a statewide level when it comes to such things as toxics and known carcinogens. We have worked very hard as a body of a whole and we continue to work hard on the Natural Resources Committee to eliminate toxins and carcinogens from our environment. We all agreed last year to eliminate the discharge of dioxins into the rivers of this state. We even argued in this hall over very minute amounts of dioxin, but we all agreed that was clearly a statewide issue. We also agreed to severely limit the amount of mercury that was discharged to our waterways and also to our air. I think we all agree that is a statewide concern.

Right now in the Natural Resources Committee we are looking as to whether we should eliminate transformers containing PCBs throughout the State of Maine. That will be an issue that we, in this body, will be able to vote on. Also, members of both parties have been very concerned with MTBE as the Representative from Fryeburg has mentioned. We all want this removed from our waters. Again, we are talking very small amounts of this chemical and very small amounts of exposure to our bodies, yet, we want it removed. MTBE is classified as a possible carcinogen. It is not a known carcinogen. It is a possible carcinogen. It is lower down the scale than second hand cigarette smoke which is a known carcinogen. The decision for me to support the pending motion is easy. It is easy to eliminate one of the most harmful compounds in our environment and around our personal lives today. I urge you to join me in supporting the motion.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Men and Women of the House. I am a little confused. We have a pink sheet about LD 1349 across the top and I would like to pose a question through the Chair if I might. Across the top it says it creates a smoke free environment to all restaurants, Class A restaurant and lounges. It says exempts bars. Many restaurants in my area have a restaurant with a bar enclosed within that restaurant. Does this mean they are going to be able to smoke in that bar, but not smoke in the restaurant? I would like to know the answer to that. Thank you.

The SPEAKER: The Representative from Dexter, Representative Tobin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Ladies and Gentlemen of the House. The intent of the bill is to utilize our existing licensing system. Those that have Class A restaurant licenses would be required to comply with the new legislation. What it does exempt are places that serve primarily liquor. They serve food, but their primary business is serving alcoholic beverages. The key criteria is where children are not allowed. In facilities where there is completely separate lounge area from a restaurant and where children are not allowed. Those are areas that would be exempt. The clear intention of the bill is to create as little disruption as possible in business that are currently licensed. They know what they can do and what they can't do. We are not fooling around with a license. I know that when I attempt to answer that question, my first question is, are children allowed? If the answer is no, then it doesn't prohibit. I hope that answers the question.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Bragdon.

Representative **BRAGDON**: Mr. Speaker, Men and Women of the House. I would like to answer the Representative from Dexter's question. It is not very clear in looking at this list who would be covered and who would not be covered. If a restaurant also has a lounge, as Representative Winsor spoke of, for example, the Ground Round where there is a separate lounge area and then there is a restaurant area, they would come under the ban. Smoking would have to be banned in both areas because they are licensed in the third category in the top section as a Class A restaurant, class lounge. If it is solely a lounge or a bar or a tavern, then they are not part of the ban. I would urge you to vote against this bill because it does create inequity for lounges that also have a restaurant attached to them versus lounges. They are separate. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I also would like to add some information to this question even though I do not serve on the committee. I hold a liquor license myself in my business. I did look into this issue quite thoroughly. A Class A restaurant/lounge would be covered under this bill and would be smoke free. However, if that facility so chose, they could change their license, pay an additional fee and become a Class A lounge and continue to serve food. A Class A lounge does not mean there are not meals served. They could continue to serve food and change their classification. They would not be able to, however, allow children in that eating area as well as the drinking area unless they are accompanied by a parent or adult. Thank you.

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative **STANWOOD**: Mr. Speaker, Men and Women of the House. I stand to support LD 1349. Tobacco smoke cannot be easily controlled. It is very light and spreads by any slight air currents. Restaurant workers are subjected to smoke while at work. It is as if they have to smoke. They really have no choice. Also, in smaller restaurants in my district they may have smoking areas and nonsmoking areas in the restaurant, but the same wait staff serve both clientele. If you are asthmatic, you know that when the wait staff that has been working in and about the smoke wait on you, it can have a

detrimental effect on how you breath. I recently went to a restaurant here in Augusta and had to leave because two women came in and smoked in the small dining area. I could not stand it. I urge you to protect our loved ones by banning smoking in another public place. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. I have been listening with some interest over the last few minutes. Other than the previous three or four speakers, there has been very little talk about the bill. Nobody in this room, I think, really likes smoking. I think even the people out on porch don't really like smoking. I certainly don't. In fact, I left my antihistamines home and these flowers have stuffed me up. Let's talk a little bit. I heard the debate earlier and it was said that some restaurants would not test water. Some employers would not have workers' compensation. Some people wouldn't remove asbestos unless we required it. You know, we do require it. We require those of everybody. Every employer has to have workers' compensation. Every person who takes water from a private well has to test it if it is being used for a public purpose. I don't know about asbestos, but that is the point. The bill does not exempt smoking from all places where you buy food. It doesn't do it. There is a saying, the birds of a feather, I think what is going to happen is the birds are all going to go to the restaurants who change their license to get around the law. Think of what you are doing to those employees in that area. Frankly, I think it is a great idea and just a bad bill. I urge you to vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. In response to several questions that have been raised, I wanted to further clarify the extent of how broad the ban would be. There are currently 4,000 facilities that are licensed as restaurants, primarily food. There are 850 that are Class A restaurants that do serve liquor. There are 250 restaurants/lounges that the ban would affect. There are 180 hotel lounges, 145 Class A lounges and 15 taverns. This ban would affect 5,000 eating restaurants as we would term them. There would be 300 facilities that would be exempt, including the hotel lounges, Class A lounges and taverns. We talk about how far we are attempting to go toward a complete ban. We are only short of about 300 of the total facilities. Five thousand facilities would be covered in this very near total ban. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, Men and Women of the House. I hadn't intended to rise a second time, but the points that my colleagues from Saco was just pointing out makes it even more drastic that I say something further. Five thousand facilities, I guess that I hadn't really realized the magnitude of the coverage that this would be. It just seems to me phenomenal that we would put out a piece of legislation that would have that kind of an impact. The thoughts that came to mind during the debate this morning, most recently, are from my very, very good friend from Hallowell, Representative Cowger, who suggested that people can change their licensing. Not having had an opportunity to run a business like this or to have a Class A restaurant license or lounge license, it seems to me that it isn't quite as simple as just simply deciding today that I don't want to be a Class A restaurant anymore. I want to be a lounge instead to circumvent the law of the rule. Representative Kane had earlier stated that it has something to do with the volume of food that you serve as compared to the volume of alcohol that you serve. I believe that that is also the case.

What I really wanted to say was that there was some information brought to me a few days ago and I don't have it right here. I couldn't find it, but the experience that we can turn to and look at in Vermont where a very similar piece of legislation was passed. The resulting affect is that there have been an explosion of new businesses. Maybe that is what we are looking for, new businesses. Maybe we are trying to have an industry come out of this ban. Those new industries are called cabarets. A cabaret, apparently in Vermont, is one of those places where you drink, smoke and then drive your car. I am not exactly sure that that is what I want to see as a result of this legislation. Again, I urge you to follow the light of those of us who are opposed to the Majority Ought to Pass Report so that we don't put ourselves in a position where we are forcing businesses into changing their licenses, abolishing children from places like and going ahead and having liquor and smoking in that establishment. Remember those other businesses that are catering to those types of transient traffic, such as those restaurants in my district where they have asked me please not to do this. There are lots more out there like that. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I would note that Representative True is right on target in advocating for education of our youth. However, I would point out that this bill that is before us today is not a smoking prevention and cessation bill. This is a bill that is clearly addressing a health issue for those people who work in restaurants. Most workers in Maine are assured a smoke free environment. The biggest exception in Maine is those 44,000 restaurant workers in those probably 9,000 restaurants that Representative Kane noted. Not only are restaurant workers exposed to second hand smoke suffer from long-term health hazards such as lung cancer and heart disease, but they also suffer from health problems that improve significantly, almost immediately, after their workplace become smoke free.

A 1993 study from the Journal of the American Medical Association found that nonsmoking restaurant workers have a 50 percent greater risk of lung cancer than other nonsmoking professionals. This was felt to be due to second hand smoke. One other study was a 1998 study from the Journal of the American Medical Association that showed when work places become smoke free, nonsmoking and smoking workers alike show significant improvements in objective lung function tests as well as in their respiratory system within only four to eight weeks.

No one says a smoker cannot smoke with this bill. We simply ask them to refrain from smoking while they are in the restaurants. States and municipalities where they have banned smoking in restaurants have reported that there has been no, I emphasize, no evidence of loss of business and no evidence of loss of tourism. In Vermont where a smoking ban for restaurants was implemented in 1995, the owner and operator of Vermont's Primary Motor Coach and Package Tour Marketing Organization reports that there have been no negative comments from the tour industry. In Vermont smoking law, there is no evidence that the Vermont smoking law have had a negative impact on tourism. One thousand tour operators at a recent major tour industry convention had offered no negative

comments about the smoking ban. Representatives of these people have received positive feedback about the smoke free restaurants in Vermont. No negative impact from international visitors. This is clearly a health issue.

People also are deserving of a choice. We have talked a whole lot about choice here of businesses. I would like to remind people of Representative Lovett's comments about her right to have a choice about what restaurant she can go into as well as the other 150,000 people who suffer from lung disease. I urge us to do what 70 percent of the people in Maine support. They want from this body a vote to ban smoking in restaurants as another incremental step to creating a smoke free environment for workers everywhere. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I want to preface by reminding some of you, most of you know that I have five children and as they get older, two of them are in the teenage years and they are very, very interested in many of the bills that we have here. One is 19 and spent a year in Germany and picked up the disgusting habit, I would say, of smoking. Much to my dismay he is smoking now. He is watching this very, very closely. Some of you may know that my next one, the 15 year old, was using one of those laser pointers in my home the other day and I told him we were talking about this in committee. We are talking about banning these. He said with total exacerbation, "Everything in this house that goes wrong all of sudden, there is a law." They are watching this very closely.

I want to say that I have changed my mind as many before me have mentioned. Last time this came up, I was very, very adamant. I understand the arguments very, very well of those who are saying this is strictly a choice issue. I stood up and spoke, I believe, and spoke to everyone I encountered on this issue. If you don't want to go in that restaurant, don't go in it. It is simply a matter of choice. In the last few days, however, I will tell you that I have changed my mind. The reason I have changed my mind is I have thought more about the employees issue. The main reason is because I have heard from my constituents. A local radio station called and told me that he did a poll on this bill. I said, "I don't think I want to know the results." He told me anyway and they are almost 4 to 1 for the ban. I called several of my restaurants. They all said that they don't care. Put the ban on. I have received many, many, many more calls and e-mails now that I finally know how to use it that say we want the ban. Although I understand the choice and am very sympathetic to the choice issue, I very much respect those who vote that way. I am voting for my constituents in my district this time and going with the ban.

I do want to add just one thing for those of you who also hear it and for the press that may come up with it. We may hear this in the press. I get very, very upset and frustrated when the inference is made that those who vote against the ban, vote for smoker's rights, have been bought off or influenced by the tobacco lobby. I have not been. They know that I have been on the fence, very much until the last few days. Not once, have I heard from anyone from the tobacco lobby. I very much hope that that is not used as an issue in this debate. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I rise against the pending motion, not because I work in a restaurant, although I do, nor because I think smoking is a great idea, because I do not. However, I have heard some of the debate today and I voted against this bill two years ago also. I thought that I might hear something compelling today that might get me to change my mind, which I have not. I think the essence of this is being put forward as a health issue. I think it is more, really of a social issue, not so much of a health issue. We have not really heard any hard numbers today. The only numbers that we have really been given are a progression of dates that other prohibitions on smoking have been enacted. Somehow that is supposed to be a justification for enacting a further prohibition on smoking in the state. I think those earlier prohibitions were timely because there was a time when smoking was so prevalent in this state that you couldn't go anywhere if you did not smoke to get away from it. We are not in that situation today.

In terms of regulations dealing with health issue in restaurants, we do have a number of them. Most of them deal with food safety. As you know, 120 degrees is a rare piece of meat. It does not matter whether that is filet mignon or a cheeseburger. You have a different style of restaurants that adhere to the same essential safety regulations. I think that is very important to remember here. The restaurant itself chooses its own ambiance. Some restaurants may choose to become sports bar oriented type of restaurants. Others may try to become more gourmet. However, you are still dealing with the same types of food. It is presented differently. Presentation is very important when you are trying to attract a certain audience as a restaurant owner. For that reason, I think that the issue of a restaurant's choice of how they are going to appeal to a certain audience is very important here. Sometimes they may actually be looking for people like them who may or may not smoke.

We are operating under a certain supposition here somehow that all restaurants require a smoking area, which they are not. A restaurant may choose to become a nonsmoking area if they so choose. Baring that, a municipality can choose to enact such an ordinance as the City of Portland has done. One the issue of local control aspect of this, two years ago we enacted a law which regulated tobacco displays in stores. We decided to leave it up to the municipalities how they were going to do that. It was not felt that the state should mandate a broad state law controlling tobacco displays. The municipalities should be handling that. Here, we are going the exact opposite direction. We are going to have a broad state law that is going to mandate no smoking in restaurants. Should all restaurants be the same, are we really trying to make them all alike, like little rubber stamps? I don't think we really would like to have that. You would like to have a difference in choices when you go to a restaurant. People talk about leveling the playing field, which actually insinuates the opposite argument that somehow restaurants that have smoking have a leg up, therefore, we should prohibit smoking in those restaurants to make them all equally accessible to the clientele they are trying to attract.

I think, realistically, the workplace safety argument fails to hold much water. I am a little surprised that so much concern has been shown for my colleagues in the restaurant business. After all, we only think enough of waitresses really to pay them half the minimum wage and we failed to enact a minimum wage increase two years ago, which is what most restaurant workers do earn. When you talk about the hazards in a restaurant, I have worked in restaurants for many, many years, about 12 years ago I was working in a restaurant on the coast. I was cutting up some cauliflower and I drove a knife through my hand. I went to the emergency room and I was third in line

behind a man who had taken three slices of his hand with an electric slicer and he was behind the guy who had reached into a frylator after his watch. Restaurants are dangerous places to work. There are hazards. It is long, hard shifts. I have worked as much as 24 hours in a shift, 26 hours in a shift without a break. It is so busy you just can't stop. There are lots of other health issues at stake here in restaurants besides smoking. In that respect I have to conclude that the whole worker health issue is something of a red herring. Again, it is a social issue. It is not a health issue. Whether or not we like smoking or not is truly the heart of this matter. I would strongly urge you to vote against this pending motion. Let's get out of the social engineering business. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I will not engage in any lengthy rhetoric here at this late hour. However, I will bring up a couple of points which have not been heard so far. I think that these are two very good arguments for accepting the Majority Ought to Pass. First of all, there are people in this body and in the other body who in a very few short weeks are going to be discussing with us how our enormous tobacco settlement should be used. Many of those have to do with health. I believe that it is completely disingenuous for us, as a Legislature and as a state, to on the one hand ask for blood on the part of the tobacco industry in a form of a billion dollar settlement and on the other hand not to do everything we can to end this era of health problems associated with tobacco. We cannot continue to wink with implicit approval of a practice which will perpetuate these health problems we claim we are trying to alleviate with that tobacco money.

Second, as a teacher and friend of many who keep businesses going by serving as waiters and waitresses, I would remind all of us that we have to take pollution of the air by a known carcinogen as seriously as we might take today other sources of pollution, which are not necessarily known carcinogens. How would we be voting today if restaurants wanted to continue to serve water that contained MTBE or lead or dioxin. We owe it to our children, our teenagers who work in these places, our constituents who have few choices about where they work and to those innumerable judges who settled in our favor, who decided those billion dollar settlements. To show them that we do value these lives and those decisions. I do think that the words, the health impact of 5,000 restaurants, suddenly becoming smoke free those words sound beautiful. They sound phenomenal to me. We just may be able if we are successful here, to truly realize the goal of that tobacco money, which is to eliminate the health problems associated with smoking and maybe we will even be able to have a few bucks left over to do something else with that money. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I just want to rise to state for the record that we all know in this body that this is a health issue. There shouldn't be any debate over the merits of a clean healthy environment. We have on our desks the sad statistics of what smoking does for the thousand that die each year in this country and what second hand smoke does to those that choose to really breath clean air, but because of no fault of theirs, have to breath these toxic substances into their body. Also, for the record, Mr. Speaker, I was here when we debated this issue years ago. We were fighting for a clean healthy environment then. We were fighting the tobacco industry then. They were telling us when we were passing the good laws that many of the people in this body have talked about today, education and against smoking and all of these good things, the tobacco industry told us that tobacco smoke and smoking was not hazardous to our health. They have never lied to us before. I don't know why they would be lying to us today. Believe me, second hand smoke kills. My kids, God love them because education does work, my two little nine year old twins, every time we go to eat in a nice restaurant without the smoke, they grab my jacket and say, "Daddy, someone is smoking in this restaurant." We got to go. They have a right to clean air. We know it is a health issue. There is no debate on that subject. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I will tell you. This is one of the toughest issues that I am going to have. I came as a member of the Health and Human Services Committee. I came to the committee believing that I was going to support a ban on smoking. Like many of us said, we opposed it two years ago. Well, the problem is, I still favor a ban. The issue is whether this bill does it or not. Does this bill, LD 1349, accomplish what we wanted to do? I have just a few facts written down here that I would like you to remember and take into consideration when casting your vote.

This bill supports family restaurants only in a ban. Adult only restaurants no ban. We are sending a message that workers in family restaurants deserve more protection than those other restaurants, adult only restaurants. Family restaurants will lose business, I believe, to adult only restaurants. Workers to be protected may be laid off. This could happen and forced to work in adult only restaurants where they will be subjected to second hand smoke. I believe this bill creates an unlevel playing field. Also, a point was given that we could do local option taxes. I think we have been striving for a couple of years now to give more responsibility to our towns. I think this is an area that I think they could do very well. It has already been done in Portland, Sabattus, Gardiner and Bath. What about split businesses that are adult only at night and smoke free during the day? What about that issue? I believe that this bill, as written, doesn't accomplish what the sponsors truly intended to do.

A point was made that this bill would stop smoking patrons from staying too long at a restaurant. Well, that is fine. The restaurant owner might just lose that patron all together. My concern is that we will not protect everyone. This bill is here now to protect some waiters and waitresses. This bill seems to be geared only to protect children. Children are not the only people that develop diseases related to smoke. We need to protect everyone. I really believe this bill doesn't do it. Let us have the courage to take a firm step and ban smoking everywhere. I please urge you to vote against the Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. Of all the bills that have come before us this session, I have received the most calls and letters dealing with this LD. They are all in favor of banning smoking in restaurants. I even had a restaurant owner in Norridgewock call me that was completely in favor of this because she believes it is up to us down here to make the very important decision to

ban smoking, not only to protect her health and her families health that works in the restaurant, but also her waitresses and her nonsmoking patrons. I would urge you to accept the Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. First of all, if I say anything that has been said, I apologize. I haven't been able to hear all of the debate. I submit to you that when you hear somebody say that I can't vote for this bill because it doesn't go far enough, it doesn't pass the straight face test. I want to hear that person also say if it goes the rest of the way, I will support it. I didn't hear them say that. Every person in this room knows that they have the right to amend this bill on the floor if they choose to. If that is the real reason they are not voting for it, then where are the amendments? Bring them on folks.

One other thing I wanted to mention is, I stand before you today and tell you something that a legislator should never tell you. I didn't ask my businesses and I didn't ask my constituents. I know we are supposed to be here to represent them, but I could never in good conscience vote against this bill no matter what my constituents said. I can't run again, but if I did and I lost the election so be it over this issue. I can go home comfortably to my family and my children and say that we tried to do something today to protect you. There is nothing I hate any more than going into a restaurant with my family and sit down and enjoy a good meal and that smoke that doesn't know where the line is billows over onto my table. I don't know who ever dreamed up the idea that smoke was smart enough to know where to stop because it isn't. I don't care what fan you put in, it still doesn't know where to stop. We talk about it being a choice. We talk about it being a health issue. It is both. It is my choice. I should have the right to go into a restaurant without having to deal with that issue. I don't have a choice to go out in the parking lot and have my lunch served out there. You have a choice to go smoke in the parking lot if you want to.

I am not offending you as a smoker. Please don't offend me as a nonsmoker. That is what this is about. I ask you also to think about the young ladies that have been pages here today. Who in this room wants to go to them and say we don't care if you have to breath second hand smoke when you go to college and you have to have a job and you work in a restaurant. Who in this room wants to go face to face with them and tell them that. I submit that nobody does. I certainly don't. No, I didn't ask anybody, but I am going to vote for the ban. I hope with all my heart that it finally passes today and we put this behind us and go on to do other important work. Thank you ladies and gentlemen.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I want you to know that I am in the ranks of the nonsmoking. As such, I now am very sensitive to cigarette smoke that I find. I don't find it pleasant at all. I go to restaurants which are smoke free now. That, of course, is something which is really readily available to me. Restaurants have the right to be smoke free, as do hotels and you don't have to have smoking in your restaurant if you so choose. On the other hand, I haven't been not smoking so long that I don't remember how very nice it is to have a cigarette with a cup of coffee. I think that I want to be able to provide a place where people can have a cigarette and a cup of coffee if they so choose. We are talking about an adult population. We are not talking about children. We are talking about adults who go to restaurants and have cigarettes because cigarettes are banned for children. They are not allowed to smoke them. If there are adults who could not possibly have missed the message that cigarettes are not good for them, because that is so wide spread everyone knows that and they still choose to do this, I think that they should have a place in which they can smoke. However, I know that people feel very strongly about this on both sides of this issue. As in my committee, I look toward solutions and situations which are not adversarial. I want you to know that it is my intention to propose an amendment on second reading. I hope, Mr. Speaker, that you will help me bring that amendment forth. The amendment will deal with a technical and logical solution to making for clean air, which I think is what we are all about in this situation. What we want to have is clean air for all of us to breath. I hope that we can have some sort of compromise situation there. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 32

YEA - Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Duplessie, Etnier, Foster, Frechette, Fuller, Gagne, Gagnon, Glynn, Gooley, Green, Heidrich, Honey, Jabar, Jacobs, Jodrey, Joy, Kane, Kneeland, LaVerdiere, Lemont, Lindahl, Lovett, Madore, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Murphy E, Murphy T, Muse, Norbert, O'Brien, O'Neil, Peavey, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shiah, Shorey, Sirois, Stanwood, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Bouffard, Brooks, Buck, Campbell, Carr, Clark, Clough, Collins, Dugay, Dunlap, Fisher, Gerry, Gillis, Goodwin, Hatch, Jones, Kasprzak, Labrecque, Lemoine, MacDougall, Mack, Mailhot, Marvin, McAlevey, Mendros, Nass, Nutting, O'Neal, Perkins, Perry, Pinkham, Plowman, Povich, Rines, Saxl JW, Shields, Skoglund, Snowe-Mello, Stanley, Stedman, Stevens, Tobin J, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Bragdon, Mitchell.

Yes, 100; No, 48; Absent, 2; Excused, 0.

100 having voted in the affirmative and 48 voted in the negative, with 2 being absent, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and assigned for **SECOND READING** later in today's session.

The House recessed until 4:30 p.m.

(After Recess)

The House was called to order by the Speaker.

CONSENT CALENDAR
First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 442) (L.D. 605) Bill "An Act to Clarify the Probate Code Regarding Durable Financial Powers of Attorney" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 492) (L.D. 699) Bill "An Act Concerning Minors' Consent for Services" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 515) (L.D. 722) Bill "An Act to Increase Adoptions" Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 798) (L.D. 1121) Bill "An Act to Clarify the Laws Governing Service of Protection from Abuse Orders in Court" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass**

(H.P. 194) (L.D. 272) Resolve, Establishing a Commission to Study High-speed Chases (EMERGENCY) Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-63)**

(H.P. 467) (L.D. 630) Bill "An Act to Establish the Maine Communities in the New Century Program" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-66)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR
Second Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(S.P. 283) (L.D. 801) Bill "An Act to Strengthen Marine Fisheries Conservation Protection"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence.

ENACTORS
Emergency Measure

An Act to Delay Implementation of a Separate Community Rate for Individuals Eligible for Medicare

(H.P. 23) (L.D. 33)
(C. "A" H-36)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Acts

An Act to Establish the Endowment Incentive Fund

(H.P. 77) (L.D. 90)
(C. "A" H-47)

An Act to Require Auctions for Confiscated Firearms

(H.P. 86) (L.D. 99)
(C. "A" H-39)

An Act to Release Estate Tax Liens on Certain Real Estate

(H.P. 161) (L.D. 223)
(H. "A" H-54)

An Act to Increase the Amount of State Contribution to Out-of-district Placements

(S.P. 96) (L.D. 235)
(C. "A" S-21)

An Act Regarding General Assistance

(H.P. 179) (L.D. 257)
(C. "A" H-45)

An Act to Clarify the Membership of the Somerset County Budget Committee

(H.P. 416) (L.D. 558)

An Act to Clarify the Duty of Insurance Agencies to Keep Records

(H.P. 438) (L.D. 601)
(C. "A" H-46)

An Act to Rename the Harassment Based on Characteristic Law

(H.P. 582) (L.D. 822)

An Act to Repeal the Authorization of Lucerne-in-Maine Village Corporation to Construct Dams and Fishways

(H.P. 717) (L.D. 1007)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

BILL HELD

Bill "An Act to Ensure Access to Prescription Drugs for the Elderly"

(H.P. 1347) (L.D. 1947)

- In House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES.**

HELD at the Request of Representative LOVETT of Scarborough.

On motion of Representative LOVETT of Scarborough, the House **RECONSIDERED** its action whereby it **REFERRED** the Bill to the Committee on **HEALTH AND HUMAN SERVICES.**

Representative KANE of Saco **WITHDREW** his motion to **REFER** the Bill to the Committee on **HEALTH AND HUMAN SERVICES.**

On motion of the same Representative, the Bill was **REFERRED** to the Committee on **TAXATION**, ordered printed and sent for concurrence.

The following item was taken up out of order by unanimous consent:

ENACTORS
Emergency Mandate

An Act to Extend the Management Plan Requirement for Forest Owners under the Maine Tree Growth Tax Law

(H.P. 647) (L.D. 897)
(S. "A" S-26 to C. "A" H-61)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total

was taken. 109 voted in favor of the same and 0 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 18, 1999, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (9) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Fixed Number of Signatures on Initiative Referenda Petitions

(S.P. 219) (L.D. 641)

- In Senate, Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED.**

TABLED - March 18, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS** Report.

On motion of Representative TUTTLE of Sanford, **TABLED** pending his to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned.

Resolve, to Name the Route 160 Bridge in Brownfield Spanning the Saco River the Charles E. Hill Bridge (EMERGENCY)

(H.P. 551) (L.D. 772)

TABLED - March 18, 1999 (Till Later Today) by Representative JABAR of Waterville.

PENDING - **FINAL PASSAGE.**

On motion of Representative JABAR of Waterville, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve was **PASSED TO BE ENGROSSED.**

The same Representative **PRESENTED House Amendment "A" (H-65)** which was **READ** by the Clerk and **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-65)** in **NON-CONCURRENCE** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

BILLS IN THE SECOND READING

House

Bill "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

(H.P. 951) (L.D. 1349)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative PERKINS of Penobscot, was **SET ASIDE.**

The same Representative **PRESENTED House Amendment "A" (H-72)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. From my perspective the very best argument on the side of the majority for the passage of the ban on smoking in restaurants was the concern of the employees. My amendment would simply exempt those restaurants that were completely owned, operated and staffed by family members. These people would be over 18 years of age. It would be entirely their choice. It seems to me that we have got to make exceptions for some of these small family businesses when we do these blanket bans. As you can see in the amendment, the immediate family is pretty well defined, I think. It means a person's offspring, 18 years old or over, and parents or spouse. I would appreciate your consideration. Thank you.

Representative KANE of Saco moved that **House Amendment "A" (H-72)** be **INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "A" (H-72).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-72). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 33

YEA - Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Glynn, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Matthews, Mayo, McGlocklin, McKee, McKenney, McNeil, Murphy E, Muse, Norbert, O'Brien, Peavey, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rosen, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sirois, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Bragdon, Brooks, Buck, Campbell, Carr, Clark, Clough, Cross, Dunlap, Fisher, Foster, Gerry, Gillis, Goodwin, Gooley, Hatch, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, MacDougall, Mack, Martin, Marvin, McAlevey, Mendros, Murphy T, Nass, Nutting, O'Neal, Perkins, Perry, Pinkham, Plowman, Richardson E, Rines, Saxl JW, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin J, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Andrews, Green, Labrecque, McDonough, Mitchell, O'Neil, Samson, Shiah, Tobin D.

Yes, 87; No, 54; Absent, 9; Excused, 0.

87 having voted in the affirmative and 54 voted in the negative, with 9 being absent, **House Amendment "A" (H-72)** was **INDEFINITELY POSTPONED.**

Representative SHIELDS of Auburn **PRESENTED House Amendment "B" (H-73)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Men and Women of the House. In my over 30 years of practice of medicine in this state, I have seen a lot of bad effects of tobacco. I have been definitely anti-tobacco. On my committee, however, Health and Human Services, this bill came forward and it was flawed. I had to vote against it because it created an uneven competitive system situation in the restaurant business. It was pointed out that the bill only addressed Class A restaurants and across the street was a Class A restaurant and lounge which would be exempt. I looked up the language in the law. The Class A restaurant is a reputable place operated by responsible people of good reputation. A Class A restaurant/lounge is the same thing. It is regularly used for purposes of providing full course meals to the public on the premises. It is regularly used for purposes of providing full course meals for the public on premises. So does a Class A restaurant/lounge. It is equipped with separate and complete kitchen that provides adequate dining room equipment. So does a Class A restaurant/lounge. It has a capacity for preparing and serving full course meals on the premises. So does a Class A restaurant/lounge.

The problem in the law as we passed it was that in Section 5, a restaurant does not include the establishment that according to his licensure requirements under 28A, generally prohibiting minors. That is a very unclear language. The language in the current statutes about Class A restaurants says, "A Class A restaurant/lounge is not a Class A restaurant." The only difference between these two classifications is that after 9:00 p.m. a Class A restaurants/lounge serves liquor and does not serve any further full course meals. Other than that, it is no different than a Class A restaurant. If we feel that the law is unclear as to Class A restaurants/lounges being included or not, my amendment simply addresses that and makes it very clear in the language as to what was distributed today in this pink flyer which says it creates a smoke free environment in all restaurants, Class A restaurants and Class A restaurants/lounges. Therefore, I think to make the situation completely clear insert the language in amendment "B" and we will go forward. Thank you.

Representative KANE of Saco moved that **House Amendment "B" (H-73)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "B" (H-73).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-73). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 34

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Chick, Chizmar, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Glynn, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mack, Madore, Mailhot, Martin, Matthews, McGlocklin, McKee, McNeil, Murphy E, Muse, Norbert, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Sanborn, Savage W, Saxl JW, Saxl MV, Schneider, Sirois, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Buck, Bumps, Cameron, Campbell, Carr, Clark, Clough, Collins, Cross, Daigle, Dugay, Foster, Gerry, Gillis, Goodwin, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lindahl, Lovett, MacDougall, Marvin, Mayo, McAlevey, McKenney, Mendros, Murphy T, Nass, Nutting, O'Brien, O'Neal, Peavey, Perkins, Pinkham, Plowman, Rosen, Savage C, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanwood, Stedman, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Andrews, Cianchette, Green, Labrecque, McDonough, Mitchell, O'Neil, Samson, Shiah, Tobin D.

Yes, 76; No, 64; Absent, 10; Excused, 0.

76 having voted in the affirmative and 64 voted in the negative, with 10 being absent, **House Amendment "B" (H-73)** was **INDEFINITELY POSTPONED**.

Representative LEMOINE of Old Orchard Beach **PRESENTED House Amendment "C" (H-74)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. House Amendment "C" is simply an amendment that gives this bill an effective date. Maine Class A restaurants will be smoke free soon. My concern and the reason I have brought forth this amendment is I would like to avoid the disruption which is likely to occur at that transition point so that it does not occur on Labor Day weekend. I think there is a real chance that if the schedule unfolds as we expect it may this spring, it could be Labor Day weekend when this becomes effective. I don't see a particular need to impose that kind of disruption during the end of the tourism season and one of the peak weekends of the year. I would ask the House to support that motion. Thank you.

Representative KANE of Saco moved that **House Amendment "C" (H-74)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "C" (H-74).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-74). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 35

YEA - Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Bruno, Bryant, Cameron, Chick, Chizmar, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Duplessie, Etnier, Foster, Frechette, Fuller, Gagne, Gagnon, Glynn, Jabar, Jacobs, Jodrey, Joy, Kane, Kneeland, LaVerdiere, Lindahl, Lovett, MacDougall, Mailhot, Martin, Matthews, McGlocklin, McKee, McNeil, Muse, Norbert, Peavey, Pieh, Povich, Powers, Quint, Richardson E, Richardson J, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sirois, Skoglund, Stanwood, Stedman, Stevens, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Belanger, Bowles, Bragdon, Brooks, Buck, Bumps, Campbell, Carr, Cianchette, Clark, Clough, Collins, Cross, Dugay, Dunlap, Fisher, Gerry, Gillis, Goodwin, Gooley, Hatch, Heidrich, Honey, Jones, Kasprzak, Lemoine, Lemont, Mack, Madore, Marvin, Mayo, McAlevey,

McKenney, Mendros, Murphy E, Murphy T, Nass, O'Brien, O'Neal, Perkins, Perry, Pinkham, Plowman, Richard, Rines, Rosen, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanley, Sullivan, Tessier, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM.

ABSENT - Andrews, Bull, Green, Labrecque, McDonough, Mitchell, Nutting, O'Neil, Samson, Shiah, Tobin D.

Yes, 76; No, 63; Absent, 11; Excused, 0.

76 having voted in the affirmative and 63 voted in the negative, with 11 being absent, **House Amendment "C" (H-74)** was **INDEFINITELY POSTPONED**.

Representative SAXL of Bangor **PRESENTED House Amendment "D" (H-76)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. This is the amendment about which I spoke earlier today. The amendment strikes the bill entirely and repeals existing laws governing smoking in restaurants and enacts provisions allowing for smoking in food and beverage service establishments only if the establishments adhere to ventilation standards set forth in this amendment. It goes on to speak about negative pressure and particular matter in the air. I encourage you to vote for this.

Representative KANE of Saco moved that **House Amendment "D" (H-76)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "D" (H-76).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "D" (H-76). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 36

YEA - Bagley, Baker, Belanger, Berry RL, Bolduc, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Duplessie, Etnier, Foster, Frechette, Fuller, Gagne, Gagnon, Glynn, Gooley, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Martin, Matthews, Mayo, McGlocklin, McKee, McKenney, McNeil, Muse, Norbert, O'Brien, Peavey, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sirois, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Trahan, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Berry DP, Bouffard, Bragdon, Brooks, Buck, Campbell, Carr, Clark, Clough, Cross, Dugay, Dunlap, Fisher, Gerry, Gillis, Goodwin, Hatch, Heidrich, Honey, Jones, Joy, Kasprzak, Mack, Madore, Mailhot, Marvin, McAlevey, Mendros, Murphy E, Murphy T, Nass, O'Neal, Perkins, Perry, Pinkham, Plowman, Rines, Rosen, Saxl JW, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stedman, Tobin J, Tracy, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Andrews, Green, Labrecque, McDonough, Mitchell, Nutting, O'Neil, Samson, Shiah, Tobin D.

Yes, 87; No, 53; Absent, 10; Excused, 0.

87 having voted in the affirmative and 53 voted in the negative, with 10 being absent, **House Amendment "D" (H-76)** was **INDEFINITELY POSTPONED.**

Representative CLARK of Millinocket **PRESENTED House Amendment "E" (H-77)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will support me with House Amendment "E." All it does is bring under the roof right now Class A lounges. In my district I have a Class A lounge/restaurant on one side of the street and on the other side of the street I have Class A lounge. Under what we voted on earlier today, that Class A lounge/restaurant is in the smoking ban. Across the street is not. Let's make it all fair for everybody. I don't mind if they smoke in the taverns or the hotel lounges, but let's make it fair for everybody else. Thank you.

Representative KANE of Saco moved that **House Amendment "E" (H-77)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "E" (H-77).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "E" (H-77). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 37

YEA - Bagley, Baker, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Bruno, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Glynn, Jacobs, Jodrey, Kane, Kneeland, Lemoine, Lemont, Lovett, Mack, Madore, Mailhot, Matthews, McGlocklin, McKee, McNeil, Mendros, Murphy T, Muse, Norbert, O'Brien, Peavey, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sirois, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Belanger, Bolduc, Bowles, Brooks, Bryant, Buck, Campbell, Carr, Clark, Clough, Collins, Cross, Dugay, Duplessie, Foster, Gerry, Gillis, Goodwin, Gooley, Hatch, Heidrich, Honey, Jabar, Jones, Joy, Kasprzak, LaVerdiere, Lindahl, MacDougall, Martin, Marvin, Mayo, McAlevey, McKenney, Murphy E, Nass, O'Neal, Perkins, Pinkham, Saxl JW, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Andrews, Green, Labrecque, McDonough, Mitchell, Nutting, O'Neil, Samson, Shiah, Tobin D.

Yes, 83; No, 57; Absent, 10; Excused, 0.

83 having voted in the affirmative and 57 voted in the negative, with 10 being absent, **Amendment "E" (H-77)** was **INDEFINITELY POSTPONED.**

On motion of Representative SAXL of Portland, **TABLED** pending **PASSAGE TO BE ENGROSSED** and later today assigned.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

(H.P. 951) (L.D. 1349)

Which was **TABLED** by Representative SAXL of Portland pending **PASSAGE TO BE ENGROSSED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED.**

Sent for concurrence. **ORDERED SENT FORTHWITH.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

JOINT RESOLUTION - Memorializing the President of the United States and the Congress of the United States to Ratify the United Nations Convention on the Rights of the Child

(H.P. 1373)

Which was **TABLED** by Representative MURPHY of Kennebunk pending **ADOPTION.**

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Men and Women of the House. I am sorry to be a little bit remiss in not addressing this issue this morning. I had another commitment and didn't get in to review the calendar ahead of time. I apologize for that. One of the things I would like to point out to you is that there is a very definite plan that goes along with the endorsement of these proposed treaties. Part of that plan is very clearly stated in the agenda that is listed for the United Nations. That is to try to keep getting these conventions ratified by the Congress to gradually erode the power of the Constitution of the United States. Ladies and gentlemen, we all took a pledge to uphold the Constitution of the United States. Consequently, I ask you to vote against this resolution. Mr. Speaker, if the request has not already been made, I request the yeas and nays.

Representative JOY of Crystal **REQUESTED** a roll call on **ADOPTION.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. We were notified just a couple minutes ago that this was coming back up on the floor with the understanding that there were answers to questions that had been posed earlier this morning. I was waiting for those answers before voting.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative **STEVENS**: Mr. Speaker, Men and Women of the House. In 1989 the United Nations General Assembly adopted a human rights treaty protecting children's rights, the convention on the rights of the child, which is what we are memorializing Congress to do in this bill. Considering that the United States played a major role in the conventions drafting process, its failure to ratify is particularly dismaying considering that roughly one-third of the provisions can be directly traced to United States proposals. Other parts of the convention also reflect the American delegation influence.

On February 16, 1995, then ambassador to the United Nations, Madeline Albright, signed the convention on behalf of the United States. Since then, America's children have waited for our country to ratify and implement the convention. I would strongly urge you to support the US ratification of the convention on the rights of the child. That is what we are asking Congress to do. Those who oppose ratification do so for two main reasons. One, fear that it will undermine the family and fear that it will weaken US sovereignty. I will hazard that both fears are groundless. Second, compliance is strictly voluntary. The United Nations is an organization of sovereign nations as the United States. All of which places a high value on their sovereignty. Nations that choose to ratify human rights treaties do so without diminishing their sovereign national powers and may indicate the provisions they will not apply.

The United Nations Human Rights Treaties do not have procedures for enforcement. Instead, there is a process known as implementation in which ratifying nations submit reports to a committee of experts outlining the steps they have taken to implement the treaty. Ratification of the convention on the rights of the child would not bring major changes in the US law. It would, however, encourage a more effective coordination of policy among various government branches on issues of importance to children. You will find that a convention on the rights of a child is nonpenalizing. It does not threaten our national sovereignty. It is markedly supportive of the parent/child relationship.

The convention stipulates the following general principles which are being outlined and handed out to you right now. States shall ensure each child enjoys full rights without discrimination. The child's best interest shall be a primary consideration in all actions concerning children, whether undertaken by public or private social institutions, courts, administrative authorities or legislative bodies. Every child has an inherent right to life and states shall ensure it to the maximum extent possible, child survival and development. Children have a right to be heard. These are not outrageous suggestions ladies and gentlemen. Under civil rights and freedoms, every child has a right to a name and a nationality from birth. States have an obligation to preserve the child's identity. Children have a right to freedom of expression and the states shall respect their right to freedom of thought, conscience and religion subject to appropriate parental guidance. Children also have the right to freedom of association and to be protected against interference with their privacy. Furthermore, no child shall be subjected to torture or other cruel and inhumane or degrading treatment or punishment.

The convention stipulates that states must respect the rights and responsibilities of parents and extended family members to provide guidance for their children as appropriate to the child evolving capacities. The convention gives parents joint primary responsibility for raising their children and stipulates that the state shall support them in child rearing. Children should not be separated from their parents unless it is deemed to be in the child's best interest by competent authorities and in accordance with the applicable law. Children also have the right to maintain contact with both parents if separated from one or from both. The convention says that the state has the obligation to protect children from all forms of abuse and neglect. Children have a right to an education and it is the state's responsibility to ensure that primary education shall be free and compulsory. Discipline in schools should respect a child's dignity and that the aims of education are geared toward developing children's personalities as well as their mental and physical abilities to the fullest extent. Education should foster respect for parents, cultural identity, language and values and should prepare the child for a responsible life in society. Children have the right to be protected from economic exploitation. Children have the