

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

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AUGUSTA, MAINE

Fraser, Garsoe, Good, Hamblen, Haskell, Henley, Hunter, Immonen, Jalbert, Kelleher, Kelley, R. P.; Lewis, E.; Littlefield, McNally, Merrill, Morin, V.; Murchison, Parks, Peterson, Pontbriand, Pratt, Shaw, Shute, Silverman, Simpson, L. E.; Susi, Theriault, Walker, Webber, Willard

NAY — Ault, Baker, Berry, G. W.; Berube, Binnette, Boudreau, Brawn, Briggs, Brown, Bunker, Bustin, Carey, Carrier, Chonko, Churchill, Clark, Cooney, Cote, Cressey, Dam, Davis, Deshaies, Dow, Drigotas, Dunn, Dyar, Emery, D. F.; Farrington, Gahagan, Genest, Goodwin, K.; Greenlaw, Herrick, Hobbins, Huber, Jackson, Jacques, Kauffman, Kelley, Keyte, Kilroy, Knight, LaCharite, LaPointe, Lawry, LeBlanc, Lewis, J.; Lynch, MacLeod, Maddox, Mahany, Martin, Maxwell, McCormick, McHenry, McKernan, McMahan, McTeague, Mills, Morin, L.; Morton, Mulhern, Murray, Najarian, Norris, O'Brien, Palmer, Perkins, Rolde, Rollins, Ross, Sheltra, Smith, D. M.; Smith, S.; Sproul, Stillings, Strout, Talbot, Tanguay, Tierney, Trask, Wheeler, Whitzell, Wood, M. E.; The Speaker

ABSENT — Birt, Cameron, Curtis, T. S., Jr.; Donaghy, Dudley, Dunleavy, Farley, Farnham, Farrington, Faucher, Fecteau, Ferris, Flynn, Gauthier, Goodwin, H.; Hancock, Hoffses, Ricker, Santoro, Soulas, Trumbull, Tyndale, White, Yes, 43; No, 85; Absent, 22.

The SPEAKER: Forty-three having voted in the affirmative and eighty-five having voted in the negative, with twenty-two being absent, the motion does not prevail.

Thereupon, Mr. Henley of Norway withdrew his motion for a roll call vote.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, having voted on the prevailing side, I move we reconsider our action and would ask that you vote against me.

The SPEAKER: The gentleman from Eagle Lake, Mr. Martin, moves that the House reconsider its action whereby it passed this Bill to be enacted. All in favor of that motion will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

On motion of Mr. Farnham of Hampden, it was

ORDERED, that Tom Morgan, Steve Gove, Ann Gibbs and Judy Smith of Hampden be appointed Honorary Pages for today.

An Act to Establish a Water Quality Related Great Ponds Program in Department of Environmental Protection" (H. P. 730) (L. D. 96) (C. "A" H-357).

Was 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.

Enactor Indefinitely Postponed

An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers" (S. P. 322) (L. D. 989) (C. "A" S-108).

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: An elderly gentleman was losing his hearing. He happened to be a member of the House. So he went to a doctor who said, "If you don't stop smoking, you are going to go deaf." And he said, "Doc, with what I have to listen to, I would rather keep on smoking and just keep on getting deaf."

I know that many of you have eaten in a place called Freddie's in Hallowell. And most of you consider this food very good. For your information, it is run by relatives of people who used to run the Worster House. At one time, this was famous statewide for excellent food, and people came from all over the state to go there.

Back in the early 1930's, it was one of the first places that did not allow smoking in the dining room. Now, I was just in high school then, so I didn't mind because I hadn't taken up the habit. I will admit that smoking is a silly habit. Still, millions of us still do this in spite of various warnings.

However, to legislate against it is discrimination. The statement that tobacco smoke injures the health of nonsmokers has never been scientifically proven. It is true that many nonsmokers are annoyed by the presence of cigarette smoke. Courtesy on everyone's part has worked in this case for years. Whenever possible, the annoyed nonsmoker should sit or stand apart from the smoker, not require that he stop smoking. Sometimes this, of course, is impossible, like in these chambers where we have captive seats and cannot change.

You know, we used to have a rule, called Rule 25, which forbade smoking in the House. Each day, a woman legislator would move that Rule 25 be suspended for the balance of the day's session. This was always greeted by a round of applause.

Of course, now, smoking is banned in many places, such as most theaters, churches, some hospitals, auditoriums, buses and schools; and for years there have been separate smoking cars on trains, and now there are separate sections in planes where you cannot smoke. The people in charge of these operations are free to make this decision now and they know the wishes of their clientele better than we do.

I consider this bill impractical and impossible to enforce. It would be most difficult to map out all of the no smoking areas. Furthermore, many smokers would forget or fail to notice the no smoking sections and light up anyway. It would be most difficult to enforce the bill. Public officials, local police or managers would have to spend a great of their time trying to enforce this ban. Since a specific fine is imposed, this would constitute a

criminal violation. I fail to see how smoking, although many may object to it, is a crime.

I will end by a little poem, author unknown.

Yes dear I fear

I love another, strange to say.

Brunette this Pet,

And I am with her, night and day.

Just now I vow,

I pressed her gently to my lips, the kiss was bliss,

And thrilled me to my fingertips.

Don't pout, she's out,

And you are sweeter far my pet.

Although, By Joe,

She was a darned good cigarette!

I now move the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Emery.

Mr. EMERY: Mr. Speaker and Ladies and Gentlemen of the House: I too, enjoy poetry and I do not enjoy cigarettes, especially second hand. Let me make this perfectly clear. This bill is not such a nefarious piece of legislation as the gentleman from Bath would indicate. We don't plan to throw anyone into jail for smoking, especially into a smoky jail.

I would just merely like to speak for a minute as one who does not enjoy being enclosed into rooms, public places, modes of transportation or any other areas, when I have to cough and wheeze and then try to get my breath. In fact, I can relate an experience that I had when I was very young. It is probably the reason I don't smoke. I was about five-years-old, had a very bad cold and a sore throat and all the other discomforts that go with it. And my father had some friends in to play bridge. Well, I think they were all smoking cigars that were at least three feet long. The tobacco smoke really did me in, and I guess it was about three weeks thereafter before I was able to open my mouth to do anything more than croak.

Anyway, I have never smoked and I have found that smoking can be a nuisance and an an-

noyance to people who don't care for it. Like most people, I don't say anything. I just open the window and suffer.

I see nothing, I see absolutely nothing in this legislation that is going to be any more of a discomfort or an inconvenience to smokers than it is for those of us who do not smoke that very quietly sit by, take it, go home with our clothes reeking with tobacco smoke and with a sore throat.

I would oppose the motion for indefinite postponement, and I would ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Ladies and Gentlemen of the House: This morning's session seems to be developing into a contest between the old and the new. So far, the new have won. I don't know whether this is going to continue or not.

Like the gentleman from Rockland, I am a nonsmoker and I am offended by — to some extent — by tobacco smoke in public places.

However, I do look upon myself as a practical man. I always have. Some of you do not agree with me. This little bill seems to be something that is almost impossible to put into effect. I agree completely with the gentleman from Bath, Mr. Ross. How is a little restaurant owner with only a couple tables, how is he practically going to put this regulation into effect if we pass it? How about the little bus that conveys people on the highway? Probably, yes, you could make a little compartment in the back of it or something where you could put the nonsmokers or the smokers and leave the rest of it to the other people. But to me, this doesn't look like a practical arrangement.

Having taken a good look in on the other bill, I hope you will agree with me and go along and indefinitely postpone this bill. I somehow feel this just makes good sense.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Ladies and Gentlemen of the House: I stand second hand smoke all day. I don't seem to mind it so much. I am going to go along with the gentleman, Mr. Ross, in voting for indefinite postponement, postponing this bill.

The young gentleman from Rockland, Mr. Emery, has stated he didn't like things second hand. The only thing I like second hand, is lipstick. I always got along pretty good with that.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAWN: Mr. Speaker and Ladies and Gentlemen of the House: I happen to be one of those that do not smoke. I sit beside a beautiful young lady here, Mrs. Chonko. She does smoke. I have nothing against it. I am willing she should smoke forever, if she so desires. I have my other partner here, who is Mr. Faucher. He smokes, too. And I have nothing against it.

Now, I figure when we start taking the rights away from people, it is going too far.

The other night I was up here sitting at a table and we were eating and I heard the woman say to the man, "You know," she said, "I can't get my breath." and he said, "What do you think I am smoking for?"

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: As a, what I classify myself, a heavy smoker, because I do go through approximately six packs during a day, so I think I am quite a heavy smoker, I oppose the indefinite postponement of this bill. Now, some people I know are going to jump up right off and say, well, why don't you give up smoking if you want to set aside parts of public conveyances and public rooms. I am not one of these who can say I can give it up anytime I want to, because I have given it up for a day and gone back to it. That has been about my limit.

I personally do not see anything wrong in this bill. I think somewhere along the line we have to

give some thought to the people who don't smoke. I think more and more everyday there are becoming more non-smokers. The people who have smoked for years, they are beginning to see where they are better off if they do give up the habit of smoking. I don't think I ever will, because I think I am hooked on it, and I think I will stay that way until it gets me.

But as far as the good gentleman from Bath, Mr. Ross, saying it is going to be hard to enforce, well, I think a lot of our laws that we have on the books are kind of hard to enforce. But I think over the period of years they tend to adjust themselves and the people tend to go along with them. You might have maybe a year or year and a half of problems with this bill, but after that, I am sure that all the restaurants and places affected, the public conveyances, would come up with a solution to set aside a part for the non-smokers. I think that the smokers owe the non-smokers something.

There are a lot of people who have lung disease, lung troubles, and they deserve, they are paying to ride in a public conveyance, they are paying to go into a restaurant and eat a meal, and I think that they deserve to have some consideration. I don't really see anything that bad in this bill at all. I hope you will oppose the motion for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker and Members of the House: I would just like to make a couple of comments. First of all, I favor the indefinite postponement of this bill. Second of all, I once smoked. I started smoking, I guess I was about 12 years old, and I smoked right up until about ten years ago when I quit. But I can't see taking the rights away from other smokers.

I would ask the gentleman from Rockland, if he is tired of taking in secondhand smoke, he can pass it along and make a profit.

I would like to ask a question through the Chair to anyone who would like to answer it, if this bill

passes, where is the portion for smokers going to be in this hall, and where is nonsmoking here in this hall going to be roped off?

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think I should put in a few words here today as probably the most recent reformed smoker in the House. I have been off White Owl Miniatures for 12 days, 10 hours, 7 minutes, and 17 seconds, and I don't miss it a bit. In fact, if you see me making motions with my hands, I have not adopted a new religion or anything, I am still reaching for that package of cigars. Every time I see the gentleman from Presque Isle, Mr. Parks, light up a cigar, I go all to pieces inside. But he is being very good about it, and not tempting me too much.

I just want to make one point why this bill should be supported. It would allow dedicated smokers to be together and to associate with one and other. They would not have to undergo the kind of constant abuse and harassment that I have had to experience this legislative session from seat number 9.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Mulhern.

Mr. MULKERN: Mr. Speaker and Members of the House: I would like to go along with the remarks Mr. Emery invoked for the passage this bill.

I think I have some first-hand experience with this problem myself. During the evening in Portland I have a job at which I work five nights a week, and we have a great deal of problems in the particular place in which I am working. I am a nonsmoker myself, and I really feel as though part of the problem with the enforcement on this bill would be somewhat taken care of by the amendment. It provides that enclosed establishments in excess of 1,500 square feet, I think this would eliminate your smaller places, your little restaurant, and places like this with maybe one or two tables.

In the section on vehicles, it says employed for carrying more than ten passengers. I think this is an excellent compromise. I think we ought to try something like this.

A lot of our bills are not enforceable, but many municipalities have nuisance statutes on the books against people making excessive noise. We do recognize the right of people to privacy, the right to a certain amount of peace and quiet. I think we should acknowledge that smokers have just as much right as nonsmokers. We are really not telling the nonsmokers they can't smoke, we are just asking them to set aside a place where they will confine their smoking.

I have a great deal of problem myself with the same problem Mr. Emery spoke of, the wheezing, the coughing and the watery eyes. I know just exactly what Mr. Emery is speaking of. I would urge the House to go along with passage of this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Guilford, Mrs. White.

Mrs. WHITE: Mr. Speaker and Members of the House: As you may know, I also had a bill to control smoking. It has long since gone down the drain. I believe it was reported in the paper as being the most drastic of the three which were before us.

Actually, at the hearing we were all very agreeable, we were very happy if we could come out with one bill which could be passed. As Mr. Mulhern has mentioned, this bill before us has been amended to limit the provisions to areas in excess of 1,500 feet, which I think it does help the small restaurant or small cafe owner.

I would hope very much that you would let this bill pass. I feel that in my research for the preparation for the bill, I was amazed to find out the number of nonsmokers there are today, more than there are smokers, actually, which I could hardly believe, and I feel that we should give them some consideration. In view of the fact that it has been proven that it is dangerous to our health, I feel that we, as a body

representing the public, should try to help that situation, too.

I would like to comment on Mr. Brawn's comment, that when we females see heavy, heavy smoking around we will know why it is.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker and Members of the House: To answer the gentleman from Portland, Mr. Talbot, I am a nonsmoker, and I would be very happy if they would confine the smoking to the retiring room and the halls.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker and Members of the House: All my life I have been subjected in public places to smoking of others and never said anything, but each year I happen to take a 707 or a 727 across the Atlantic, and every year you could sit there for seven hours and smoke would fill the cabins and so forth, and it was darn uncomfortable. This year, for the first time, they had it divided for smokers and nonsmokers, and it was very convenient.

I think the members of this House could consider the rights of the nonsmokers as well as the rights of the smokers. And in larger areas in public places, I see no harm in having a law that you could have a choice of not being bothered with cigarette smoke or happy with cigarette smoke. Now, I don't see where that would be taking anyone's right away. Therefore, I will support the motion of Mr. Emery.

The SPEAKER: The Chair recognizes the gentleman from China, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker, Ladies and Gentlemen of the House: Apparently this is not the first time that the House has been confronted with such ethics. In reading the records, less than 50 years ago we had a problem of where the spittoons would be placed within the House. Some were complaining that they were being splattered unduly.

As a smoker, I certainly hope I don't offend my seatmates or

anyone in the House. I certainly don't know how you would enforce any such law confining the public places. And a law that can't be enforced, I don't actually see much object to putting it on the books just for purposes of harassment.

I am offended to some degree by the excessive smell of liquor on peoples' breath. I expect that some people have BO or other odors that we could be offended by.

I hope you don't go along with this present motion.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Dunn.

Mr. DUNN: Mr. Speaker and Members of the House: I occasionally smoke a cigar. I am going to stop sometime. I may not know it when that happens, though. It seems to me that this is sort of a financial question. We subsidize the airlines and we are subsidizing the buses. Some of them are going out of business. It doesn't seem to me that they could really afford to keep separate compartments for the smokers and nonsmokers.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I have been very much interested in the debate here this morning. Probably I should tell you about my own personal experience as a smoker. I smoked all my life since the age of five. Back in those days it was the cry that if you don't cut out smoking you will never grow up. I am very glad that I smoked. It stunted my growth.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bath, Mr. Ross, to indefinitely postpone Bill "An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers" Senate Paper 322, L. D. 989 and all accompanying papers in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Berry, P. P.; Berube, Binnette, Birt, Bither, Boudreau, Bragdon, Brawn, Brown, Bunker, Carey, Carrier, Churchill, Cottrell, Cressey, Crommett, Curran, Donaghy, Drigotas, Dunn, Evans, Farrington, Finemore, Fraser, Garsoe, Good, Hamblen, Henley, Immonen, Jalbert, Kauffman, Kelleher, Kelley, R. P.; Keyte, Kilroy, LaCharite, Lynch, McHenry, McKernan, McNally, McTeague, Mills, Morin, L.; Murchison, Murray, Najarian, O'Brien, Palmer, Parks, Perkins, Pratt, Ross, Sheltra, Shute, Simpson, L. E.; Stillings, Strout, Talbot, Tanguay, Theriault, Trask, Walker, Webber, Wheeler, Wood, M. E.

NAY — Ault, Baker, Berry, G. W.; Briggs, Bustin, Carter, Chick, Chonko, Clark, Conley, Connolly, Cooney, Cote, Dam, Davis, Deshaies, Dow, Dyar, Emery, D. F.; Farnham, Ferris, Gahagan, Goodwin, K.; Greenlaw, Haskell, Herriek, Hobbins, Huber, Hunter, Jackson, Jacques, Kelley, Knight, LaPointe, Lawry, LeBlanc, Lewis, J.; Littlefield, MacLeod, Maddox, Martin, Maxwell, McCormick, McMahon, Merrill, Morton, Mulkern, Norris, Peterson, Pontbriand, Rolde, Rollins, Shaw, Silverman, Smith, D. M.; Sproul, Susi, Tierney, White, Whitzell, Willard, The Speaker

ABSENT — Cameron, Curtis, T. S., Jr.; Dudley, Dunleavy, Farley, Faucher, Fecteau, Flynn, Gauthier, Genest, Goodwin, H.; Hancock, Hoffses, Lewis, E.; Mahany, Morin, V.; Ricker, Santoro, Smith, S.; Soulas, Trumbull, Tyndale

Yes, 65; No, 62; Absent, 23.

The SPEAKER: Sixty-five having voted in the affirmative and sixty-two in the negative, with twenty-three being absent, the motion did prevail.

Sent up for concurrence.

House

An Act Relating to Licenses to Carry Weapons. (H. P. 936) (L. D. 1235)

An Act Authorizing Beano or Bingo on Sunday at Agricultural Fair Associations. (H. P. 1213) (L. D. 1564)

An Act to Grant Comex Inc. Certain Rights within the State of Maine. (S. P. 523) (L. D. 1654)

An Act to Expand Human Resources by Rehabilitating Recipients of State Aid. (H. P. 1363) (L. D. 1819)

An Act Exempting New Machinery and Equipment used for Manufacturing and Research from Sales and Use Tax and Increasing the Corporate Income Tax Rate. (H. P. 1492) (L. D. 1920)

An Act Exempting Motor Vehicles Purchased by Nonresidents from Sales Tax. (H. P. 1493) (L. D. 1921)

An Act Relating to Expenses of Examination of Insurer. (H. P. 1494) (L. D. 1922)

Were 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.

Orders of the Day

The Chair laid before the House the following matter:

Bill "An Act Relating to Liability of Distributing Utility for Death or Injury to Person or Damage to Property Caused by Natural Gas" (S. P. 448) (L. D. 1415) which was tabled earlier in the day and later today assigned.

Pending — Motion of Mr. Cooney of Sabattus to reconsider whereby the House voted to adhere.

Mr. Emery of Rockland requested a vote on the motion to reconsider.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I would ask that this be tabled for one legislative day.

Thereupon, Mr. Emery of Rockland requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the

gentlewoman from Lewiston, Mrs. Berube, that this matter be tabled pending the motion of Mr. Cooney of Sabattus to reconsider, and specially assigned for Monday, May 21. All in favor of tabling will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 41 having voted in the negative, the motion did prevail.

The Chair laid before the House the following matter:

Bill "An Act Requiring the Registration of Off-Highway Vehicles" (H. P. 1510) (L. D. 1940) which was tabled earlier in the day and later today assigned.

Mr. Shute of Stockton Springs offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-408) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, I would ask for reconsideration.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lubec, Mr. Donaghy, that the House reconsider its action whereby House Amendment "A" was adopted. All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

18 having voted in the affirmative and 85 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. MacLeod.

Mr. MacLEOD: Mr. Speaker and Members of the House: I don't think I am confused on this bill. I would like to just bring this amendment to your mind. I think it imposes quite a tab on a small golf course owner who has a series of these carts. And where the wisdom came to class motorized golf carts in the same category with off-highway motorized vehicles — I know the state is using a lot of these little go-carts and tote-gets and these bikes and motorbikes and motorcycles and all kinds of categories of them, but I sort of have a feeling here this morning