

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

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KENNEBEC JOURNAL
AUGUSTA, MAINE

The President laid before the Senate the matter temporarily set aside by Mr. Hichens of York: An Act Authorizing Beano or Bingo on Sunday at Agricultural Fair Associations. (H. P. 1213) (L. D. 1564)

The same Senator then moved that the Bill be Indefinitely Postponed.

On motion by Mr. Marcotte of York, a division was had. Eight Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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)
Comes from the House, Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: I rise to speak in favor of this bill. It is the first time I have got up since I became a member of the Senate where I really feel I am talking about a bill that is a good bill. I say "good bill" — we have got a lot of good bills, but this is one I can really put my heart into.

You cannot tell from the advance journal that this bill has been amended, and I bring this to your attention. We have amended it in committee so that it is limited to areas in excess of 1,500 square feet. We didn't want to make someone who had a two-chair barber shop, or a woman who had one or two chairs for a beauty parlor next to her home or on the porch be covered by this legislation, so it is in excess of 1,500 square feet. We also said it would be vehicles in excess of ten passengers, so it wouldn't apply to taxicabs.

The bill simply says that in areas of over 1,500 square feet and in automobiles with over ten passengers there would be a portion set off for non-smokers. This

doesn't mean that they have to build partitions or anything else. You may say "Then in a room where there is no smoking in one corner wouldn't they be bothered by people smoking in the other ones?" Well, we are told by the doctors that the smoke dissipates and it is not so bad.

We had very fine testimony at these hearings. We had three non-smoking bills. Two of them we put out Ought Not to Pass, and this is the one, Senator Berry's, that we worked on.

We were told by the doctors that actually the smoke that is emitted from smokers is really more dangerous to everyone than the smoke that we who smoke inhale ourselves. Being a smoker myself, I can talk on this bill a little better than someone who is a non-smoker.

We really don't think this will be inconvenient, but it is going to help an awful lot of people. I was surprised at the testimony and some of the letters I have received since from so many people that are bothered by cigarette smoke, the many people who do not go to meetings, assemblies and gatherings that they would like to go to because they are so disturbed by smoking. In fact, at the hearing, which we held in one of the large rooms in the other building, toward the end of the hearing when there weren't too many people left there was still one lady who had tears in her eyes because she was being affected by the small amount of smoke that was in the room at that time.

I really think this is a good bill. Unfortunately, many times we have a bill where we try to help a lot of people, and it hurts other people when we do it, but because the majority is helped and the minority is not hurt too much we go along with such bills and such legislation. In this case here, I honestly don't believe it is going to hurt anyone, it is not going to put an imposition on people, and it is going to help a lot of people who really need a lot of help. So I sincerely hope that we will disagree with the other body and move this bill along for enactment.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President and Members of the Senate: I rise in opposition to this legislation for several reasons. It came before our committee, the Legal Affairs Committee, and No. 1, this legislation would apply to the Maine State Senate. This room here is in excess of 1,500 square feet. And this legislation pertains to non-smokers, so I don't know where the non-smokers are going to sit in the Senate. I am going to sit in Seat 27 where I am now because I am a smoker. I don't know where the non-smokers are going to sit; and I don't know how you can get the rest of the members of this body in one corner set aside for non-smokers.

To me, it is sort of embarrassing to go into some of these restaurants of very high quality and the lady is going to ask you how many there are, and you will say "Four", and she will say "Well, do you smoke or don't you smoke?" It depends on whether you do or not as to where you are going to sit. Of course, the legislation applies to non-smokers. They are going to have their own little corner and they can sit in that little corner and have their dinner without being disturbed by smokers.

I really don't think this is practical legislation, and at this time I would move that it be indefinitely postponed and ask for a division.

The PRESIDENT: The Senator from Oxford, Senator Aldrich, now moves that Item 8-9, Bill, An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers, be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I don't smoke, so I don't know whether I have any conflict here or not. But what bothers me is creating a new crime, to make it a crime because you are smoking in the wrong place. I think the state is sort of going a little too far. I suppose a police officer, if he sees

someone smoking in an illegal area, it is a misdemeanor committed in his presence so he can physically arrest him and take him off to the hoosegow.

I think it is absolute nonsense for the state, with the very serious things we have got to do, to make things like this — to give them the dignity of being crimes. I really think it is ridiculous, so I would strongly urge that you vote to indefinitely postpone this bill.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President and Members of the Senate: I too rise in support of indefinite postponement of this bill, and would like to just mention some of my thinking here.

To begin with, I would heartily agree with one of the previous speakers that it would be nice in all things, in public meetings and so forth, in public areas, not to have smoking for the convenience of some of the people who may be affected. I might say that in the public meetings of my Committee on Liquor Control it was a firm rule that was announced at each hearing that there would be no smoking during the public meeting. I believe in all public or semi-private type political meetings or committee meetings of this sort is is very easy to control this factor. But when you move it into the public segment and put it into facilities — and I speak with some authority — into large restaurants, various areas in the Innkeepers Association and all of its facilities around the state, you are going to create a very, No. 1, uncontrollable piece of legislation, and an extremely unpleasant one to manage and try to oversee. I think this would be nothing but chaos creating a lot of unnecessary problems.

Therefore, again, I urge you to support the motion to indefinitely postpone this piece of legislation. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: This is a bill that I introduced at the re-

quest of many people and with my own enthusiastic support.

I would call to the Senate's attention that no one is going to be arrested for smoking in non-smoking area, and the bill very plainly says that. The only person who can possibly get in trouble would be somebody like Senator Olfene from Androscoggin, who refuses to put a sign up that designates a non-smoking area. That is all we are talking about.

There is no question about how much space is needed. In his restaurant he would have to put up a sign that would say "No Smoking". There is absolutely no penalty involved here to anybody as far as smoking is concerned.

I would invite your attention to the fact that rules of this type are in effect now in aircraft controlled by the Federal Aviation Authority, and it is working out. I am sure all of you have heard good comments on this new setup.

The privilege that we have, and I had over the weekend, of spending \$10 for Maine lobster is one I look forward to, and I certainly don't enjoy having somebody smoking a big fat black cigar right behind me when I am eating my \$10 lobster. So I would hope that you would vote against the motion.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President and Members of the Senate: I would just like to make a brief remark or two here in answer to my very good friend, Senator Berry.

No. 1, if my experience is correct on the aircraft that I have been using in the last year or so, you are asked this question when you check in at the desk, and this is something where you are designated to an area of seating on the craft.

I can see this as being an extreme problem to someone at the front door of a public building and public gathering and saying to people coming in "Now, which way to you want to sit; do you want to sit where the smokers are or the non-smokers?"

The real hangup I have on this bill is that this is a bill that I

am sure, No. 1, you can't strictly enforce it. This is the real hangup that I have, coupled with the fact that it will cause a great deal of discomfort. For example, I would agree with the Senator from Cumberland when he says all I have to do is put a sign up in in the restaurant. But that doesn't mean, because it says "No Smoking", as I understand it, that a smoker can't sit in that area. Now, if a non-smoker comes in and sits at the next table, and complains to the management because at the next table there is someone smoking, boy, I have got a real problem and a discomfort on my hands.

I am not speaking just from a personal standpoint here; I am just asking you think about it and look it over. Here is a bill that isn't clear as to how do you control and enforce this thing. When you run into these situations you are just running onto complete chaos and something that I am sure we do not need. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President and Members of the Senate: You know, there is an old adage that if there is no penalty attached to legislation then there is no crime. You can't legislate crimes without a penalty. In this legislation there is no penalty, therefore, I submit there is no crime. If there is no crime, then there is no enforcement of this legislation. And if there is no enforcement of this legislation, then I really can't see why we need it. It is very impractical, it is not reasonable, and I would again support my pending motion.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: Having sponsored the first of these non-smoking bills this year, restricting smoking on public conveyances, I would rise against the motion to indefinitely postpone and I would request a roll call.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I too would rise in opposition to the motion of the good Senator from Oxford, Senator Aldrich. There appears to be a great deal of confusion about this particular piece of legislation. I think all that this does is require the public places and public vehicles to set aside a place where there will be no smoking.

Now, it certainly doesn't require anyone who goes into a restaurant to say "Well, I want to sit in the non-smoking area" or "I want to sit in the smoking area", or if a smoker sits in the non-smoking area that he would be in violation. All this does is require the restaurant owner or the bus lines to set aside a particular place in the restaurant or in the vehicle where in there would be no smoking. Now, if a smoker wants to sit in a non-smoking area, that is certainly up to him; he would certainly be able to do so. Or if a non-smoker wishes to sit in the smoking area of the restaurant, there is nothing in this legislation that would prohibit that. All this means is that an individual who does not happen to smoke would have the opportunity to go into a restaurant or a public vehicle and be able to sit in an area where there is no smoking allowed.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Oxford, Senator Aldrich, that Bill, An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers, be indefinitely postponed. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Oxford, Senator Al-

drich, that Bill, An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Graffam, Huber, Kelley, Marcotte, Morrell, Olfene, MacLeod.

NAYS: Senators Berry, Cummings, Fortier, Greeley, Hichens, Joly, Katz, Minkowsky, Peabody, Richardson, Roberts, Schulten, Shute, Speers, Tanous.

ABSENT: Senators Cyr, Danton, Sewall, Wyman.

A roll call was had. 14 Senators having voted in the affirmative, and 15 Senators having voted in the negative, with four Senators being absent, the motion did not prevail.

Thereupon, the Bill was Passed to be Enacted in non-concurrence. Sent down for concurrence.

Orders of the Day

The President laid before the Senate the first tabled an specially assigned matter:

SENATE REPORTS — from the Committee on Judiciary — Bill, "An Act Relating to Qualifications for Jury Service of 18-year-old Voters." (S. P. 496) (L. D. 1583) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as Amended by Committee Amendment "A" (S-104)

Tabled — May 16, 1973 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr TANOUS: Mr. President and Members of the Senate: I am indeed pleased to report to you this morning that we have received an opinion from the Attorney General's Office relative to L.D. 1583.

Apparently the present statute on the books on the method of selecting a jury is in fact constitu-