

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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want them, but it certainly is up to that locality to make that decision. I think this very definitely is a bad precedent and something we should not mandate from Augusta.

I would move the indefinite postponement of this Bill and all accompanying papers.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I want to apologize to my seat mate for not making the nature of the Amendment a little clearer. The Amendment deals with all of the objections with respect to local situations. It indicates that only those buildings which are completely paid for by the State and our State Buildings will be affected by the Amended version.

The PRESIDENT Pro Tem: The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Pierce, that this Bill be indefinitely postponed.

The Chair will Order a Division.

Will all those Senators in favor of indefinite postponement, please rise in their places to be counted.

Will all those Senators opposed to the indefinite postponement, please rise in their places to be counted.

16 Senators having voted in the affirmative, and 8 Senators in the negative, the Motion to indefinitely postpone does prevail.

Divided Report

The Majority of the Committee on Education on, Bill, An Act Repealing the Tuition Equalization Fund. (H. P. 1199) (L. D. 1428)

Reported that the same Ought Not to Pass.

Signed:

Senator:

PIERCE of Kennebec

Representatives:

LYNCH of Livermore Falls
BIRT of E. Millinocket
FENLASON of Danforth
PLOURDE of Fort Kent
BAGLEY of Winthrop
CONNOLLY of Portland
LEWIS of Auburn

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-408).

Signed:

Senators:

KATZ of Kennebec
USHER of Cumberland

Representatives:

WYMAN of Pittsfield
BEAULIEU of Portland
MITCHELL of Vassalboro

Comes from the House, the Majority Report Read and Accepted.

Which reports were read.

On Motion of Mr. Pierce of Kennebec, Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, An Act to Prohibit Smoking at Public Meetings. (H. P. 361) (L. D. 453)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-417).

Signed:

Senators:

SNOWE of Androscoggin
GREELEY of Waldo

Representatives:

FOWLIE of Rockland
KANE of Augusta
PRESCOTT of Hampden
NELSON of Portland
GOODWIN of South Berwick

TRAFTON of Auburn
GILL of South Portland
BRENERMAN of Portland
TYNDALE of Kennebunkport
KERRY of Old Orchard Beach

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were read.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President, I move the acceptance of the Majority Ought to Pass Report, and I would like to speak to my Motion.

The PRESIDENT Pro Tem: The Senator has the floor.

Mrs. SNOWE: Mr. President and Members of the Senate, the Bill before you would prohibit smoking in all public meetings, and in this Bill public meetings is defined as under the Right to Know Law. It also provides for a fine of not more than \$50.00.

First, I had some reservations about passing such a Bill, and putting restrictions on smoking, because it is an individual right. However, after having given it a good deal of consideration, I felt that the arguments in favor of such a Bill rank consideration.

First of all, as given in testimony at the public hearing, many people testified who stated that they could not attend public meetings because of smoking, and I have known this to be the case here in the Legislature. Many people have left public hearings because smoking has irritated them. With heavy concentration of smoke in the air, it is hard to concentrate. I feel that this Bill would allow everybody to attend and participate in a public meeting.

There have been many studies done that have shown that a person's health is affected by the Carbon Monoxide, Hydrogen Sulphide, Hydrogen Cyanide, Ammonia, Benzene, Tar, Nicotine, Nitrogen Dioxide, Cadmium and various trace substances which are present in tobacco smoke. There are about 15 States which have already imposed some limitations on smoking. I would like to give you some facts on second hand smoke.

First of all, non-smokers make up about two-thirds of the population. Smoke from the burning end of a cigarette contains higher concentrations of harmful substances than smoke inhaled by the smoker, twice as much tar and nicotine, 5 times as much carbon monoxide, and 46 times as much ammonia. Exposure to tobacco smoke has special hazards for people who already have heart or lung disease, allergies or breathing difficulties of any kind. For example, exposure to the levels of Carbon Monoxide produced by second-hand smoke has been shown to reduce significantly the exercise tolerance of some persons with symptomatic cardiovascular disease. Some studies show that respiratory illnesses are more common among children whose parents smoke, compared with those who have non-smoking parents. Carbon monoxide levels in some poorly ventilated, smoke filled rooms have been found to exceed levels considered safe in industry, and above the levels permitted by regulations of the Environmental Protection Agency.

Respiratory diseases ranked high on the list of unmet and unanswered health needs in Maine and in the United States. In 1974, Maine ranked fourth in the nation in the rate of insured workers disabled by respiratory conditions.

Maine has an adjusted death rate for chronic obstructive pulmonary disease which consists of Chronic Bronchitis, Asthma and Emphysema, 22 people per 100,000 population, compared to the United States rate of 17 people per 100,000.

Respiratory disease not only is the 2nd leading cause of hospital admissions in the State, but analysis of hospital discharge data reveals an unexplained wide variation of rates of discharges from hospitals for respiratory disease conditions from one population area to another.

I think this is a Health Oriented Bill. I do not think that we can ignore the facts, and the facts are that smoking is bothersome and hazardous to the non-smoker, not to mention the smoker. Therefore, I urge the Majority Ought to Pass Report.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I move indefinite postponement of this Bill and all accompanying papers. I would like to speak to my motion.

The PRESIDENT Pro Tem: The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President and Members of the Senate: There is no time that we make such bad laws as when we are moved by pure intention. I submit that this Bill is an example of that.

Now this Bill does not say that a majority of people at a public meeting can close the public meeting to smokers. It does not say that the unanimous vote of the people at a public meeting can open the meeting to smokers. What this Bill says is that no matter what all of the people at the meeting want to do, the meeting is closed to anybody who wants to smoke.

The definition of a public meeting under our Right to Know Law, everybody here will recall, is very broad. It can include anybody who is making final decisions, and I would assume that would mean three selectmen sitting in a room in which nobody happens to be there, or which one person who happens to be there is a smoker. Now I assume that if all three of those people were smokers, and they were at the meeting and they were the only ones there, then there would be nobody to say that they had violated the law and had a cigarette or pipe or cigar during the meeting. But, nonetheless, they would have violated the law, and it has always been my feeling that we ought to make laws that people can live with without violating.

I do not think it is the intent of anybody in the Senate to say that if everybody of the three selectmen who are sitting at a meeting want to allow one of the guys to smoke a pipe, that he cannot. The reason that we run into these problems, I submit, in definition, and the definition in this Bill is different than it was in the original Bill. They did not really define public meetings in the original one, and in this one they defined it as broadly as any possible definition that you could find. I submit it is because it is very difficult to make laws in Augusta that deal with every public meeting that takes place at the local or on the state level. The fact that it is so difficult, I think, ought to deter us from doing it.

I am not unsympathetic to the desire of people to stop others from smoking, and especially in some of the smaller rooms, the lower ceiling rooms in which public meetings are held. But there are lots of ways to get around this problem if we leave it to the initiative of the people who are running the meetings. In a large room, it can be handled by dividing the room into Smokers and Non-smokers. In a small and more confined space, greater action will probably have to be taken to protect the non-smoker, but if there is any area that I feel fairly

safe that we can leave this to the people who are at the meeting to make the decisions, it is this one, and I do not think it is necessary for us to put this law in the books.

One minor point; the Amendment, which has become the Bill, removes the requirement that there be posting in order for this law to take effect. I do not know the reason for that, probably the expense, because when you stop and think about all of the places the public meetings might be held in, and remember the broad definition in the Right to Know Law, it would be an enormous task to do the posting.

I urge the Senate to indefinitely postpone this Bill and all its accompanying papers.

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

Mr. HICHENS: Mr. President, I would rise to oppose the Motion to indefinitely postpone, and I would ask for a Roll Call when the vote is taken.

The first speaker this morning mentioned individual rights, and I am a strong proponent of individual rights, as long as they do not infringe upon the rights of others. But I think when you have a public meeting and when non-smokers want to smoke and the public is affected by the smoke, the rights of that person who wants to smoke are over-shadowed by the rights of the other persons who do not want to allow smoking.

Our work sessions and our Legislative meetings would be exempted because that is not a public meeting. I think we have to define which is the difference between a public meeting and a meeting of an Executive Board or such. I would ask that you support this Motion to indefinitely postponement.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I am a smoker and very much against this Bill, not because I am a smoker, but for the reasons that Senator Hichens from York just outlined.

He talked about the will of the few being imposed on the will of the many. That is exactly what I see in this Bill. This is why I consider it to be the worst kind of a blanket Bill, and I would take objection with the good Senator from York, Senator Hichens, and I will quote to you from House Amendment "A" (H-417) "No person shall smoke tobacco or any other substance in any form in any public proceeding as defined by Title 1, Section 402, Subsection 2, which are held inside". I think that is your Right to Know Laws. I think that the meeting that the good Senator from Cumberland, Senator Merrill, described of three Selectmen sitting down and making final decisions which are open, which are under the Right to Know Laws, is definitely a public meeting as defined by Title 1, Section 402. I think that these individuals, if all three were smokers, as the Senator from Cumberland mentioned, could not smoke without being in violation of the Law. I just cannot understand. I have been to many public hearings, and in public hearings right here in this Legislature, and I have been there many times when I wanted to smoke but a majority of the people there, or some of the people there had asked the Chairman that smoking not be allowed and that was the Rule, and I would have to step outside to have my cigarette. I just think it is bad to put this kind of a blanket piece of Legislation.

Now you stop and think. — You stop and think about the Right to Know Laws, and how many meetings are governed by the Right to Know Laws. Practically everything we do, any kind of Public Body is covered by the Right to Know Laws.

I think we are taking a bad, bad step here.

Any future changes to the Right to Know Laws, any other types of meetings that we may include the Right to Know Laws, would fall under this No Smoking Ban.

I would hope that you would go along with the Senator from Cumberland and indefinitely postpone this Bill.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate, it is with interest that I rise when I hear some of the Members of the Senate speaking who are smokers. I happen to be an occasional smoker, and I still find it very offensive to be sitting next to people who smoke.

As far as the comments made by the Senator from Cumberland, Senator Merrill, I think that those problems could be taken care of in an Amendment. But I still find that smoking is a pollutant. We do not hesitate to regulate in other areas of things that cause pollution. Smoking is a very serious health hazard to those who are exposed to it, whether they smoke or not. I think that is the question here.

I would like to read you some more information in regards to those who are exposed to smoke and do not smoke. Right now the Federal Air Quality Standards regulate industry, and at the maximum concentrations of carbon monoxide in the air cannot average out to more than 50 parts per million. So, therefore, how much carbon monoxide do cigarettes send into the air? Researchers have found that smoking seven cigarettes in one hour, even in a ventilated room, created carbon monoxide levels of 20 parts per million. In the seat next to the smoker, the level shot up to 90 parts per million, almost twice the maximum set for industry. Smoking ten cigarettes in an enclosed car also produced carbon monoxide levels up to 90 parts per million. The carbon monoxide level in the blood of nonsmokers as well as smokers in the car doubled.

When nonsmokers were exposed to these levels, the carbon monoxide level in their blood not only doubled within the first hour, but doubled again during the second hour.

When nonsmokers leave a smoky environment, it takes hours for the carbon monoxide to leave the body. Unlike oxygen which is breathed in and then out again in minutes, carbon monoxide in the blood lasts for hours. After three or four hours, half of the excess carbon monoxide is still in the bloodstream.

I think these are reasons for voting for this Bill, and I oppose the Motion to indefinitely postponed.

(Off Record Remarks)

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I kind of address this Body with some degree of trepidation this morning in light of the fact that the only people who have spoken against this Bill have been Democrats, and those who have spoken in favor of this Bill have been Republicans. I want to assure the Members of this Senate today that there are as many Republican smokers as there are Democratic smokers, and I do not think that it transcends party lines.

Secondly, I have a problem with this Bill in a number of areas. First of all, we have to discuss the matter of rights. Yes, the people who do not smoke do have their rights, but people who do smoke also have their rights. I have seen many meetings where you had 20 people in the meeting, it was a public meeting, and all 20 people smoked. This Bill would eliminate their discretion and their right to smoke. There are also many police officers who do attend meetings, who do smoke, and I think it would be difficult for them to enforce this law in the first place.

Secondly, the Bill throws in that no person

shall smoke tobacco or any other substance. There are certain diseases; Emphysema and what not and where people do have to inhale this fume almost consistently, and they do attend public meetings, and this Bill would prohibit them from smoking or inhaling these fumes and, therefore, you are eliminating their right to attend a public meeting.

Thirdly, I think that this Bill should be amended to include certain other substances which are also obnoxious and which would tend to injure the health of other people. I cite, for example, I have been to many public meetings where there is an obnoxious smell of perfume permeating the entire air. This smell of perfume becomes so thick and heavy at times that my rights have been violated, and I have had to leave the meeting because I could not stand it any longer. I think that we should amend this Bill to include that.

Of course, the good Senator from Androscoggin, Senator Snowe, did mention the effects of smoking in a car and the raising of the carbon monoxide level of the blood of the passengers who do not smoke in that car. I assure her that it would be difficult to call riding in a car a public meeting and, therefore, would urge indefinite postponement of this Bill.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate: Since we started debating this Bill, I have got a chest pain.

But there is one section of this Bill that we really have not discussed. We have discussed about offensive odors, the Right to Know Laws; how about the \$50.00 fine. How are we going to enforce this? No one has spoken on this. I wish someone would.

I know it would be sort of difficult to go to the City of Saco when they are having a School Board Hearing, and I walk in there and I decide to light up a cigarette, and I do smoke — I was a non-smoker for six years and then I decided to go back to smoking, but suppose I light up a cigarette. Who is supposed to now call the police officer or bring me to court, have me plead guilty or have a big court case going on because I lit up a cigarette.

I would hope that someone would get up and explain that particular issue.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: In reply to that, I submit that smoking is not allowed presently in the court room and participants, witnesses or spectators go outside of the court room and smoke out in the corridor or outdoors.

I do not think there would be any problem enforcing it, because it is a question of fact. Somebody accuses acts of smoking, and they go to court and the witness says X smoked in the public meeting and X says either I did or I did not, and the fact finder determines whether or not there was a guilty finding.

I would think you would all vote against indefinite postponement today, and then tomorrow the argument that the good Senator from Cumberland, Senator Merrill, put forth about allowing the members or participants at the meeting or spectators at the meeting to vote on it could be added, so that today we would vote to accept the Committee Report and give it its First Reading and then tomorrow it can be amended to allow those in attendance at the meeting to vote if they, in fact, do want to have smoking at the meeting. I hope you vote against indefinite postponement.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, and Members of the Senate, obviously the good Senator from Cumberland, Senator Hewes, has been spending too much time in the Court. I was not referring to Courts. I was referring to any public meeting that someone may light a cigarette and the Chairman or whoever is running the meeting has to take and call a Police Officer. Then I would imagine that that Chairman would have to go to Court as a witness to say that the good Senator from Cumberland, Senator Hewes, was smoking at the meeting, and then there is a fine up to \$50.00. Am I correct in thinking this? If not, I would like to have someone correct me.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, there have been a lot of points brought out in this debate. I would like to narrow it slightly and to address one issue before we finally deal with it.

First of all, I am not arguing that there is a right to smoke. I do not think that you have to believe that in order to think that this should be defeated. But what I am saying is that this Body here, this group of individuals here, cannot make a law which properly sets out the rights of the non-smokers versus the people who smoke, their ability to do so in situations where it does not infringe upon the rights of the non-smokers. You cannot make a law that does that. You could postpone the decision until tomorrow, but the Committee took a Bill that they had, and they worked on it. They gave more work to it probably than anybody here is going to be able to do between now and tomorrow, and this is what they came up with: the Amendment that has been discussed here today, which defines public meetings as anything where there is a Right to Know Law involved. There was a Notice Requirement before and they took out the Notice Requirement. This represents the best work of the Committee that deals with these matters.

The reason that what they came up with is not acceptable to the Members of the Senate is because you cannot sit in Augusta and make a law that defines out the rights of one group that smokes versus the needs of a group that does not. You cannot make a law in Augusta that satisfies all of those different problems. In this Chamber, if we were to consider the problems of the Senator from Androscoggin, Senator Snowe, in regards to sitting next to people who smoke, I submit that if we were to divide the seating on that arrangement and the Senator were to sit on one side where there would be non-smokers, and people over on this side were smoking, that in a room this large, when it is ventilated this time of year, it would cause no problem, and all her counts of carbon monoxide and everything I think, would verify that if tests were done. How are you going to write that into law. — if the room is so big and if the ventilation is so good and there are so many people smoking.

This is the sort of thing that people who get together at the meeting, the four or five people who get together in Stockton Springs at the Selectmen's Meeting can work out themselves, whether or not they are going to let the guy smoke his pipe as he has done for the last 50 years. It does not behoove us to try to make rules and regulations and laws which result in penalties and people going to Court to deal with that, and try as we will, and work as hard as they will, the people who are in favor of this are not going to be able to come up with an Amendment which is going to be able to define what the right solution is to the hundreds and thousands of different sorts of gatherings that would be dealt with in this Legislation. That is why it is a Bill that inherently should be indefinitely postponed.

The PRESIDENT Pro Tem: The Chair

recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President and Members of the Senate, after hearing all of the opponents to this Bill, I would like to pass on the conclusion that I have drawn.

I think perhaps this Bill should have been recommitted to the Committee on Natural Resources, as it hears the Bill related to the Department of Environmental Protection. They do pretty well in enforcing the Smoke Stack Laws. They charge Scott Paper Company \$1,000.00 a day when they emit more smoke than they are supposed to.

Some of my constituents have asked me to support this Bill, because they are very much concerned about the air they breathe and their lungs. They find that the environment in the hearing room is very damaging to their health. They cannot stand that environment.

Therefore, I hope that the good Senators will vote in favor of this Bill.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I will admit to some bias in this matter, because I am one of those creatures who is quite allergic to smoke, particularly from certain brands of cigarettes. Every once in a while someone smokes a brand of cigarette that does not bother me, and I have not figured out yet just what the reason is, but I would suggest to you that most of the objections I have heard here this morning could be taken care of by an Amendment that permits the smoking if there is unanimous consent from the people present. When I think about rights, I always recall the meeting that I attended some years ago where one smoker was distributing his emissions rather broadly among his neighbors and one of his neighbors said, "I wish you wouldn't smoke," and the smoker said, "Well, I have a right to smoke". The neighbor said, "Then I trust you will respect my right to vomit if your smoke causes that result." I have often thought about that story because I think it is a very real situation for many people.

I hope you will vote no.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: As the lone signer on the Ought Not to Pass, I think that perhaps I should up and just point one small fact out, that as a member of the Health Institutional Service Committee, we have never had any problems in the committee hearings or work sessions. I think every one of us are non-smokers.

The PRESIDENT Pro Tem: Is the Senate ready for the question? The pending Motion before the Senate is the Motion of the Senator from Cumberland, Senator Merrill, that this Bill be indefinitely postponed.

A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of the members present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I cannot help but make one observation that strikes me as this debate has gone on.

One of the previous speakers spoke about the problems of smoke in the hearing rooms here in Augusta, and the problems that that presented to his constituents as they related to him. Now in this case, and evidently the Maine Legislature has not been able to deal with this problem up until now to the satisfaction of his constituents, but in this case undaunted by our inability to deal with the smoking problem in this chamber and by our inability to deal with the smoking problem in the hearing rooms, that are our hearing rooms, that are the hearings that we are running, we are going ahead intrepid if we accept this legislation to make a

law that is going to regulate the smoking in every public meeting in the state.

I am sometimes amazed at our ability to make laws and regulations for everybody, when in the course of the debate we pointed out that we have been unable to deal with our hearing room at this point, and we are going to make regulations that are going to deal with everybody in the state.

I think that the Senate should keep in mind that if we pass this law we are making a law that regulates the conduct of the meetings that are held in the cities and the towns and the counties, and not just the state. I think that is a crucial difference. Maybe we should start with just the legislative meetings. Maybe we should start with just the state. See if we cannot do a good job at it there, and then start worrying about how all the towns and other groups have their public meetings.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Members of the Senate: The more I hear discussed on this Bill, the more fearful I am.

As I said when I started my remarks before, I am a smoker so perhaps I am a little bit prejudiced, but it scared me a little bit that we are going to put this great blanket over the entire state and over the meetings that have been discussed in the debate this morning. The meeting of the three selectmen in Stockton Springs or Hammond Plantation or any place else. Now, the good Senator from Knox, Senator Collins, says well we can amend it so that we can have unanimous consent we can smoke. Well I submit to you that if we have unanimous consent, and one person objects — you know, I think we should be a little bit concerned about the wishes, and I do not use the word rights, because there is some debate as to whether there is a right to smoke or not, but the wishes of the majority will be thwarted by one person who objects, and I do not like this kind of legislation. I think it is very bad, and I am going to have a very difficult time going back to Aroostook County and explaining to my people, to my Town Council why they can no longer smoke during their deliberations that are subject to the Right to Know Laws, because the great Father in Augusta has decreed that you shall not; you shall protect yourself.

My seat mate, the good Senator from Cumberland, Senator Hewes, got up and pointed out what happens in the various Courts in this State. Courts have made Rules that there shall be no smoking or there shall be limited smoking or whatever. I submit to you many of the Committees in this Legislature have made the same kind of a Rule, and we do not need this kind of a Law on the books. I just think it is very frightening. It is very far reaching. It is very bad precedent. Thank you.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I have learned to live with the votes on which I think in retrospect I have made a mistake, but there is one vote that sticks in my mind; goes back to the 102nd Legislature. The big issue of the day was seat belts. Mandatory seat belts. I thought it was a great idea because the evidence was overwhelming that the use of seat belts would save lives; a real safety measure. I voted for mandatory seat belts and it is strange to say that that vote has really bugged me all these years, because I stood up on a Roll Call and I voted for an intrusion into the private lives of people. Although my motive was worthy, I never felt good about that vote.

I have been sitting listening to the debate today, trying to figure out how I am going to vote, and I keep thinking about the seat belts, and my personal intrusion as to what is good for people. I have just about made up my mind that I am not going to repeat my mistake about the seat belts.

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

Mr. HICHENS: Mr. President and Members of the

Senate, I think the good Senator from Kennebec has just brought up a very vital point. I was against mandatory use of seat belts. I was against helmets on motorcycles, because that affected the one person who used the seat belts or the helmet. But this affects other people, and I think that a person who smokes in the midst of other people who are affected by that smoking is infringing on their rights and infringing on their health, and so I feel that his arguments on the mandatory use of the seat belt or any other thing that encounters that one person alone brings out the point that we would like to get.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, Ladies and Gentlemen of the Senate, you have no doubt seen on each package of cigarettes, anyhow on every cigarette advertisement in the paper, the Surgeon General's Warning. I had a number of friends die of Cancer of the Lungs. Of course, I will say that they were not young people. It takes a good deal of time, but there is no question but if the Surgeon General of the United States says that cigarette smoking is dangerous, and maybe as dangerous as smoking marijuana, I certainly do not feel that — I smoke cigars myself, but I do not smoke here, and my wife does not let me smoke in the house, so I have to go out of doors to smoke. So, consequently, if I have got to do that, well, I think, that we should heed the warning that the Surgeon General of the United States says to us on every package of cigarettes.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President and Members of the Senate, it amazes me that Members here have suggested that if you are in a public meeting and you want to smoke then you should leave the meeting to smoke. What that really does is it infringes on my right of being at the meeting itself. If other people who do not smoke wish to leave the meeting they can also leave the meeting, and, therefore, it leaves it pretty well up to the majority.

The interesting point is that I do not drink and I find drinking, at times it does infringe my rights, especially at certain meetings, and I think we should amend this to include drinkers, because I feel that my rights are being infringed at certain times. I have to reiterate the idea of the perfumes. I think everybody has been in a crowded room where some woman has really laid it on thick, and it really becomes offensive at that point.

I think that when we begin to mandate ordinances from Augusta like this, we are in deep trouble, because we are infringing the right of Home Rule.

The PRESIDENT Pro Tem: Is the Senate ready for the Question? The pending Question before the Senate is the Motion from the Senator from Cumberland, Senator Merrill, that this Bill be indefinitely postponed.

A Roll Call has been ordered.

A Yes vote will be in favor of indefinite postponement. A No vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

YEA — Carpenter, Conley, Cummings, Danton, Farley, Huber, Jackson, Katz, Levine, Mangan, Martin, Merrill, Morrell, O'Leary, Pray, Speers, Trotzky, Usher, Sewall.

NAY — Chapman, Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Lovell, McNally, Minkowsky, Pierce, Redmond, Snowe, Wyman.

ABSENT — None

19 Senators having voted in the affirmative, and 14 Senators voting in the negative, the Motion to indefinitely postpone does prevail.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, having voted on the prevailing side, I move reconsideration and urge the Senate to vote against me.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby this matter was indefinitely postponed.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Divided Report

The Majority of the Committee on Judiciary on, Bill, An Act to Clarify the Nonliability of Physicians and other Persons Submitting Reports to the Secretary of State Relating to the Physical and Mental Status of Motor Vehicle Operators. (H. P. 706) (L. D. 886).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-439).

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot
MANGAN of Androscoggin

Representatives:

TARBELL of Bangor
DEVOE of Orono
SEWALL of Newcastle
HUGHES of Auburn
SPENCER of Standish
HOBBINS of Saco
BENNETT of Caribou
MORRIS of Brewer
GAUTHIER of Sanford

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Representative:

HENDERSON of Bangor

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read

Majority Ought to Pass as Amended Report Accepted in non-concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Concerning Warrantless Arrests by a Law Officer." (H. P. 630) (L. D. 771)

Reported that the same Ought to Pass as amended by Committee Amendment "B" (H-418).

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot

Representatives:

TARBELL of Bangor
BYERS of Newcastle
HENDERSON of Bangor
SPENCER of Standish
NORRIS of Brewer
BENNETT of Caribou
HOBBINS of Saco
HUGHES of Auburn
DEVOE of Orono
GAUTHIER of Sanford

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Senator:

MANGAN of Androscoggin

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "B".

Which Reports were Read.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I would move the acceptance of the Minority Ought Not to Pass Report, and I would like to speak to my Motion.

The PRESIDENT Pro Tem: The Chair recognizes the same Senator.

Mr. MANGAN: What we have here today, Mr. President. Members of the Senate, is

basically an interesting piece of Legislation which is somewhat of a change in the law.

This Bill relates to the Warrantless Arrest by Law Officers of items in which they only suspect to have reasonable cause to believe that a person will not be apprehended. The Bill itself throws in criminal homicide in the first degree, any Class A, B, or C crime, which has always been the case in the State of Maine; any police officer can arrest or under reasonable suspicion arrest for someone who has committed a felony, or is suspected of committing a felony, but today it adds assault. If the officer reasonable believes that the person may cause injury to others, unless he is immediately arrested, theft with a value of the services \$1,000.00 or less, if the officer reasonably believes that the person will not be apprehended unless he is immediately arrested; forgery, negotiating worthless instruments.

What they are doing here is just adding to the power of the police officer to arrest for allegedly any crime which a police officer reasonably believes that a person has committed a crime. Now it is general law in the State of Maine today that a police officer may arrest for a misdemeanor which has been committed in his presence. However, here it is just barely suspicion. For example, we look at Item 6. Negotiating a Worthless Instrument, I state that there are many people in the State of Maine who have written a check, knowing there is no money in the bank. Now the Statement of Fact throws in the area that these suspects are most likely to leave the State if they can not be arrested. But that does not become part of the law. The only part of the law that is actually there is that part which shows up in Committee Amendment "B" as the Bill is amended. I think that goes a little bit too far, as far as police powers are concerned.

Now anybody who is believed to have committed some assault or may commit some sort of assault may be arrested. I think that this is going to end up clogging the courts with police officers who could reasonably believe almost anything, I suppose, and we are going to have to end paying much more for our court cases and what have you, and I think that this is a dangerous expansion of the law, and I would move that the minority report be accepted.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I oppose the Motion of the Senator from Androscoggin, Senator Mangan, and I request a Division.

This Bill is a modest extension of arrest power, applied to very certain specific situations. One of the embarrassing things that our police have to live with is that they are called into various crime situations where there is a rather obvious performance of crime having just recently happened or perhaps about to happen again, and they have to tell the people who are complaining, calling them there, that there is nothing they can do. The reason that they can do nothing is because the gravity of the crime is in the B or E category, what we used to call misdemeanors, and it means that the person complaining will have to go down to the Court, usually the next day because a lot of these things happen at night, and swear out a warrant, and by that time either there will have been further criminal action, or the criminal will have fled to other parts.

Now there are two specific areas where this happens a great deal. One is the wife beating situation where the officer is called usually at night to the home; the wife has a black eye and blood is running from the wound, and there is the smell of alcohol in the air, and yet the police officer has to say "Well, I am sorry, I cannot do anything about arresting your husband. You will have to come down to the police station and swear out a warrant." He goes away and the