

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

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**

Index

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Thursday, June 2, 1977

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Howell K. Lind, Universalist Church of Augusta.

The journal of yesterday was read and approved.

**Papers from the Senate
Reports of Committees
Divided Report**

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Relating to State Income Tax Deduction for Student Tuition Payments" (S. P. 402) (L. D. 1385)

Report was signed by the following members:

Mr. MARTIN of Aroostook — of the Senate.

Messrs. MAXWELL of Jay
CARTER of Bangor
COX of Brewer

Mrs. POST of Owls Head

Mrs. CHONKO of Topsham

Messrs. TEAGUE of Fairfield
IMMONEN of West Paris
TWITCHELL of Norway
CAREY of Waterville

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (S. P. 505) (L. D. 1790) on same Bill.

Report was signed by the following members:

Messrs. JACKSON of Cumberland
WYMAN of Washington

— of the Senate.

Mr. MACKEL of Wells — of the House.

Came from the Senate with the Bill and accompanying papers indefinitely postponed. In the House: Reports were read.

On motion of Mr. Tierney of Lisbon Falls, the Majority "Ought Not to Pass" Report accepted.

Non-Concurrent Matter

Bill "An Act to Increase the Number of State Liquor Inspectors" (S. P. 454) (L. D. 1569) on which the Majority "Ought Not to Pass" Report of the Committee on Liquor Control was read and accepted in the House on May 31.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" Report of the Committee on Liquor Control was read and accepted and the Bill passed to be engrossed and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mr. Greenlaw of Stonington, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act to Prohibit Smoking at Public Meetings" (H. P. 361) (L. D. 453) which was passed to be engrossed as amended by Committee Amendment "A" (H-417) in the House on May 31, 1977.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, the sponsor of this bill is not in his seat and I would like to have this tabled until later in today's session.

The SPEAKER: The Chair will order a vote.

The pending question is on the motion of the gentleman from Dixfield, Mr. Rollins, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Quinn of Gorham requested a roll call vote.

The SPEAKER: 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 Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: This is the no smoking bill which we so overwhelmingly passed the other day and I don't think it should die such a quick and ignominious death. I will not attempt to debate it factually again, I simply wish to point out that this House took a strong position on the matter. It is of vital importance to a great many people, it is something worthy of consideration, and I don't think we should cave in so easily. I recommend that we send it back to the Senate, so we would have to vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not vote to recede and concur on this bill. The sponsor put up a very good argument for this the other day. I listened to him with great interest. In my own life, I have smoked, quit about 10 years ago. I believe it is very bad for the health, not only for my health but for the health of others and I hope you will not vote to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Green.

Mr. GREEN: Mr. Speaker, Men and Women of the House: I voted against this the other day when this bill first came up, and I rise to support the motion to recede and concur and I will give you a couple of brief reasons.

I would like to say that one of the things that bothered me about this bill the other day was the fact that we are mandating at the state level that there will be no smoking in public meetings here in Augusta, and as I understand it, municipal boards back home, school boards and so on would also be affected by this bill.

I have been in government for a couple of years and we have had a lot of meetings. There were smokers at those meetings and there were non-smokers at those meetings. But what really bothers me about this bill is the fact that no longer will we be able to vote on these things, which is what we have done in the past, at each separate meeting, decide amongst ourselves whether there will be smoking or no smoking. We are establishing something here in the statutes that will absolutely prohibit smoking.

The argument was raised the other day that if you have a meeting where everybody smokes, if this bill went through, you wouldn't be allowed to smoke.

I am not standing here saying smoking is good, I know it is not, and I am a smoker, so perhaps I do have a conflict of interest here, but even as a smoker, I have many times voted to have no smoking in rooms during a meeting, so I am certainly not entirely prejudiced. It is just the idea, the principle of the thing. Can't this be decided at the individual meetings with the individual people who are there?

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: Representative Dexter, just a few days ago, presented some very good arguments, and I think he received more notes from you people here in this House than I have or any of us have all year congratulating him on his good points and also on the concern he is trying to express for those, including himself, who have emphysema and the kind of diseases where they like to go to meetings and be a part of meetings but they can't because they go to these meetings and the smoke from cigarettes, for example, the smoke that comes from the cigarette, the tar and nicotine has ten times the negative effect than that smoke that has already been inhaled. So for these people who are ill and have a handicap, it is quite important that they be able to participate in local decisions in local government without having to worry about their health.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Men and Women of the House: I must apologize for being late. I had a flat tire in Farmington this morning in the pouring rain.

The other body saw fit to reject my bill, and like everyone says, it is a good bill. I have a feeling that I would like to ask this body to insist and ask for a Committee of Conference. The main objection, apparently, well it follows along with this excuse — there are three selectmen sitting down, all smokers, under this bill they wouldn't be able to smoke. So in this conference, if we could put an amendment in to allow a body to suspend the rules if a majority so wished — just picture three selectmen: we will take Representative Bustin, Representative Shute and Representative Laffin, and no one shows up to the meeting. With this amendment, Representative Bustin and Representative Shute could vote to smoke. Of course, Representative Laffin would be outnumbered. You can't do everything with a bill, so rather than go into a long, lengthy debate, I would ask you to vote against the motion to recede and concur so that I can move to insist and ask for a committee of conference.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I maintain that we can take care of the situation without this piece of legislation. The gentleman who just spoke said that they could suspend the rules. The rules can be suspended now. They can vote not to smoke at any meeting, as we have done in this House. I think this is an unnecessary piece of legislation.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The remarks of the gentleman from Lincoln, Mr. MacEachern, just a second ago, I think put the cap on this particular matter. All we are asking for here is a positive indication, so let's have a law on the books that we normally won't smoke unless the meeting can vote to suspend the rules. I think that is a reasonable way to go rather than having it the other way. This way, if you leave it the way it is, there is a tremendous pressure on anyone who doesn't care for smoke to not attempt to hurt the feelings of their neighbors, but if you have it the other way, if you have a law on the books that normally will not allow smoking in public meetings, but if they choose to suspend the rules, they may, then that pressure will be off. I think it is a reasonable way to go and I hope you will reject the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Raymond.

Mr. RAYMOND: Mr. Speaker, Ladies and Gentlemen of the House: If this law passes, the

committee that is meeting presently cannot suspend the law. They can suspend any rules that they make locally, but if this bill passes, it becomes law and nobody can suspend that in their meetings.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker and Members of the House: Two quick points, one in direct answer to Mr. Raymond. If you allow us to insist and ask for a committee of conference, the bill may be written in such a way that a unanimous approval of the committee meeting could abrogate.

The second thing I would address are those remarks made by the gentleman from Auburn, Mr. Green, he speaks about rights. I think that one of the chief reasons for our form of constitutional representative democracy is the protection of the rights of the minority. I don't think it is at all unusual to have legislation of this type which protects people who are unable to protect themselves. We spend a great deal of time, it is one of the great criteria of the Democratic Party that we shall protect those who are ill, weak, poor, unable to take care of themselves, and I would suggest that in the case of smoking, this is very directly applicable.

I have sat on a great many municipal boards and commissions and councils, and I assure you that it is effectively impossible to get a rule passed to prohibit smoking. It has to be done by something of this method. If you object to its totality, such as Mr. Raymond did, then I think a committee of conference could design a system that would be acceptable to those three selectmen who choose to sit there and smoke together.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Beaulieu, Bennett, Berry, Boudreau, A.; Brown, K. L.; Burns, Bustin, Carey, Chonko, Conners, Devoe, Dow, Dutremble, Garsoe, Gillis, Gould, Green, Hickey, Hobbins, Laffin, Lunt, MacEachern, Mackel, Maxwell, McHenry, McKean, Najarian, Palmer, Peltier, Peterson, Plourde, Raymond, Rideout, Shute, Smith, Spencer, Talbot, Tarr, Theriault, Truman.

NAY — Aloupis, Bachrach, Bagley, Berube, Birt, Boudreau, P.; Brenerman, Carrier, Carter, F.; Churchill, Clark, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Gill, Goodwin, H.; Gray, Greenlaw, Hall, Henderson, Higgins, Howe, Hunter, Immonen, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, LeBlanc, Lewis, Littlefield, Locke, Lougee, Lynch, Mahany, Marshall, Martin, A.; McBrearty, McMahon, McPherson, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Pearson, Perkins, Post, Prescott, Quinn, Rollins, Silsby, Sprowl, Stover, Strout, Tierney, Torrey, Valentine, Whittmore, Wood, The Speaker.

ABSENT — Ault, Austin, Benoit, Biron, Blodgett, Brown, K. C.; Bunker, Carroll, Carter, D.; Connolly, Cote, Dudley, Fowlie, Gauthier, Goodwin, K.; Huber, Hughes, Hutchings, Jackson, Jacques, Jalbert, LaPlante, Lizotte, Masterman, Masterton, Mills, Moody, Nelson, N.; Peakes, Sewall, Stubbs, Tarbell, Teague, Tozier, Tyndale, Wilfong, Wyman.

Yes, 40; No, 72; Absent, 39.

The SPEAKER: Forty having voted in the affirmative and seventy-two in the negative, with thirty-nine being absent, the motion does not prevail.

Thereupon, the House voted to insist and ask for a Committee of Conference.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, having voted in the affirmative on item 2, page 1, I move that we reconsider our action and I urge you to vote against me.

The SPEAKER: The gentleman from Gorham, Mr. Quinn, moves that the House reconsider its action whereby it voted to adhere on Bill "An Act to Increase the Number of State Liquor Inspectors" Senate Paper 454, L. D. 1569. All those in favor of reconsideration will say yes; those opposed will say no.

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

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, having voted on the prevailing side on item 3, I request that we reconsider and ask that you vote against me.

The SPEAKER: The gentleman from Gorham, Mr. Quinn, moves that the House reconsider its action whereby it voted to insist and ask for a Committee of Conference on Bill "An Act to Prohibit Smoking at Public Meetings," House Paper 361, L. D. 453. All those in favor of reconsideration will say yes; those opposed will say no.

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

Non-concurrent Matter Later Today Assigned

Bill "An Act Relating to Refusal to Accept Work as Disqualification for Benefits under the Employment Security Law" (H. P. 360) (L. D. 452) which was indefinitely postponed in the House on May 19.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-351) in non-concurrence.

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

Mr. BUSTIN: Mr. Speaker, I move that the House adhere to its former action whereby it indefinitely postponed this bill.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, I move this lie on the table until later in today's session.

Thereupon, Mr. Palmer of Nobleboro requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that this matter be tabled and later today assigned pending the motion of Mr. Bustin of Augusta to adhere. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.
51 having voted in the affirmative and 47 having voted in the negative, the motion did prevail.

Non-Concurrent Matter

Bill "An Act to Eliminate Weight Limits on Certain Species of Fish and to Provide For Uniform Possession Limits by Numbers" (H. P. 188) (L. D. 250) which was passed to be engrossed as amended by Committee Amendment "A" (H-398) in the House on May 26, 1977.

Came from the Senate Indefinitely postponed in non-concurrence.

In the House:
The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill and I am going to kill it. I move to adhere.

Whereupon, on motion of Mr. Elias of Madison, the House voted to recede and concur.

Non-Concurrent Matter Later Today Assigned

Bill "An Act to Facilitate Out-of-state Post

Graduate Education in Certain Professions" (H. P. 408) (L. D. 502) which was Passed to be Enacted in the House on May 31, 1977 (having previously been passed to be engrossed as amended by Committee Amendment "A" (H-159) and House Amendment "A" (H-381))

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-381) in non-concurrence.

In the House: On motion of Mr. Lynch of Livermore Falls, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act Relating to Exhibition Dates for Agricultural Fairs and Exhibitions" (H. P. 420) (L. D. 525) on which the Majority "Ought Not to Pass" Report of the Committee on Agriculture was read and accepted in the House on May 27, 1977.

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "A" (H-413) Report of the Committee on Agriculture read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-413) in non-concurrence.

In the House: Mr. Mahany of Easton moved that the House adhere.

Whereupon, Mr. Burns of Anson moved that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Members of the House: We discussed this rather fully the other day. It didn't take very long to get a rather resounding vote against this bill. I trust that you all understand the question. It deals with two fairs; two conflicting dates. These two conflicting dates have existed for at least 150 years, or as long as these fairs have been going, except for one year two years ago when the law was slightly different. They have existed side by side.

This is unneeded legislation, as we certainly agreed on here in the House the other day, and I hope you will defeat the motion to recede and concur so that we can go on to adhere.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: We have gone through the history of this particular piece of legislation, and it is not major by any stretch of the imagination. However, it does bring up something that has been bothering me for some period of time. If this is such an insignificant piece of legislation, why are the lobbyists, the high powered lobbyists, interested in seeing this piece of legislation killed?

As I reminded you before, this piece of legislation was placed on the books by the 107th and then it was removed through some various means, through the errors and inconsistencies report, which involved a lobbyist and the Commissioner of Agriculture.

All through the hearing on this and in the lobby while this bill has been making its way back and forth, the lobby has been considerably active in it. Now, this brings up a question as to why. When a lobbyist gets interested in a piece of legislation like this, it usually means there is some money involved somewhere along the line. I am not saying payoff, I am saying money involved with the organizations that are involved.

During the testimony on this bill, a work session, the question was asked, who checks up on the monies that come through the agricultural fairs? The agricultural fairs are all non-profit organizations. The answer by the Commissioner of Agriculture was that other than what they checked for the stipend, there was no check that he was aware of in state government