

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

## ***One Hundred and Eleventh Legislature***

OF THE

**STATE OF MAINE**

### **Volume II**

**FIRST REGULAR SESSION**

**May 16, 1983 to June 24, 1983**

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ABSENT—Redmond.  
 PAIRED—Gill-Sewall.  
 A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators Pairing their votes, and 1 Senator being absent, the motion that L.D. 679 be Passed to be Engrossed, Prevailed.

Sent down for concurrence.

The President Pro-Tem would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Conley to the Rostrum where he may resume his duties as President.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator Conley to the Rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Knox, Senator Collins to his seat on the floor of the Senate.

The PRESIDENT: The Chair wishes to commend the Senator from Knox, Senator Collins for his outstanding job as President Pro-Tem. (Applause the Members rising)

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

#### **Paper from the House Joint Order**

The Following Joint Order: (H. P. 1224)

ORDERED, the Senate concurring, that An Act to Revise the Composition of the Marine Resources Advisory Council (H. P. 1038) (L. D. 1363) be recalled from the Governor's desk to the House.

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Under Suspension of the Rules, on motion by Senator Pray of Penobscot, there being no objections, all items previously acted upon were sent forthwith.

#### **Orders of the Day**

The President laid before the Senate:

HOUSE REPORTS—from the Committee on Health and Institutional Services on BILL, "An Act to Prohibit Smoking in Indoor Public Waiting Areas" (H. P. 741) (L. D. 597)

Majority Report—Ought to Pass in New Draft under New Title, BILL, "An Act to Regulate Smoking in Public Buildings" (H. P. 1203) (L. D. 1597)

Minority Report—Ought Not to Pass.

Tabled—May 16, 1983 by Senator PRAY of Penobscot

Pending—Acceptance of Either Report.

(In House May 12, 1983 Majority Report Read and Accepted.)

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

Senator GILL: Mr. President, I would like to move the Minority Report Ought Not to Pass.

The PRESIDENT: The Senator from Cumberland, Senator Gill moves that the Senate Accept the Minority Report Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I would hope that you would defeat that motion and accept the Majority Ought to Pass Report. The report is there before you in today's journal and it will tell you who was on each side of that report.

All this Bill does is allow, or asks, for no smoking areas in waiting areas, for instance if you have been in a public meeting, or you've been in a public building and there's a recess and that room is closed and you need to be able to go out and get a breath of fresh air, whatever it is that you need to do. When the hall is en-

gulfed with smoke it is rather difficult to be able to catch a pure breath of air.

All that we are saying is would you please make an area where I can go out and have a clean breath of air while I am waiting for the meeting to begin again. That is all that this Bill is about. I would hope that you defeat the motion.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, if you look at LD 1597 which is the New Draft of this Bill, it doesn't ask for anything, it tells you specifically where you can and can't smoke. "Smoking is prohibited in publicly owned buildings, publicly leased buildings, except as follows, you may smoke in a designated smoking area." I would ask you to visualize what the third floor of the State is going to look like. Is the hallway a designated smoking area? If so are we going to have one sign on this end of the hall and another on the other end of the hall? Who owns the building? Who controls the building? Different agencies control the second floor, as opposed to the third floor, as opposed to the first floor, as opposed to each one of the committee rooms, as opposed to the waiting areas outside of the committee rooms.

I sincerely, honestly tried to put together language that would make this Bill work, something to the effect that the building could be declared a smoking area, that the entrance "this is a smoking building, you can smoke in the common areas of the building" I couldn't come up with any language that would make it work.

I would point out to you that it does fly in the face of legislation that we passed just two years ago. Public meetings where it was a unanimous consent things, this would say that even if it was unanimous in the particular hallway, if every member of the Legislature said, Yes, or to take it back if the members of the Legislative Council who I guess control the access and use of these hallways, if they all were unanimous they would allow smoking in the public areas of this building you'd still have to designate which areas were smoking and which areas were non smoking.

It's in my opinion a poorly drafted, or impossible to draft Bill, one that is going to be impossible to enforce. If you need to enforce it anyway, because there is no penalty for violating it, we are back into that situation again.

I would hope that we would not accept the Ought to Pass Report of this Bill. Thank you.

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

Senator BUSTIN: It is unfortunate that the only lawyer that we have on that Committee finds it difficult to draft a Bill, the other Committee members didn't seem to have quite that much difficulty.

I call your attention to the statement of fact, if you haven't already read that, it says, "this new draft requires designation of areas of publicly owned buildings, or publicly leased buildings, as either smoking or no smoking areas." The designation is a flexible one since the areas could change on different occasions. But areas where smoking is prohibited by other statutes can't be designated as smoking areas. Visible clear signs must be posted identifying the areas.

Now in regard to the third floor it seems to be a relatively simple thing all you have to do is designate one area for smoking for instance and that could be the rotunda area the other two ends of the hall would be for no smoking. Then I wouldn't have to go into the middle of the building and smell all that smoke. Now I was in a workshop for four days, these last four days, it would seem to be relatively simple was take a hallway it happened to be an "L" shaped hallway, and you knew that when you walked down the long of the "L" that you weren't going to smell smoke and you could huddle there

and take a little bit of a break, but if you went around the corner to the small part of the "L" you knew you were going to run into a bank of smoke. So those who did not want to run into that bank didn't go around there. It isn't a hard thing to visualize it is a very easy thing to visualize.

When the vote is taken Mr. President, I request the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Mr. President, Members of the Senate, you know, pretty soon, pretty soon Mr. President and Members of the Senate, it will be illegal to have a pack of butts on you.

Mr. President and Members of the Senate, really I can sympathize with the good Senator from Kennebec, Senator Bustin, she really has a desire, an honest desire, to clean up the State House. She is concerned about the bank of smoke that she might come into.

I think maybe we should amend this Bill to read that who ever serves in the Maine Legislature that we should issue them a gas mask. But how is this going to be enforced, supposing now, Mr. President, I am serious and I would like to have the good Senator get up and give me an explanation if she could on this. Supposing now that by some change I started smoking again and I went off into that areas where you're not supposed to smoke, now what happens in that particular case who's going to come and tell me not to smoke there? These are the things or is the good Senator going to take it upon herself to police these areas?

You know, Mr. President sometimes we like to take and come out with all these laws. I can remember years ago we use to smoke in here there were plenty of smokers, I bet that there are three or four smokers in here and when they want to smoke they just step outside and they have one. Now where would that designated area be, it's bad enough now when the President of the Senate has to look for the smokers now when he wants a Roll Call or a Division.

You've got to be careful about these laws. I sincerely understand that the good Senator has honorable intentions in trying to do something as far as smoke and clean air, but I do not think that this is really the way to go and I am not going to support this legislation.

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

Senator BUSTIN: Thank you, Mr. President and Men and Women of the Senate, I would like to answer the good Senator from York, Senator Danton and I suggest that I certainly am not going to go around policing anybody who is smoking or not smoking. I suspect that if he were a smoker, if he went back to smoking, that he would do the same thing that most smokers do when they see a no smoking sign and they would probably feel uncomfortable when they suddenly realized that they had lit up in a no smoking area and those no smoking areas keep in mind can be changed at will. Nobody is going to come out and tap you on the shoulder, nobody is going to take your butt away from you, nobody is going to do any of that stuff.

All this Bill is making a statement it is making statement to do exactly those things that I heard Senator Danton say in this Chamber all this session, and that is taking care of the people of the State of Maine. Be concerned about their health and particularly be concerned about the health of those people who don't smoke so that they don't get the disastrous affects of side-stream smoking.

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

Senator GILL: Mr. President, the Legislators both the Senators and the Representatives that serve on the Health and Institutional Committee have been dealing with quite a few smoking bills this session. If we could have

written language where we could monitor a bill of this kind, then I think that we would have done it and it would have been a unanimous report out of Committee.

I think that the fault comes when there are no penalties where it is hard to monitor. We have passed legislation in the past where the Legislature is involved, the University of Maine, the Maine Maritime Academy, counties are involved, towns, school districts, and we talk about control and local control in this Body quite often, and if we went ahead and passed this it would do away with what we have done in the past. We have allowed local authorities to set up their own local control in the smoking area. I think what we have now, they are doing a good job, municipalities, city councils, county commissioners have adopted policies. There is no need at this point for the State to mandate something that is already being done.

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

Senator CHARETTE: Thank you, Mr. President, Women and Men of the Senate, I agree and concur with my good friend Senator Gill from Cumberland, as a past county commissioner and one of those who did set up rules governing the Androscoggin County Building, we did pass rules that there would be no smoking in our public hearings as much as there would be no smoking in the Registrar of Probate and the Registrar of Deeds Office and for many good reasons, based on the fact that records of the county were kept in those offices and we disallowed smoking in those offices.

As my good friend Senator Gill has pointed out this option is there available for local municipalities, counties, and they in turn can mandate or pass rules to govern the smoking areas of their buildings. This Bill here will do no good and I would hope that we vote on the pending motion of Ought Not to Pass. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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 question before the Senate is the motion by the Senator from Cumberland, Senator Gill to Accept the Minority Ought to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chambers.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Baldacci, Carpenter, Charette, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Gill, McBreairey, Minkowsky, Najarian, Perkins, Pray, Shute, Trafton, Usher, Violette, The President-Gerard P. Conley

NAY—Brown, Bustin, Clark, Erwin, Hayes, Hichens, Kany, Pearson, Teague, Twitchell, Wood.

ABSENT—Redmond, Sewall.

A Roll Call was had.

20 Senators having voted in the affirmative and 11 Senators in the negative, with 2 Senators being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee, in non-concurrence, Prevailed.

Sent down for concurrence.

Senator Collins of Knox was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Carpenter of Aroostook Adjourned until 9 o'clock tomorrow morning.