

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Thirteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME I**  
**FIRST REGULAR SESSION**  
December 3, 1986 to May 22, 1987

the resulting benefits far outweigh the costs and those benefits are obvious to all of us as we travel throughout the state. Cooler bottles are a part of the problem and I am one small businessman who favors the motion of the good lady from Washington.

I hope that you will support the motion to accept the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: I, too, would like to speak in favor of the Minority "Ought to Pass" motion. Like many other members of this body, I spend a great deal of time in the outdoors, wading the streams and rivers of this great state and hiking the trails that lead to those streams and rivers. One of the previous speakers mentioned before that this is just to correct a perceived problem or that there isn't a problem out there and I can submit to you, that lately on the way to the stream, I have been seeing wine coolers strewn across the trail in places where there aren't any other bottles and cans.

I ask you, what is the difference between a wine cooler bottle and a Budweiser bottle? The difference is, if it gets strewn across our countryside, no one is going to pick it up in order to make a nickel. So I would strongly urge you to support this. I fail to see the difference between a wine cooler and a beer bottle or a soda bottle. I think this is a very important step in preserving one of the greatest assets that we have in this state -- the quality of our environment and that quality that leads people to come here. All you have to do is go to another state where there isn't a bottle bill, hike around in the woods, and it won't take you too long to realize that it's like walking in a Maine trash dump.

I strongly urge you to support the Minority "Ought to Pass" motion.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: It is with some trepidation that I rise to oppose three distinguished members of the other body and six of my colleagues on the Business Legislation Committee. However, I feel compelled to do so.

This bill has been characterized as an attack. I would submit that it is not an attack. It is a rational step toward a desirable goal that we all want, every member of this House I believe, a slightly cleaner, slightly safer, slightly more beautiful State of Maine. It has been argued that this is a small step and I would agree with that. It is, in fact, a small step but does that mean that it should not be taken? There has been an argument presented that the material dealt with in this bill is not yet a significant problem and I would agree with that, but does that mean that we should not address that problem? I think not. It has been said in the body that there is a great deal of other trash, and that is true, it does exist. We must deal with that other trash, but we will do that in other ways, on other days.

I urge you to support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Men and Women of the House: Much has been said this morning about the fact that a problem does not exist now with regard to wine coolers being thrown by the roadside. Let me assure this body from a farmer's first-hand fence building knowledge (this spring in fact) that wine coolers are indeed becoming a problem along our roadsides. I know.

I urge support of this "Ought to Pass" motion this morning from a first-hand, both hands, experience of this problem.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Allen of Washington that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 61

YEA - Allen, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Clark, M.; Coles, Crowley, Curran, Davis, Diamond, Dore, Farnum, Farren, Foss, Foster, Gould, R. A.; Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hoglund, Holloway, Holt, Hussey, Jackson, Jacques, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lord, MacBride, Mahany, Manning, Marsano, Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paul, Pines, Priest, Rand, Reed, Reeves, Rice, Richard, Rolde, Ruhlin, Rydell, Scarpino, Seavey, Simpson, Small, Smith, Soucy, Stanley, Stevens, P.; Stevenson, Strout, B.; Swazey, Taylor, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Weymouth, Zirkilton, The Speaker.

NAY - Aliberti, Boutilier, Chonko, Clark, H.; Cote, Dellert, Dexter, Dutremble, L.; Erwin, P.; Garland, Greenlaw, Gurney, Ingraham, Jalbert, Joseph, Lawrence, Lebowitz, Lisnik, Look, Macomber, Martin, H.; Matthews, K.; McGowan, Nadeau, G. G.; Nadeau, G. R.; Paradis, P.; Parent, Rotondi, Salisbury, Sheltra, Sherburne, Stevens, A.; Strout, D.; Telow, Wentworth, Whitcomb, Willey.

ABSENT - Baker, Conley, Duffy, Perry, Pouliot, Racine, Ridley, Tammaro, Tardy.

Yes, 103; No, 37; Absent, 9; Vacant, 2; Paired, 0; Excused, 0.

103 having voted in the affirmative and 37 in the negative with 9 being absent and 2 vacant, the Minority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading later in today's session.

By unanimous consent, all matters (requiring Senate concurrence) having been acted upon were ordered sent forthwith to the Senate.

#### Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-151) on Bill "An Act to Prohibit Smoking in Public Areas of Publicly Owned Buildings" (H.P. 270) (L.D. 353)

Signed:

Senators:

Representatives:

GAUVEAU of Androscoggin  
KERRY of York  
GILL of Cumberland  
MANNING of Portland  
ROLDE of York  
SIMPSON of Casco  
BOUILIER of Lewiston

CLARK of Brunswick  
 PINES of Limestone  
 TAYLOR of Camden  
 DELLERT of Gardiner  
 FARNUM of South Berwick

Minority Report of the same Committee reporting  
"Ought Not to Pass" on same Bill.

Signed:

Representative: LAPOINTE of Auburn

Reports were read.

The SPEAKER: The Chair recognizes the  
 Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Men and  
 Women of the House: I move the Majority "Ought to  
 Pass" Report.

The SPEAKER: The Chair recognizes the  
 Representative from Auburn, Representative Lapointe.

Representative LAPOINTE: Mr. Speaker, Ladies and  
 Gentlemen of the House: First and foremost I want to  
 say I am not a smoker and that I do support L.D. 789,  
 which restricts smoking in a restaurant. This  
 particular bill concerns me in many ways.

We already have on record bills which restrict  
 smoking in public places. There are designated  
 areas. I personally see no need of other bills for  
 this particular reason: that it restricts local  
 control from public buildings owned by the public, it  
 restricts control through the selectmen, councilmen  
 and county commissioners. These are individuals who  
 should have options to restrict areas in smoking in  
 the local public buildings of their towns and their  
 communities. They represent the local taxpayer and  
 the operation of the locally owned public buildings.

For the civic centers, the board of directors,  
 who are fiscally responsible for the centers, should  
 have the options in restricting areas. We must think  
 of everyone's rights and responsibilities and I think  
 it's a local option.

The SPEAKER: The Chair recognizes the  
 Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and  
 Gentlemen of the House: The goal of this act is not  
 to punish the smoker but to protect the health of the  
 non-smoker. This goal is best achieved by creating  
 the environment where the smoker is provided the  
 support and reinforcement needed to overcome the  
 addiction to tobacco smoke. A non-smoking  
 environment sends a reinforcing message and is a  
 health promoting influence.

This bill goes further and protects the access of  
 all state citizens to their government in an  
 environment that protects their health rather than  
 exposes them to acute and long-term adverse health  
 effects of second-hand smoke. Smoking is the number  
 one preventable cause of morbidity and mortality in  
 this country.

This bill proposes an action that will add to the  
 growing public awareness that second-hand smoke is  
 more than an annoyance. It also assures access of  
 citizens to government despite the adverse health  
 effects of involuntary smoking. This bill created a  
 lot of interest in our committee. A group of  
 students from Bucksport came to our committee and  
 testified. They had done a lot of research on this  
 bill and sent me their testimony. I will not read it  
 all to you but I will read a small portion of it. I  
 also had inquiries from 11 high school classes who  
 had taken this bill as a project in their  
 mini-legislature in civics class in high school.

Tobacco smoke is highly annoying and physically  
 irritating to many people and can worsen the symptoms  
 of asthma, chronic bronchitis, and allergies.  
 Therefore, it is essential that Maine follow states  
 like Arizona, Connecticut, Minnesota, and Utah and 31

cities and counties that have enacted laws to  
 restrict smoking in areas where people, whether  
 they're children, workers or pregnant women, should  
 not be forced to breathe other people's smoke.

We have a smoking in the workplace bill that has  
 worked very well. The only purpose in this bill is  
 to guarantee a smoke-free access to carry out  
 business in our county, state, and local buildings to  
 the public. They should be allowed a smoke-free  
 area. The smoking in the workplace bill is not  
 affected by this bill. We want our citizens to be  
 able to carry out their business in public buildings  
 without being exposed to smoke while they wait in  
 line to pay taxes, to get their licenses, and do  
 their business with their local, county, and state  
 government.

I urge you to support L.D. 353, the Majority  
 Report.

The SPEAKER: The Chair recognizes the  
 Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and  
 Women of the House: I would like to pose a question  
 through the Chair.

Would somebody from the committee please give a  
 definition of what is meant by public areas of  
 publicly owned buildings and would this apply to an  
 office in a public building which is used for private  
 consultation or conference?

The SPEAKER: The Representative from Lisbon,  
 Representative Jalbert, has posed a question through  
 the Chair to any member of the Committee who may  
 respond if they so desire.

The Chair recognizes the Representative from  
 Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and  
 Gentlemen of the House: I will give you an example  
 Representative Jalbert -- if for instance, you were  
 called into the Town Manager's Office in Lisbon and  
 asked to have a conference with him, and he was  
 smoking, that would not be included. The general  
 public is general places such as places where they  
 would come in and pay their dog licenses, their boat  
 license, register their cars, which every Maine  
 community has to do, places where the general public  
 would be. If per chance, you were asked to go in  
 there, and you had a problem with smoking, and he  
 asked you in there, I would hope that you would be  
 able to ask him if he or she would stop smoking.

The SPEAKER: The Chair recognizes the  
 Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and  
 Gentlemen of the House: I urge you to vote against  
 the pending motion on the floor. This bill here  
 restricts the taxpayers, the people of the State of  
 Maine. We are once again mandating what they can and  
 cannot do. They use their tax dollars to build these  
 buildings -- are we saying to them, "We will take  
 your taxes, we will build buildings, but you cannot  
 go into them." Do we next mandate that there is  
 going to be no fried food in the State of Maine  
 because this is very detrimental to your health. I  
 may not catch it but I'm going to act in the best  
 interest for you as a legislator.

I speak to you today because my people came to me  
 and asked me, and I won't put it as explicit as they  
 did, but they said "What do you think you're doing?"  
 (with a few blanks in there.) We have now been  
 relegated to the back of the bus and we are not going  
 to be relegated out the door.

We talk about protecting the health of the  
 public. Right now a vehicle is in place to protect  
 the health. It is designated that any municipal  
 building may be a designated smoking area as well as  
 the workplace. You may go in and pay your taxes and

have a smoke-free atmosphere. You may walk into another area and have a smoke-free atmosphere. On this bill, if you read it, if any portion of your public building is used for non-public purposes, or leased by a private organization, they are exempt.

They say, "We pay a premium tax to rehabilitate the greatest drug abuse in the State of Maine. We have the strongest laws addressing this drug abuse." They say, "Take the booze off the shelves and we take the butt out of the mouth."

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: First of all, let's talk about taxpayers and buildings and rights and all of this. We have laws that say local control for a clean air environment in public buildings. I submit to you that this is one area where local control has not worked. How would you feel if you had to go before the Board of Appeals to build a home, and everyone of them was smoking and you had to run a gauntlet of filthy air to get into the meeting room?

Our public halls, even in this State House, everyone here has to run the gauntlet of dirty air to get into this chamber. It was the Speaker in the 112th Legislature that helped clean the air in here, and we all appreciate that, but we have not gone far enough. We talk about access for the handicapped to public facilities, those who have emphysema and cystic fibrosis, are they handicapped? They cannot go through our halls without being harmfully affected by those who do smoke.

We talk about rights and I think that is something everybody here all talks about, rights and responsibilities. I think we have to prioritize rights and what is more basic to life than the basic right for fresh air? You have to weigh basic rights, the person's right for fresh air certainly outweighs a person's right to pollute.

Representative Hale mentioned fried foods -- I really don't know what that has to do with this. No one has ever been damaged by sitting beside someone eating fried chicken. I suppose if that was the case, then maybe we ought to deal with it. So I think it is kind of a mute point.

We have amendments to this bill that deal with cafeterias -- smokers that feel they have to smoke will still have areas to smoke in, in publicly owned buildings. Private offices are not affected. Over 70 percent of the people in the State of Maine do not smoke. On that issue alone, majority should rule. The rights of smokers are still protected. They have areas to go to in these public buildings, according to this amendment. I think we should look at the basic right that every human being should have.

We talk about acid rain and pollution from our paper mills. This is about as close a pollution as we can get and we face it every day.

So, I urge you to support the overwhelming Majority Report and pass this bill.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Ladies and Gentlemen of the House: Please vote in favor of the "Ought to Pass" Report. I urge you to have a heart, have a heart for those people who are unfortunately troubled with emphysema, asthma, chronic bronchitis, who are trying to get rid of that darned smoking habit. Please, I beg of you, vote in favor of the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I would like to pose a question

to any member of the committee who would care to answer.

I, like a lot of members of this body, attend a lot of sporting events in high school gymnasiums and college hockey arenas, places like that. I noticed (I don't smoke myself) at intermission and half-time, or between periods, they usually have a section where people can smoke if they wish to. In February, people wouldn't want to go outdoors and smoke, does this bill, as written, prohibit high schools, college gymnasiums, hockey rinks, and whatnot, from having a smoking area?

The SPEAKER: The Representative from Wilton, Representative Armstrong, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen: In response to the question -- for civic auditoriums it is defined, and I assume this will be in high school gymnasiums, smoking may be allowed in the hallway and lobby areas as long as a no smoking area is maintained between the main entrance to the building and one or more doors to the auditorium or area where performances or other events occur.

In other words, the public will have access and exit to that function without going through a smoky area. It was brought to our attention during the hearing that smoking is not allowed inside, so if you wish to smoke, you must smoke outside, you may smoke in a designated area if the auditorium designates one as long as the areas at the entrance and exit is free of smokers.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair, if I may.

Is there a fiscal note on this particular bill? Also, can anybody answer how many tax dollars are raised through the smoking tax in the State of Maine?

The SPEAKER: The Representative from Brewer, Representative Ruhlin, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: There is no fiscal note on this bill because I don't think there needs to be any.

Secondly, you asked how much money is raised by the cigarette tax -- I pose a question to the gentleman from Brewer, "How much money is lost by people who have died because of lung cancer, lung disease, how much time off does this state lose by people who work for this state, because of lung cancer and lung disease and those related elements?"

I would like to remind the House that 60 to 70 percent of the state's population does not smoke. Now when my seatmate indicates that the payers pay for that, well, 60 to 70 percent of those payers, who don't smoke, pay for these public buildings.

This building is the perfect example of what we are trying to get at -- we have a parking lot and a parking garage just on the other side of the State Office Building, and most people who come to hear testimony or want to give testimony to our committees, usually use the entrance on Capitol Street. On any given day, walking through that hallway on the first floor next to 113, you would swear you were in tobacco row. For somebody who is coming here to give testimony on some real important legislation, it might be your own constituent, but

that person might have some real problems with smoking, goes through there and might not make the committee hearing because they need to go back outside and get some fresh air. There are people in this state, believe it or not, it's a handicap to them because they cannot be anywhere near smoking.

One of them is a good friend of many of us and that is Ed McDonald, the reporter from the Lewiston paper. Ed's told me on a number of occasions how the smoking has affected him. He went to a meeting once, back before the meetings prohibited smoking, he had to report to another place, and on the way to the place, he went off the road because the smoke was so bad in the meeting it affected his driving, because it clung to his clothes. I remember Ed telling me that back in the 110th or 111th.

So there are people who are adversely affected by smoking and who cannot participate in hearings in this building. They can't go to the town halls to pay for their registration of vehicles, registration of boats, they can't go to town halls to get a question answered, because some of the town halls allow smoking.

Now this is to only publicly owned buildings. We didn't get into (which I would have loved to get into) banks. How many of us have stood in front of people in banks, waiting in the line, while somebody smoked a cigar or a pipe? We didn't get into private -- we only dealt with publicly owned buildings.

I would pose the question back to my good friend from Brewer -- how many people have died?

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: May I respond, my learned seatmate did give me the answer to the question. So far this year, it has been \$32 million that the State of Maine has received in cigarette taxes. If I may read the sheet properly, cigarettes and tobaccos, it may also be cigars and pipe tobacco -- \$32 million.

That is not really the point of the question. The point of the question is those people who contribute to the tax coffers of the State of Maine also have a right to exist. I pay property taxes and I regret to inform you, I am a smoker. Fortunately, my children are not smokers and that pleases me more than anything else. But as long as I pay taxes, I have the right to come into this building because I pay for it, I have the right to walk down that street, I have the right to pay my cigarette taxes to the State as a citizen and I propose to protect those rights.

It may be bad for my health but it's soothing to the mind, by the way. It may be bad for my health and I am pleased to contribute my tax dollars to this state. We do have designated non-smoking areas for people who do have that problem. The smoking areas are becoming less and less. Let us at least pay our taxes and have a place to go to and let it be in a public building.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I would like to help my good friend from Brewer, Representative Ruhlin, read this confusing statement but we have, in fact, collected \$29 million this year in cigarette taxes. We are under budget \$32.7 million by \$3.7 million.

Something interesting just happened to me as I walked out in the hall through a maze of smokers and I look at this bill now as a safety issue because I walked by a smoker and he burned me with his cigarette. I have the mark on my hand to prove it. I turned to him and he apologized and I, quite

politely, and said, now I guess I know how I am going to vote on that bill we are discussing in there.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Men and Women of the House: Not to prolong the debate, I would like to ask for a roll call first and then just make one very brief point to my friend from Brewer, Representative Ruhlin -- he has all the rights in the world but he does not have the right to blow smoke on me.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

I am wondering what the penalties are if I should be in violation of this law?

The Representative from Sanford, Representative Paul, has posed a question through the Chair to anyone who may respond if they so desire.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: There is no penalty on this bill as yet. The "smoking in the workplace bill" is 90 percent effective without a penalty. We felt this bill was also an educational bill as well as a protective bill but, if so desired, we may put a fine on the bill.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I rise today to encourage you to support the Majority Report. This was not the original legislation. The Representative from Limestone, Representative Pines, proposed a much stricter bill, a bill that would have, in fact, prohibited smoking in public buildings.

When I worked on this bill, I had in mind the rights of two groups of people and people that are very important to me. One group is a group of friends, who are seriously handicapped by having to go through smoke-filled areas. I have a friend who told me that, for the last three years, she has not set foot in the Augusta Civic Center because she cannot get from the front door to her seat without horrendous wheezing. I also have in mind the members of my family, who are smokers, even though I am not (to answer the question of the gentleman in the back of the room) and those people tell me (including my husband) that if, in fact, he would go to a sporting event, for instance, and could not smoke, he would not go. This bill is a compromise. It allows those persons who need to get from the front door to wherever they are going in a smoke free environment. It also allows those persons who choose to smoke to have a place to smoke but it does allow those of us who do not smoke to get from one place to another without having to be contaminated by that smoke. So, I encourage you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

If this bill should become law, what will happen to smoking in the rotunda next year? Will we be out on the front porch in January?

The SPEAKER: The Representative from Van Buren, Representative Martin, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would not send the good, gentle lady from Van Buren out on the porch. I would like to remind the Representative that there are two smoking areas where the Representatives can smoke, one is the retirement room here on the third floor and one is the so-called old retirement room or ladies room or whatever it is that we have been able to use now on the fourth floor. You shouldn't react to that because I think some have been up there using that as a smoking area and I have not objected because it is Representatives who are using it.

However, those people who come up here — I guess what we are really concerned about today, folks, is the lobby. Let's cut across everything and say, yes, the lobby will probably have to go out and smoke on the porch. That is too bad because if 60 to 70 percent of the people in this state don't smoke, then maybe chances are that 60 to 70 percent of the lobbyists don't smoke. The 30 percent of the lobbyists who smoke, if they really need to smoke, it is going to be real cold out there in January and real cold out there in February. I would say, yes, that is where the lobbyists will go. If they want to have a cigarette and they need it that bad, maybe, after standing out there in January and February, they will realize how bad it is for their health — not only because of their smoking but they probably will come down with pneumonia real quick.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I sat there, as you asked the question, how many members have made up their minds? I have a question that I would like to ask the Chairman of the Committee. In our office, back in Corinth, we allow smoking. If this bill should pass, and a property taxpayer comes to me to pay his tax bill and he is a smoker, do I collect his money first or do I ask him to stop smoking? To follow it up, if he refuses to stop smoking and tells me that he will not pay the tax bill because he would like to continue smoking, do I have a legal right to be able to collect that tax bill? Could I win if I went to court?

The SPEAKER: The Representative from Corinth, Representative Strout, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry, I didn't get all the questions — I am assuming that, if a taxpayer comes in and doesn't want to come in because he can't smoke, your saying — what remedies do I have? What remedies do you have now? I don't think he can mail it in. Quite frequently, a lot of us here, when taxes are due and I am assuming a lot of us mail it in, so I would say the same remedies you have presently would apply. The law is the law. If you can't collect it, then you have the same remedies that you have now.

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

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I guess I am happy to prolong this debate because it is an issue that I think really has to be cleared and any smoke screen has to be blown away here.

There was the inference that perhaps cigarette smoking is only harmful to those that smoke. If that was true, perhaps that would be a very good argument but it is not true. Many people die of lung disease from second-hand smoke and their health is impaired by that and there are no arguments on those results.

This legislature has been concerned about the environment in the workplace. We have passed legislation dealing with radon gas, asbestos, the study of carcinogens, in and out of the workplace and this rates right up there and beyond those.

I would like to take this opportunity to relate to you the hazards of smoking to the non-smoking public. This does not deal with smoking in the hallway. As some of you may know, I am an ex-airline pilot and last summer I was flying from Detroit and I had just leveled off at 35,000 feet — all of a sudden, we had a rapid decompression and, for those of you who don't know what that is, the pressure inside the airplane went from 4,000 feet to 35,000 feet in 3 seconds. There was no oxygen available for anyone to breathe. The procedure was, of course, to initiate emergency oxygen for everyone, which I did, in a rapid descent down to 10,000 feet. No one was harmed but this whole emergency and discomfort for the passengers could have been avoided if there were a ban on smoking on domestic flights. The investigation that followed resulted in a finding that the air flow valve of the aircraft, (a \$30,000 unit, I might add) was clogged with a gum substance of nicotine to the extent that it failed. Our aircraft was only six months old. Brand new aircraft. These units have to be replaced in some sequence of every six months only due to smoking on the aircraft.

Some may remember that Air Canada had the fatal crash directly as a result of cigarette smoking on the aircraft. As a result, starting this month in Canada, Air Canada has prohibited smoking on the aircraft for environmental reasons and safety reasons.

So we should consider that it is still an individual's right and privilege to smoke but where that right stops is when they start infringing upon the rights of others in the basic right of health.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I was a smoker before I even started school. I quit ten years ago. It was my personal decision and you know, the people who have smoked and quit, are people that hate smoke more than anybody else. My mother never smoked but she can stand it a heck of lot more than I can but I do not like this bill at all. We had a bill a few years back, which set up a mechanism in your place of employment.

I work in a unionized mill and I was under the impression at that time, if we had a problem with smoke, that management and labor could get together and come to an agreement as to how we were going to go about setting up a policy. My plant did have a smoking policy. Guess what? My employer decided that he was going to set the policy. We used to have smoking stands — he took away the smoking stands, he painted a little circle on the floor and said, you must now stand in that little circle if you want to smoke, you can't sit — so some people sat down on the ground and the foreman would come around and say,

you either stand or you may be fired. We will discipline you. This was a policy that was set up.

All the time I was in this House, I was under the impression that we would set up a policy, mutually agreed upon by both parties. False.

I believe that I will never vote for a smoking ban on anybody because my people said that we were stupid, idiots, you name it, we were it. My people are direct. We had the smoker's bill, I had promises that they would never vote for me again. If you people insist on passing legislation and using Canada, which is getting more socialist -- if you want to go that route, fine.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I won't say that I am not going to prolong this debate. Having listened to it for quite awhile, I am little mystified as to why this bill is here. All of the concerns that have been mentioned by all the people debating the bill can be resolved by the statutes that we currently have on the books.

I would remind the gentleman from Portland, Representative Manning, that gauntlet that he talks about didn't exist until we passed a designated smoking area legislation and Capitol Street was designated as a smoking area. Now if that has created a problem, it could be dealt with very simply by having that removed from being a designated smoking area. We don't need legislation to do that.

I listened to my good friend from Gorham say that a person's right to clean air outweighed a person's right to pollute. I don't disagree with that at all. I thought that's what the designated policy smoking area was for. I would like to tell him, however, that that is also a perfect argument to prevent anybody from driving a car in this state. I don't run but I ride a bike for exercise -- haven't been doing it too much lately as you can tell, -- every time a car goes by me, I have the same problem that Representative Rolde has, he blows smoke on me. If you don't believe you can smell it and feel it, ride a bike down along side of the road. The simple fact is that I am listening to selective arguments for a selective bias to create a situation that there is no need to be created.

The bottom line is that all the buildings, be they private or be they public, under our existing laws, have the ability to designate what are smoking areas and what aren't. In order to change it, all you have to do is petition the people that control those buildings to change the area. If there ever was a piece of needless legislation, this is it. I can see some white knuckles on a microphone over there, who is going to stand up and talk about health disease, and death and I would like to remind those people that life is a terminal illness. The bottom line is, folks, you are going to die -- give me my choice too.

Representative Manning of Portland was granted permission to speak a third time.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the Representative from St. George, Representative Scarpino.

If we did go along with asking the Bureau of Public Improvements and the Speaker of the Maine House, the President of the Maine Senate to do what you say -- how quick would you have a bill in to put smoking back on the third floor, the second floor, the fourth floor and every other floor over in that building?

The SPEAKER: The Representative from Portland, Representative Manning has posed a question to Representative Scarpino of St. George, who may respond if he so desires.

The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Mr. Manning, I think I can respond to that quite clearly -- I am probably the heaviest smoker in this body and probably the heaviest smoker in both bodies -- up to this point, I have supported every bill that restricted smoking and guaranteed smoke free areas for individuals. I supported that bill last year, I am perfectly willing to accept whatever decision is made, be it by the Speaker, by the state, county or municipality. I have done it up to this point, I will continue to do it. However, I dislike being dictated to when there is no need for it.

Representative Davis of Monmouth moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third of the members present and voting. Those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-third of the members present and voting having voted for the previous question, the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

The Chair will order a vote. Those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

87 having voted in the affirmative and 18 in the negative, the motion did prevail.

The SPEAKER: A roll call has been ordered. The pending question before the House now is the motion of the Representative from Portland, Representative Manning, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 62

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carroll, Carter, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Handy, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Hoglund, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lacroix, Lawrence, Lisnik, Look, Lord, Manning, Marsano, Mayo, McGowan, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Richard, Rolde, Rydell, Seavey, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Swazey, Taylor, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirkilton.

NAY - Armstrong, Begley, Brown, Cashman, Chonko, Dutremble, L.; Erwin, P.; Farnum, Farren, Hale, Hickey, Holloway, Holt, Hussey, Ingraham, Jackson, LaPointe, Lebowitz, MacBride, Macomber, Martin, H.; Matthews, K.; McHenry, Moholland, Nutting, O'Gara,



Paul, Rotondi, Ruhlin, Salsbury, Scarpino, Sheltra, Sherburne, Strout, D.; Telow, Willey.

ABSENT - Baker, Conley, Duffy, Mahany, Ridley, Tammaro, Tardy, The Speaker.

Yes, 105; No, 36; Absent, 8; Vacant, 2; Paired, 0; Excused, 0.

105 having voted in the affirmative and 36 in the negative with 8 being absent and 2 vacant, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-151) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

### CONSENT CALENDAR

#### Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 657) (L.D. 890) Bill "An Act to Require the Use of Seat Belts in Driver Education Programs"

(H.P. 806) (L.D. 1080) Bill "An Act Concerning Interstate or Intrastate Operating Permits"

(H.P. 792) (L.D. 1064) Bill "An Act to Require Candidates Requesting Ballot Inspection to Pay for this Service" (C. "A" H-147)

(H.P. 257) (L.D. 340) Bill "An Act to Amend the Law to Allow Security Officers to be on Duty for Dances at Which Minors are Admitted" (C. "A" H-148)

(H.P. 626) (L.D. 849) Bill "An Act to Limit the Penalty a Landlord can Charge a Tenant for Late Payment of Rent" (C. "A" H-149)

(H.P. 517) (L.D. 690) Bill "An Act to Require that Candidates' Petitions be Sworn" (C. "A" H-150)

(H.P. 915) (L.D. 1227) Bill "An Act to Create a Statewide Reservation System for State Parks that have Overnight Camping Facilities" (C. "A" H-146)

(H.P. 1120) (L.D. 1523) Bill "An Act to Amend the Law Concerning Appeals by Parties Aggrieved by Acts of the Superintendent of Insurance"

(H.P. 1119) (L.D. 1522) Bill "An Act Relating to Assignment of Group Health Insurance Benefits"

(H.P. 1097) (L.D. 1488) Bill "An Act to Update References to Immunities of State Military Forces under the State Tort Claims Act"

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

### PASSED TO BE ENGROSSED

Bill "An Act to Improve the Teacher and Administrator Certification Law" (H.P. 1195) (L.D. 1629)

Was reported by the Committee on Bills in the Second Reading and read a second time.

Representative Small of Bath requested a roll call on passage to be engrossed.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 63

YEA - Aliberti, Allen, Anderson, Anthony, Begley, Bost, Boutilier, Callahan, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Diamond, Dore, Dutremble, L.; Erwin, P.; Farren, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Handy, Harper, Hepburn, Hoglund, Holt, Hussey, Jackson, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, MacBride, Mahany, Manning, Matthews, K.; Mayo, McGowan, McHenry, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, J.; Paradis, P.; Parent, Perry, Pouliot, Priest, Rand, Reeves, Rice, Rolde, Rotondi, Rydell, Simpson, Smith, Stevens, P.; Stevenson, Strout, D.; Swazey, Telow, Thistle, Tracy, Vose, Walker, Warren, Weymouth, The Speaker.

NAY - Armstrong, Bailey, Bickford, Bott, Bragg, Brown, Carter, Davis, Dellert, Dexter, Farnum, Foss, Foster, Garland, Hale, Hanley, Hichborn, Hickey, Higgins, Hillock, Holloway, Ingraham, Kimball, Lawrence, Lebowitz, Look, Lord, Marsano, Martin, H.; McPherson, McSweeney, Murphy, E.; Murphy, T.; Nicholson, Paradis, E.; Paul, Pines, Racine, Reed, Richard, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Soucy, Stanley, Stevens, A.; Strout, B.; Taylor, Tupper, Webster, M.; Wentworth, Whitcomb, Zirkilton.

ABSENT - Baker, Conley, Duffy, Jalbert, Macomber, Ridley, Ruhlin, Tammaro, Tardy, Willey.

Yes, 83; No, 56; Absent, 10; Vacant, 2; Paired, 0; Excused, 0.

83 having voted in the affirmative and 56 in the negative with 10 being absent and 2 vacant, the Bill was passed to be engrossed and sent up for concurrence.

### PASSED TO BE ENACTED

#### Emergency Measure

An Act to Further Protect Bald Eagles and Other Endangered Species (H.P. 506) (L.D. 679) (C. "A" H-124)

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

Representative Gwadosky of Fairfield requested a roll call on enactment.

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

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, Men and Women of the House: This was a Divided Report coming out of the Fisheries and Wildlife Committee. I was on the Minority Report, "Ought Not to Pass." This legislation came about because of one man in Bar Harbor, who ran a tour boat and who occasionally threw out fish for the eagles who were nesting nearby. There was no evidence in any testimony that he harassed or harmed the eagles in any way. In fact, there seemed to be evidence of an increase of eagles in the area. This man has since sold his tour boat and will not be continuing this procedure any longer.

If this legislation passes, it could be very difficult to enforce. It would cause a problem for the trappers — if they left any carcasses around it could harm the eagle more than help him. He could