

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
Index

FIRST CONFIRMATION SESSION
October 30, 1989
Index

SECOND CONFIRMATION SESSION
December 12, 1989
Index

SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

by the Governor without his approval) and specially assigned for Monday, March 5, 1990.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill "An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses" (EMERGENCY) (H.P. 1462) (L.D. 2039) (C. "A" H-817)
TABLED - March 1, 1990 by Representative PEDERSON of Bangor.

PENDING - Passage to be Engrossed.

Representative Pederson of Bangor offered House Amendment "A" (H-802) and moved its adoption.

House Amendment "A" (H-802) was read by the Clerk.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of House Amendment "A."

This amendment would have an exception to the bill dealing with smoking on buses to allow the majority of people to vote if they chartered a bus. Many of you, and myself included, have been on chartered buses before and really don't know what is going to happen until we get there. You get there, pay your fee, whether it is going to a Red Sox game or going to Boston for the weekend or something like that, you never really know who is going to be there until you get there. With this exception, you would take a vote. If there are 40 passengers on the bus and 21 decide that they want to smoke, then the rest of the 19 people would have to suffer whether they are going to Portland, Boston, Bangor or whatever. The Committee talked about this and really felt that this was not the way to go, that we should have no smoking at all on these buses.

Just before we came into session today, I had an interesting conversation with the children and the chaperon who brought them up from St. Joseph's. One of the members, Eileen Dawson, one of the Pages here today happened to be one of the young softball players in the Portland area that went all the way to the regionals and the regionals happened to be in New York. Mary Dawson, her mother, was telling me that the children were all complaining -- now this was a chartered bus -- the children were all complaining because their parents were smoking.

If this thing goes into effect, can you imagine the children telling their parents not to smoke and voting against their parents? I don't think that would work. I think there would be some intimidation.

I don't think this is needed. Most of us, as I said before, have taken those chartered buses and they stop quite frequently. Most of us who have gone on the Institute on the Economy bus tours -- the longest one that I can remember was going from Calais to Presque Isle which lasted approximately two and a half hours -- most of the time, there is available time between stops to get out and have a cigarette.

The Committee really didn't think this was needed. I would hope you would go against this amendment.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would vote against the pending motion on the floor. This is for chartered buses, it is for organizational outings. I am sure there could be adverse conditions as the good Representative from Portland has stated. We could have 21 of an organization going to some outing and they could say, no, we prefer you do not smoke. That

would be the decision but that should be left up to the people who chartered the buses.

As far as some of the chartered buses that go through the state that we have been on as legislators, there have been very few complaints, one or two. This was before the no-smoking was really as dominant because we have more closet smokers now since this went into effect. People didn't mind if you smoked occasionally and they said nothing. I think organizations, even if it is the trips up north from Calais to Presque Isle or whichever way, that the people that prefer not to be exposed to it, the people that don't smoke but don't have any objections, they can all go on one bus, the other ones can go on the other bus, like Bus A and Bus B. I do hope you vote against the pending motion on the floor.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I think there is another issue here and that is not just who decides on any particular day on any particular bus trip whether there will be smoking or non-smoking in the bus. The other issue for me in supporting the indefinite postponement is the fact that, if I have chartered a bus or my group has chartered a bus for Monday morning, I have no way of knowing what group has chartered the bus over the weekend. Most of our bus companies do not have the facilities to adequately clean and air the buses for the next day's use after they have been used, so that my group on Monday runs the risk that 38 people smoked on that bus the day before. Even though my group has voted to be a non-smoking group, we are still having to deal with the stale cigarette smoke in the bus. It makes sense to me to say that buses, like airplanes, are no longer an appropriate place to smoke.

Representative Pederson of Bangor requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I would like to pose a question through the Chair.

If we have a bus such as a community bus that leaves from a county and it picks up people along the way, do they have to have a vote every time a new passenger is added or discharged?

The SPEAKER: Representative Hastings of Fryeburg has posed a question through the Chair to any member 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: That is a good question.

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

Representative CONLEY: Mr. Speaker, I would like to pose a question through the Chair to any member who may answer.

Ladies and Gentlemen of the House: Following up on the good Representative from Fryeburg's question, what happens when the bus gets to the state line in New Hampshire and then goes across the state line, do we get to take a vote then?

The SPEAKER: Representative Conley of Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, may I pose a question? My question is, when you go out and rent a piece of equipment, whether it is a bus or anything that it happens to be, do we have the right to place

restrictions on the use of that piece of equipment by whoever rents it?

The SPEAKER: Representative Macomber of South Portland has posed an additional question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, I am not prepared to answer the latter question but I am prepared to answer the question by Representative Conley of Portland. It is my understanding that currently the states of New Hampshire and Massachusetts have laws prohibiting smoking on buses within their borders.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't dare to try to answer any of those questions and I have voted for every smoke-free bill that has come down the pike at my own peril when I get home in the evening.

I seriously question whether we can write a law to govern the conduct of private parties on a private bus. I am not a lawyer but I doubt that this would be a constitutional bill.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: While I am not a constitutional lawyer and I don't think I will try to answer that but I do believe that we can set appropriate public health regulations. I would think it would be constitutional but I would caution that I am not a constitutional expert.

However, I am concerned that we in our society have always looked out for the rights of the minority as well as the majority. I am concerned about the bus where the majority wants to smoke but among the minority there may be a couple of people with serious health problems, emphysema or whatever, and it seems to me that it is the concern of the minority that led the FAA to prohibit all smoking on all airplanes regardless of how many people wished to smoke and asked that smoking be terminated for a given length of time. I am hopeful that this House will also respect the legitimate health concerns of the minority members of our society.

The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I am a cigar smoker, have been for 25 years. Last fall, we decided to go down and watch the Patriots play football. At that time, we had 40 passengers and all 40 passengers smoked. What do you do when that happens, Representative Manning?

The SPEAKER: Representative DiPietro of South Portland has posed a question through the Chair to Representative Manning of Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to go back to what Representative Clark has just indicated, that on a Sunday the Representative from South Portland (a good friend of mine) and his 40 friends went down and smoked. A lot of them probably smoked a cigar. The problem is, there are people out there who, quite frankly, get very affected by the smell of that cigar smoke that is still on that bus on Monday and Tuesday. One of the key things in that argument is

the fact that they have no time to clean that bus out or air that bus out.

We talked about whether it is constitutional or not. If it wasn't constitutional, the federal government would not have done it dealing with airplanes. The airplanes, as we all know, go from one state to another state to another state. This is no different than what the federal government is doing (right now) dealing with airplanes with anything under six hours.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, I would like to pose another question through the Chair.

Representative Conley brought up a good question and I would like to see if someone has the answer, do we have any right to regulate interstate transportation and what goes on in that bus when it leaves the state of Maine?

The SPEAKER: Representative Duffy of Bangor has posed a question through the Chair to any member 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: As long as it is within the state of Maine, we have the right to do that.

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

Representative Hوجلund: Mr. Speaker, Ladies and Gentlemen of the House: That young woman is my constituent, she is sitting down here as a Page today. I think the thing Representative Clark was trying to say about the next day and people getting sick happened to a girl that was on that bus. When they came home from New York and the people would not stop smoking, it cost that mother \$125 plus medicine for three or four days of her illness because the cigarette smoke got into her system and puffed her eyes up and her lungs. So, I think the kind of thing that you have to think about is the people that do have problems that don't smoke and the things you are going to do to the people.

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 Manning of Portland that House Amendment "A" (H-802) be indefinitely postponed.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Cashman of Old Town. If he were present and voting, he would be voting nay and I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Manning of Portland that House Amendment "A" (H-802) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 177

YE A - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Bell, Boutillier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carter, Cathcart, Chonko, Clark, H.; Clark, M.; Colles, Constantine, Curran, Daggett, Dexter, Donald, Dore,

Dutremble, L.; Farnum, Foss, Foster, Garland, Graham, Greenlaw, Gwadosky, Handy, Hanley, Hastings, Heesch, Hichborn, Hickey, Higgins, Hoglund, Holt, Hutchins, Joseph, Ketover, Larrivee, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Marsh, Marston, McPherson, Melendy, Merrill, Mills, Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, E.; Paradis, P.; Parent, Pendleton, Pines, Priest, Reed, Richard, Richards, Rolde, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Small, Strout, B.; Swazey, Tardy, Tupper, Webster, M..

NAY - Begley, Carroll, J.; Conley, Cote, Crowley, DiPietro, Duffy, Erwin, P.; Farren, Gould, R. A.; Gurney, Hale, Hepburn, Hussey, Jalbert, Kilkelly, Macomber, Martin, H.; McHenry, McKeen, McSweeney, Michaud, Moholland, Murphy, Nadeau, G. G.; Norton, O'Gara, Paradis, J.; Paul, Pederson, Pineau, Pouliot, Rand, Ridley, Rotondi, Skoglund, Smith, Stevens, A.; Stevenson, Tamaro, Telow, Townsend, Tracy, Walker, Wentworth.

ABSENT - Dellert, Farnsworth, Jackson, Jacques, LaPointe, McCormick, McGowan, Mitchell, Plourde, Sherburne, Stevens, P.; Strout, D.; Whitcomb, The Speaker.

PAIRED - Cashman, Mayo.
Yes, 90; No, 45; Absent, 14; Paired, 2; Excused, 0.

90 having voted in the affirmative, 45 in the negative, with 14 being absent and 2 having paired, the motion to indefinitely postpone House Amendment "A" (H-802) did prevail.

Representative Martin of Van Buren moved that L.D. 2039 and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Martin of Van Buren that L.D. 2039 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

40 having voted in the affirmative and 88 in the negative, the motion did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-817) and sent up for concurrence.

The Chair laid before the House the seventh tabled and today assigned matter:

Bill "An Act to Improve the Organizational Structure of the Fish and Wildlife Advisory Council" (EMERGENCY) (H.P. 1660) (L.D. 2300) (H. "A" H-818)

TABLED - March 1, 1990 by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

On motion of Representative Jacques of Waterville, retabled pending passage to be engrossed and specially assigned for Monday, March 5, 1990.

The Chair laid before the House the eighth tabled and today assigned matter:

An Act Related to the State Board of Substance Abuse Counselors (EMERGENCY) (S.P. 699) (L.D. 1837) (C. "A" S-483 and S. "A" S-506)

TABLED - March 1, 1990 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

On motion of Representative Allen of Washington, retabled pending passage to enacted and later today assigned.

BILL HELD

Bill "An Act Regarding Written Notice to Employees of Layoff or Termination" (H.P. 1577) (L.D. 2184) (C. "A" H-827)

- In House, Failed of Passage to be Engrossed. HELD at the request of Representative ALLEN of Washington.

Representative Allen of Washington moved that the House reconsider its action whereby L.D. 2184 failed of passage to be engrossed.

On motion of the same Representative, tabled pending her motion to reconsider and specially assigned for Monday, March 5, 1990.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act Related to the State Board of Substance Abuse Counselors (EMERGENCY) (S.P. 699) (L.D. 1837) (C. "A" S-483 and S. "A" S-506) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action where L.D. 1837 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-483) was adopted.

The same Representative offered House Amendment "A" (H-860) to Committee Amendment "A" (S-483) and moved its adoption.

House Amendment "A" (H-860) to Committee Amendment "A" (S-483) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and Senate Amendment "A" (S-506) in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Bill "An Act to Ensure Timely and Equitable Treatment of Discrimination Complaints Made to the Maine Human Rights Commission" (S.P. 948) (L.D. 2399)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

(Off Record Remarks)

On motion of Representative Paradis of Frenchville,

Adjourned until Monday, March 5, 1990, at twelve o'clock noon.