

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

February 20, 1979

Senate called to Order by the President.

Prayer by the Honorable Walter W. Hichens of Eliot.

Senator HICHENS: Father, as we come into thy presence this morning, starting another day's session, another week, we thank you Lord for thy care over us, this Holiday weekend.

Even though we have complained the last few days, with the extreme cold, we are thankful this morning that we are in the Capitol in Augusta, instead of in our Nation's Capitol, and not having to dispose of 24 inches of snow.

There are many things to be thankful for O'Lord. As we start our session, we pray that thy will give us judgement, thy will give us wisdom and understanding. Help us to take care of the State's Business as thy would have it taken care of. With these things in mind, we ask thy blessing upon each one of us in thy name. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers From the House
Joint Order**

An Expression of Legislative Sentiment recognizing that:

Mrs. Grace C. Young has retired, after serving 27 dedicated and faithful years as Librarian of the Winterport Free Library, and has actively participated in church, fraternal, patriotic and civic organizations in her community..

(H. P. 481)

Comes from the House, Read and Passed.
Which was Read and Passed, in concurrence.

House Papers

Bill, "An Act to Reinstate Mandatory Retirement for Certain Law Enforcement Officers." (H. P. 452) (L. D. 566)

Comes from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act to Equalize the License Fees for Dogs." (H. P. 453) (L. D. 567)

Comes from the House, referred to the Committee on Agriculture and Ordered Printed.

Which was referred to the Committee on Agriculture and Ordered Printed, in concurrence.

Bill, "An Act to Provide for Licensure of the Incumbent State Auditor as a Public Accountant." (H. P. 455) (L. D. 569)

Bill, "An Act Amending Maine Traveler Information Services Statutes." (H. P. 456) (L. D. 568)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which were referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Prohibit Hunting of Bear with Dogs and to Prohibit Hunting Bear with Bait." (H. P. 457) (L. D. 570)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act Providing Authority to Modify District Court Divisions and Districts by Rule of Court after Public Hearing." (H. P. 458) (L. D. 571)

Bill, "An Act Relating to Fatal Motor Vehicle Accidents." (H. P. 459) (L. D. 572)

Bill, "An Act Concerning Causes for a Seven Day Notice of Termination of Tenancy." (H. P. 466) (L. D. 586)

Bill, "An Act Concerning the Release of Certain Information Furnished for the Filing of Liens for Support Payments." (H. P. 461) (L. D. 574)

Bill, "An Act to Revise the Penalty Provisions for the Offense of Speeding." (H. P. 460) (L. D. 573)

Bill, "An Act to Clarify the Hearing Procedures under the Workers' Compensation Act." (H. P. 462) (L. D. 575)

Bill, "An Act Relating to Forcible Entry and Detainer Hearings." (H. P. 463) (L. D. 577)

Bill, "An Act to Amend the Statute Relating to Motions to Amend or Enforce a Divorce Decree." (H. P. 464) (L. D. 578)

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

Which were referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act to Require that all Public Employees be Paid at Least the Federal Minimum Wage." (H. P. 435) (L. D. 552)

Bill, "An Act to Disqualify Recipients of Workers' Compensation Benefits from Unemployment Compensation." (H. P. 436) (L. D. 553)

Bill, "An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage." (H. P. 437) (L. D. 554)

Comes from the House, referred to the Committee on Labor and Ordered Printed.

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act Relating to Inspection by the State Fire Marshal." (H. P. 438) (L. D. 555)

Bill, "An Act to Include the Fire Chief or his Designee in Filing Statements of Fire Occurrence." (H. P. 439) (L. D. 556)

Bill, "An Act to Clarify the Meaning of "the Prevention of Fire" under the Public Safety Statutes." (H. P. 440) (L. D. 557)

Bill, "An Act to Expand the Meaning of the Term Exits under the Public Safety Laws." (H. P. 441) (L. D. 558)

Bill, "An Act Relating to the Issuance of Licenses to Carry Concealed Weapons." (H. P. 442) (L. D. 559)

Bill, "An Act to Provide for Licensing of Bottle Clubs." (H. P. 469) (L. D. 576)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

Which were referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Authorize a District Attorney and Assistant District Attorneys for Washington County." (H. P. 471) (L. D. 579)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed, in concurrence.

Bill, "An Act to Extend Conditional Exemption from Utility Deposits to Commercial and Industrial Customers under the Public Utility Law." (H. P. 443) (L. D. 560)

Bill, "An Act to Prohibit Telephone Companies from Requiring Service Deposits Prior to Providing Phone Service to Businesses." (H. P. 444) (L. D. 561)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which were referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Increase Legislative Salary in the First Year of the Biennium." (H. P. 445)

(L. D. 562)

Committee on State Government suggested. Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Require that Forest Land be Taxed According to Current Use." (H. P. 446) (L. D. 563)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, "An Act to Provide a Motor Vehicle Inspection Sticker Procedure for Vehicles Failing an Inspection." (H. P. 447) (L. D. 564)

Bill, "An Act to Revise Information Continued on Motor Vehicle Inspection Stickers." (H. P. 448) (L. D. 565)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

Which were referred to the Committee on Transportation and Ordered Printed, in concurrence.

Senator Pierce of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Pierce of Kennebec, Recessed until the sound of the Bell.

Recess

After Recess

Senate called to Order by the President.

(Off Record Remarks)

Communications

COMMITTEE ON STATE GOVERNMENT
February 16, 1979

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Jadine Raynes O'Brien to the position of Commissioner, Department of Personnel.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEA:

Senators 3

Representatives 10

NAY:

Senators 0

Representatives 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jadine Raynes O'Brien to the position of Commissioner, Department of Personnel be confirmed.

Sincerely,
S/DAVID R. AULT

Senate Chairman

S/JUDY KANY

House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on State Government has recommended that the nomination of Jadine Raynes O'Brien be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — None

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT—Danton, Farley, Lovell, Redmond. No Senators having voted in the affirmative and 29 Senators in the negative, with 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Jadine Raynes O'Brien is confirmed.

SENATE CHAMBER

President's Office

February 16, 1979

Honorable Roland L. Sutton
Honorable Jasper S. Wyman
Chairmen, Labor Committee
State House
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Harold G. Loring of Portland to serve on the Maine Employment Security Commission as the Labor Representative.

Pursuant to MRSA, Title 26, Section 1081, this nomination requires review by the Joint Standing Committee on Labor and confirmation by the Senate.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN MARTIN
Speaker of the House
(S. P. 223)

Which was Read and referred to the Committee on Labor.

Sent down for concurrence.

Senate Papers

Senator Carpenter of Aroostook presented, RESOLVE, to Provide a Minimum Retirement Credit to Shirley Quint of Hodgdon. (S. P. 224)

The same Senator presented, RESOLVE, to Provide a Minimum Retirement Credit to Mrs. M. Jerome Dickinson of Hodgdon. (S. P. 225)

Which were referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

Senator Hichens of York presented, Bill, "An Act Relating to Native Farm Produce." (S. P. 226)

Which was referred to the Committee on Agriculture and Ordered Printed.

Sent down for concurrence.

Senator Usher of Cumberland presented, Bill, "An Act to Extend the Deer Season through the Second Saturday following Thanksgiving." (S. P. 228)

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Sent down for concurrence.

Senator Pierce of Kennebec, Cosponsor: Senator Gill of Cumberland presented, Bill, "An Act to Set Forth the Rights and Responsibilities of Hospital Patients and Responsibilities

of Physicians." (S. P. 229)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator Silverman of Washington presented, Bill, "An Act to Require Restitution by a Criminal Offender to his Victim and to Require Payment of Prosecution and Court Costs." (S. P. 227)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Order

On Motion by Senator Emerson of Penobscot, ORDERED, the House concurring, that Bill, "An Act Converting Long Island Plantation into the Town of Frenchboro." H. P. 51, L. D. 60 be recalled from the Engrossing Department to the Senate.

(S. P. 230)

Which was Read and Passed.

Sent down for concurrence.

Committee Reports

House

Leave to Withdraw

The Committee on Energy and Natural Resources on, RESOLVE, Directing the State to Assume the Cost of Clean-up Operation for a Gas Spill in Brooks, Maine Caused by Vandals. (H. P. 38) (L. D. 49)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Recommended to the Committee on Energy and Natural Resources.

Which Report was Read and Accepted, in non-concurrence.

Ought to Pass

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Transfer Certain Inactive Accounts of the Maine State Retirement System to the Retirement Allowance Fund." (H. P. 41) (L. D. 52)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once and tomorrow assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Repeal the Per Diem Payment and the Commutation Allowance for Court Officers." (H. P. 84) (L. D. 95)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-28).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as amended, tomorrow assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution of Maine Reducing to 21 Years the Age at which a Person may serve as a State Senator. (H. P. 86) (L. D. 97)

Reported that the same Ought Not to Pass.

Signed:

Senators:

AULT of Kennebec

SUTTON of Oxford

Representatives:

BACHRACH of Brunswick

DAMREN of Belgrade

LANCASTER of Kittery

LUND of Augusta

MASTERTON of Cape Elizabeth

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

KANY Waterville

BARRY of Fort Kent

PARADIS of Augusta

REEVES of Pittston

CONARY of Oakland

Comes from the House, Bill and Papers. Indefinitely Postponed.

Which Reports were Read.

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

Senator AULT: I move that the Senate Accept the Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Kennebec, Senator Ault, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: I request a Roll Call.

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

Senator CONLEY: Mr. President and Members of the Senate: I wonder if the good Senator from Kennebec, Senator Ault, may express to the Senate, the feelings of the Committee, as to why they felt that this Constitutional Amendment should not go before the people?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair, to the Senator from Kennebec, Senator Ault, whom may answer if he so desires.

The Chair recognizes that Senator.

Senator AULT: In reply to Senator Conley, we heard (3) Bills that day, relative to the age of being a member of the Legislature. One reduced the age in both Houses to 18, one reduced the age in the House to 18 and in the Senate to 21. Then there was this Bill, which reduced the age in the Senate to 21. The sponsors of the other (2) Bills, chose to withdraw them. We gave them Leave to Withdraw, so this is the only Bill which survived.

At the Public Hearing, on those (3) Bills, in addition to Senator Carpenter who spoke in favor, and the sponsors, there were (3) people present from the State of Maine (2) were 18 and (1) was 26. One of the 18 year olds, delivered a message, from I believe, the University of Southern Maine, saying that the group had asked him to come up and speak in favor. As soon as he had made his statement he left, not listening to any arguments, on the other Bills, or any opposition.

There is no great clamor out there to change the Constitution of the State of Maine to lower the age in the Senate, because there is no great clamor to do it, I saw no need to do so.

The PRESIDENT: A Roll Call has been requested. 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 PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I do not want to belabor this issue, because apparently this Constitutional Amendment has very little chance of passage this session.

I would like to just make a couple of comments, maybe a little bit of rebuttal to the last speaker. I did speak in favor of this Constitutional Amendment to lower the age that a

person may serve in the Maine Senate to the age of 21.

I was 28 when I came over here from the other body, and I certainly did not feel that I was automatically imbued with any greater amount of knowledge because I happen to be elected to the Senate than when I was in the House.

I look around here, I just had a quick count and at least 18 of our membership did at one point serve in the other body. I doubt very much that any of them feel that it took a greater amount of knowledge or wisdom or wit or whatever to serve down here in this body.

I hope that we do not get into the position where public clamor, public appearance at a public hearing, determines whether a piece of Legislation Ought to Pass or Ought Not to Pass. If that be the case, then I believe that there were in excess of 100 proponents to a Bill last week and only a couple of opponents, something to do with the great majestic moose. I certainly hope that the representation at that hearing was taken into consideration.

I agree that there is no great public clamor for this Bill. I guess my philosophy would be that to let the electorate decide. If I be 28, 21, 50, I have a great deal of faith in the people of the State of Maine, the voters in the State of Maine. I do not see any necessity to keep it on the Books or in the Constitution that you must be a certain age in order to put your name on the ballot. I would say let the people decide as to whether they want a 21 year old or a 31 year old, which I happen to be, representing them in the Maine Senate. I never was involved in politics when I was 21, but I think that I probably would have been quite indignant. I look around here at people who are serving here, my colleagues, and I wonder how many of them would have been able physically, mentally, emotionally to serve down here at age 21, I think probably most of them.

The only argument that I heard it all came from Committee members that day, was that well you had to gather a certain amount of wisdom: you had to gather a certain amount of, I don't know, schooling or emotionally stabilizing. I look at the members in this body, who have never served in a public body before, (2) seats down I have a Freshman Senator who has never served in either branch of this Legislature, because he happened to be old enough, he was able to run for the Maine Senate.

So I do not think that the argument that they have to be schooled in one place before they can move down here and really make big decisions is a valid argument at all.

I certainly would hope this morning, that the Maine Senate would go on record as favoring fairness and equality in allowing the people of the State of Maine to make the ultimate decision, the people of each individual district. If I had an opponent in a particular race for the Maine Senate, they happened to be an immature 21 year old, I think that would be a great political issue for me to raise. So I would hope that we would go on record this morning as supporting this Constitutional Amendment.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Ault, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Ought Not to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Collins, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, McBreaity, Minkowsky, Perkins, Pierce, Shute, Silverman, Sutton, Teague, Trotzky

NAY — Carpenter, Clark, Conley, Martin,

Najarian, O'Leary, Pray, Trafton, Usher

ABSENT — Danton, Farley, Lovell, Red-

mond

A Roll Call was had.

19 Senators having voted in the affirmative and 9 Senators in the negative, with 4 Senators being absent, the motion to Accept the Majority Ought Not to Pass Report does prevail.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act Relating to Age Limit for Motor Vehicle Operator Licenses." (S. P. 40) (L. D. 26)

Leave to Withdraw

Senator Emerson for the Committee on Transportation on, Bill, "An Act to Authorize the Construction of a Bridge Across the Kennebec River in the City of Augusta." (S. P. 87) (L. D. 172)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Senator Pray for the Committee on Labor on, Bill, "An Act to Amend the Procedure of the State Board of Arbitration and Conciliation." (S. P. 73) (L. D. 127)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-11)

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, tomorrow assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House — As Amended

Bill, "An Act Relating to Avoidance of Contracts Made on the Lord's Day." (H. P. 136) (L. D. 146)

Bill, "An Act Relating to the Liability of Parents for Damage by Children." (H. P. 4) (L. D. 10)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Enactor

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: RESOLVE, Authorizing the Bureau of Public Lands to Convey by Sale to the Town of Dennysville the State's Interest in Certain Real Property in Edmunds, Washington County. (H. P. 72) (L. D. 81)

Which was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

On Motion by Senator McBreaity of Aroostook, the Senate voted to Reconsider its action of earlier in today's session whereby:

RESOLVE, Directing the State to Assume the Cost of Clean-up Operation for a Gas Spill in Brooks, Maine Caused by Vandals. (H. P. 38) (L. D. 49) was granted Leave to Withdraw.

On Motion by Senator McBreaity of Aroostook, Recommended to the Committee on Energy and Natural Resources, in concurrence.

The President laid before the Senate, the First tabled and specially assigned matter:

Bill, "An Act Concerning Fines Resulting from Fish and Game Violations on Land of the Penobscot Indians." (H. P. 392) (L. D. 541)

Tabled—February 16, 1979 by Senator Pierce of Kennebec

Pending—Reference

On Motion by Senator Katz of Kennebec, referred to the Committee on Legal Affairs and

Ordered Printed, in concurrence.

The President laid before the Senate the Second tabled and specially assigned matter: Bill, "An Act to Establish a Deadline for Removal of Ice Fishing Shacks." (H. P. 432) (L. D. 549)

Tabled—February 16, 1979 by Senator Pierce of Kennebec

Pending—Reference

On Motion by Senator Katz of Kennebec, referred to the Committee on Marine Resources and Ordered Printed, in concurrence.

The President laid before the Senate the Third tabled and specially assigned matter.

HOUSE REPORT — from the Committee on Health and Institutional Services — Bill, "An Act to Prohibit Smoking at Public Meetings." (H. P. 5) (L. D. 11)

Tabled—February 16, 1979 by Senator Pierce of Kennebec

Pending—Acceptance of Report

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

Senator GILL: Mr. President, I move that we Accept the Committee Report, and would like to speak to my motion.

The PRESIDENT: The Senator from Cumberland, Senator Gill, now moves that the Senate Accept the Majority Ought to Pass Report of the Committee.

The Senator has the floor.

Senator GILL: Mr. President and Members of the Senate: The supporters of L. D. 11 An Act to Prohibit Smoking in Public Proceedings, are not single-interest, pressure groups, nor are they uncompromising.

They are average citizens whose time has come to communicate their rights, for the protection of the public health, their comfort and the environment, along with their right to attend any public proceeding without being violated by the high concentration of Nicotine and Carbon Monoxide found in "Sidestream Smoke". In rooms under conditions of heavy smoking and poor ventilation, Carbon-Monoxide levels have exceeded the maximum permissible 8 hour exposure limit set by OSHA.

It seems ironic to me that we voice concern for the protection from extinction of the tiny flower "furbush louswort" which grows in the Dickey Lincoln area; that we won't allow the continued construction of the multi-million or billion dollar dam down south, because of the possible extinction of a small fish "the Snail Darter" that we in Maine could pass Legislation to clean up the environment with the returnable Bottle Bill and the removal of the so-called unsightly blight—the billboards.

But when the experts in the treatment of serious effects of involuntary smoke express their concern for the escalating cost of medical care which could be reduced, when the people who suffer those eye irritations, those nose and throat discomforts; those other allergic-like reactions to smoke; those who have more serious Chronic Cardiovascular and Pulmonary Diseases; those that suffer Emphysema or Chronic Bronchitis, want to be permitted to attend public proceedings without injurious effects. Are you willing to legislate for their health?

I cannot recall attending any public proceeding recently that wasn't interrupted by a short recess or two. This recess period could be used for those who choose to smoke, to do so outside the public proceedings area itself. In the hallway, outside the building, in the rest rooms where plumbing codes insist that there be a mechanical ventilation system or a non-fixed window to remove air from human odors present there.

I read recently where in October 1974 Harold Wilson, Prime Minister of Great Britain, who was a pipesmoker, was questioned on whether smoking should be permitted; "he ruled by not allowing smoking it would facilitate the business at hand," this I believe to be true.

I also believe that this Bill could very well have a reversed-positive financial note for the public at large. It would cost less medically for those whose conditions are irritated by involuntary smoke. It would reduce cleaner's bills for smoke permeated clothing. It would also be a cost savings in the reduction of the number of cigarettes usually smoked during the meeting.

We legislate Equal Rights, Human Rights, Patient Rights, Gay Rights, let us today Legislate for the rights of the non-smoker to attend public proceedings.

As I attended church this weekend, it struck me that no one attempted to light up in church. It got me thinking about other places where people show respect for others. That is the key, respect, let us show the same consideration for the highest level of creation, that we show for the environs that man lives within.

I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one fifth of all 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 PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President. They voted not too many years ago, that we put out for Public Referendum, a Constitutional Amendment that allowed Local Control.

I have had a number of letters from municipal officials within my district and I have had distributed to each of your desks this morning an article reprinted from the front page of the Rumford Falls Times. I move for the Indefinite Postponement of this Bill and all of its accompanying papers.

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

Senator MARTIN: Mr. President and Ladies and Gentlemen of the Senate: Although, I believe that it is everyone's right to clean air and the right to breathe, I can see a real constitutional problem with this piece of Legislation.

We frequently talk of governmental interference and governmental intervention by the federal government and the state government. How they manage to intercede or interfere with our local affairs.

I think that this piece of Legislation is a perfect example. I wonder Mr. President, if even the Soviet Union has a provision prohibiting smoking in public places.

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

Senator CONLEY: Mr. President and Members of the Senate: L. D. 11 if enacted would represent an ill-conceived, and unwarranted intrusion by this Legislature into the day to day functions of all subordinate governmental bodies within the State.

This Bill would prohibit smoking in all meetings of the Legislature and its committees and subcommittees; at all meetings any board or commission of this State and at all meetings of any board or commission, agency or authority of any county, municipality, school district or other political or administrative sub-division. This incredibly broad applicability is clearly spelled out in subsection 2 of this Bill. Thus (L. D. 11) would govern the activities of each of our 16 counties, over 495 municipalities and all subordinate committees, agencies and so on.

Enactment of this measure would govern the day to day functioning of several thousand governmental entities throughout the State. It would effectively eliminate their ability to set their own rules on these matters.

The primary issue here is not a health issue, but an issue of control. We must decide whether these and other rules, should be set here in

Augusta, or left to the sound discretion of those elected officials at the county, city and town levels. We must consider whether we trust the judgment of the University of Maine, and the Maine Maritime Academy Trustees, in whom we have placed far greater trust.

In considering these issues I believe it is important to reflect on the words of our Governor in his Inaugural Address of January 4, 1979. At that time he said and I quote "History ultimately will judge the work we begin today, in a substantial part by the constructive Legislation, we enact and by the needless regulations we forego." The same day he also said "for our small business men and women, I promise a government that knows when to leave them alone." These words are equally applicable to our counterpart in other governmental functions.

It is one thing for us to set our own rules, here in the State House, or in each of the Committees on which we serve. In fact a number of Committees already have set their own rules, but it is quite another thing for us to dictate our will to each of these local governments. How would we feel if Congress enacted a Law which directly effected our Committee meetings without any input whatsoever from us?

The issue is local control, as I said before, but it is also an issue of credibility with our colleagues in government. In this regard, I refer my colleagues to an editorial which appeared Thursday, February 15, in the Portland Press Herald, which has been distributed. It refers at one point, to the question raised by Bangor City Councilman Paul Zendzian, who asked at the hearing, "What kind of intrusion into local government will the State make next?" He asked whether we might next impose standards on setting, lighting, sound levels, and any number of other areas. He makes a good point!

This editorial concluded that people outside of Augusta or Washington are not unaware of logical steps that should be taken regarding personal habits.

But it should be up to the local governments to take this action, and big government should butt out. Though in this regard, I refer you to the letter from the Chairman of the Kennebec County Commissioners, and he said "I feel strongly that the decision as to whether or not an area should be restricted to smoking, should be made by people who control that area in both the public and private sector."

Similarly, the District Attorney for Kennebec and Somerset Counties has raised serious questions about the enforceability of this or similar statutes. He said, "Considering the serious drains upon the already limited resources of law enforcement personnel it somehow seems inappropriate to further stretch these resources. I would like to point out that there is a considerable danger of selective prosecution in each of these proposals." He further stated, "It is my opinion that any Legislation that attempts to limit individual freedom of choice and/or morality has little chance of effectively prohibiting the conduct involved."

This bill presents serious problems of enforcement and the amendments made in Committees on the House Floor, in no way mediate these problems. The Bill provides for a \$50.00 civil penalty "After Warning." Warning by whom, by police officers, after he is called to the scene, by the moderator of the meeting or by a concerned fellow citizen? The bill also provides for smoking to be permitted when there is unanimous agreement, but what happens when there is a minority of one within a large group, who insists on his or her rights to a smoke free environment? We know we have militant non-smokers, and I feel quite sure that many of our smokers are equally militant. Won't this promote confrontation and disorder?

Again at the hearing, I understand that Councilman Zendzian pointed out that this Legis-

lation could effectively limit participation in public meetings, and have the opposite effect from the Statement of Fact, as originally filed, mainly to increase participation. Finally it seems quite clear that the goals of this Legislation can already be fulfilled under existing law, with respect to State Government which ought to be the limit of our interest here in this Legislature.

Governor Longley promulgated an Executive Order on July 12, 1976, strongly urging that smoke free areas be maintained in all state agencies. Similarly, Secretary of State, Rodney Quinn issued an order affecting his own department. As I have stated earlier, this Legislature or any of its committees can establish rules affecting their activities, at the same time our statutes already include a provision of imposing a \$50 fine for smoking wherever a no-smoking sign is posted. This law has been in effect since 1954, but to my knowledge it has never been utilized and points out the futility of any such statutory prohibition.

In summary it is my own view that if we are going to seriously address a potential health hazard imposed by smoking we ought to do so in an intelligent and rational way. We ought not to enact needless, intrusive and insulting regulations, but rather should concentrate on Health Education and other means to reach the ends the sponsors of this legislation intend. Therefore, Mr. President and Members of the Senate, I would urge you to vote against the pending motion.

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

Senator HICHENS: Mr. President and Members of the Senate: Because I have presented similar legislation in the past and spoken quite often when the bills have been presented to the Senate, I was not going to say anything this morning.

But the good Senator from Aroostook asked a question as to whether smoking is banned in the Soviet Union? It was my privilege to visit the Soviet Union right after Thanksgiving.

One of our first meetings was at the Friendship House where we met with members of the "City Soviet." One of the signs as we went into that meeting, took my attention because I could not read Russian. I asked our interpreter what it meant and he said "Absolutely NO Smoking."

That did not influence me too much, but when I went to the Ballet that evening, I saw the same sign on the walls as we went into the Ballet Auditorium. They had three intermissions during that Ballet performance where people went out into the corridors and got refreshment and also smoked, but they could not smoke while the Ballet was going on.

Over in Moscow we went to the "Moscow Circus" and while we watched the Circus there was Absolutely No Smoking permitted, but there was during intermissions. I do not know whether it is a law in the Soviet Union, but I know that the non-smokers are protected while they are going to these performances and while they are in a meeting.

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

Senator TRAFTON: Thank you, Mr. President and Members of the Senate: Prohibiting smoking in public proceedings does indeed raise questions about both freedom and public health. These are important issues to consider and I think that it is helpful if we try to disentangle them as we consider this Bill.

Proponents of this Bill argue that it restricts the freedom of smokers, they are right. At a time when we have become more skeptical about the usefulness of some government restrictions, this argument has a certain initial appeal.

Restrictions on our freedoms however, are not unique to this Bill and I am sure that every one of us sitting here today could list innumerable restrictions on our freedoms, anything

from the unacceptable level of noise in mufflers to certain criminal actions. It is not enough then to point out that this Bill restricts the freedom of smokers.

We need to ask whether it is a reasonable restriction? To answer this question, we need to remember that smoking is not simply a nuisance. We are not merely dealing with a habit, annoying to some and pleasurable to others. We are not just trying to balance competing claims about an otherwise benign activity that is accompanied by a lingering smell. Smoking is not like wearing a powerful perfume, or carrying a strong cheese, smoking kills people!

The issue that this Bill brings into focus is one of the public health. About 50,000 people die on our highways each year, but 90,000 die of Lung Cancer. Although all of the deaths of Lung Cancer cannot fairly be attributed to smoking, it is nonetheless true that Lung Cancer was virtually non-existent in this country before smoking became widespread.

Similarly in developing countries Lung Cancer is beginning to rise with the increase in smoking. In addition to death attributable to Lung Cancer the Surgeon General has estimated that 450,000 smokers die prematurely each year because of heart disease, hypertension and other conditions that smoking has made worse.

This Bill will not save or prolong the life of anyone who exercises his freedom to continue smoking. This Bill does however, offer some protection to those who have made the decision not to smoke.

Repeated studies have shown that "Side-stream Smoke" the smoke from the burning end of the cigarette, has a substantially higher concentration of Tar, Nicotine, and Carbon Monoxide, than the "Main-Stream Smoke" that is inhaled by the smoker. "Sidestream Smoke" contains twice as much Tar and Nicotine and (5) times as much Carbon Monoxide as "Main Stream Smoke".

This Bill does restrict freedom of smokers, but it does so in order to reduce involuntary smoking under certain limited conditions. Some may argue that if smoking is such a public health problem, the bill should be amended to ban smoking completely. Law making however, must also be tempered with common sense, prohibition does not seem to work very well against wide spread deeply entrenched habits. Toleration, modest, well conceived restrictions, more informed decision making seem to work better. This Bill is a modest restriction which recognizes an activity that is harmful, and attempts to protect citizens, at least in public procedures from having to participate in it.

One does not have to be a non-smoker or a former smoker in order to support this Bill. Support for the Bill is simply an expression of the fact that the freedom to inflict harm, however inadvertent should not exceed the freedom not to be exposed to harm. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: It appears, perhaps, most of the smokers in this body are against this Bill, and most of the non-smokers are for it. I just want to assure this body that I serve on the Committee on Health and Institutional Services; I smoke two packs of cigarettes a day, and I supported the bill.

I would just like to address a couple of points that have been raised, from my notes. I would say that this must be a very good Bill, since the issues of Local Control, Constitutionality and the Rights of the Soviet Citizens have been raised to kill it.

I love consistency as a politician and I just looked through the hearing schedule for this week. I glanced at some of the LD's mentioned on our calendar this morning, and it appears to me that fully 60 to 70% of them intrude directly and violently into the great area of Local Con-

trol.

I ask you, if I had presented a piece of Legislation to prevent the municipal officials of a particular town from forcing me to buy a particular type of car; to wear a particular type of clothing; to drink a particular type of beverage; or to eat a particular type of food, if you would support me? The guts of this whole issue are very simply this, each and every one of us, being smokers or non-smokers have the God given right to breathe clean air. I choose not to do so. I choose to pollute the air that I breathe with cigarette smoke.

I should not be allowed to force that choice on the Senator from Penobscot, Senator Emerson, the Senator from Washington, Senator Silverman, which I am doing as I speak, because I have a cigarette burning in the ashtray.

We are not talking about individual's freedoms, we are taking about stopping somebody from forcing something on someone else that the other person does not want.

We have a piece of paper on our desks this morning, a word to smokers and a word to non-smokers. I would like to quote to you from that great institution called the Tobacco Institute. Their motto is "Freedom of Choice is the best Choice," I agree with that totally.

How much choice does the Senator from Penobscot, Senator Emerson have at this moment? He has very little because, I have chosen to exercise my freedom of choice and light up a cigarette. I quote again "that is the way it ought to be, freedom of choice, whether your preference is carrot juice, no one forces you to drink carrot juice, maybe I like it or a bottle of water, beach buggies, or foreign cars, tobacco smoking or chewing gum." The only one of the examples listed by the Tobacco Institute, which I inadvertently, most times, force on other people is cigarette smoke.

Now as a Legislator and as a fairly active politician, I probably attend as many public meetings as most of you, or most anyone in the State. I have never to my knowledge, been to a public meeting that was so long, that I could not put up without a cigarette for awhile, or so confining that I could not get up and walk out.

If you will look at the Committee Amendment attached to this Bill, you will see that most of the organizations, and public bodies are listed under our Right to Know laws. Why shouldn't it be that these organizations, which we have decided should be open and public, should publish the results of their meetings; should not be able to go into closed meetings to decide things, behind closed doors; why shouldn't they also be forced to respect the Rights to Breathe? The Right to Know Laws which this Legislature, the previous Legislatures have passed and amended, were forced on municipalities usually over their violent cries of agony. We forced them to open their meetings, we forced them to go public; we forced them to take a vote before they can go into executive session, that is Local Control? I think that it is fairly obvious and no one is hiding the fact that the anti-smoking forces have gone to the municipalities. They may have gone to the City of Rumford, I am not sure. They may have gone to the City Council in Portland, where my distinguished colleague from Cumberland, Senator Conley, serves and asked for non-smoking ordinances or provisions. They may have been turned down, I am not sure. It is obvious that there is a movement out there to protect people who wish to breathe non-smoke filled air from the so-called "Side Stream Smoking".

I would just point out to you, we seem to be, hopefully, very protective of the rights of the majority in this body, in this Legislature. I would point out to you that statistics now indicate that well over 50% of the people in this country do not smoke. Now I do not know what percentage of people object to smoke blowing in their face, but if the majority of the people in this country do not smoke, shouldn't their

rights be protected somewhat? I think that this is a very enormous little Bill really, and I believe that there is a Senate Amendment that has been prepared that will make it more palatable to some of you.

So I would hope this morning that we would not vote to kill this Bill, but rather to keep it alive, clean it up a little bit and try to do something, as I pointed out with the Right to Know Law, try to do something with this Right to Breathe Law. I do not think that the municipalities are going to be terribly upset if they have to provide at their public meetings, where someone objects, have to go non-smoking. I do not think that it is going to bother anybody that much. We heard about public clamor on a previous Bill this morning. I would have no objection, I would have no fear, if the opponents of this particular Bill, wanted to tack a referendum on it, see where the people in the State of Maine do stand on this. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President is the pending question the motion by the Senator from Oxford, Senator O'Leary?

The PRESIDENT: The Chair would answer in the affirmative.

Senator COLLINS: I hope that the Senate will vote No on this motion to Indefinitely Postpone.

The two previous speakers, have said it far better than I can. This issue of Local Control versus protection of Public Health and Safety is not a black and white issue, it is a gray issue.

There was a time when vaccination for Small Pox might have been left to Local Control, because the ethics and the safety of that procedure was not well known. There was a time when the pasturization of milk might have been a matter of Local Control for the same reasons. Time marches on and we learn more and more about cause and effect. It seems to me that we have learned enough about the relationship between smoking and cancer, emphysema and angina to name a few, so that we ought to have a statewide standards of respect for the problem that so many of our people have.

If we think of some of the other things that most of us in this body have taken part in, in the last three or four years, the prohibition of mandatory retirement for example; we made that apply to all governmental bodies, not just the state. We passed a Bottle Bill that applies to the entire state. We did those things because the majority of the Legislature felt that the time had come to set a statewide standard. I submit that we have reached that time with respect to smoking during public proceedings. I hope that, if we defeat this motion and adopt the Unanimous Report of the Committee, that we will come to the time when the Senator from Hancock, Senator Perkins can offer his amendment that is on our desks, so that there will be some measure of local control, namely that if everyone at the meeting votes to give consent to smoking that that can happen. I hope that we will at least permit the Bill to reach that stage. Thank you.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that this Bill and all of its accompanying papers be Indefinitely Postponed.

Is the Senate ready for the Question?

The Chair will order a Division.

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

Senator CONLEY: I request that when the vote be taken, it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested. 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 a Roll Call, please rise and remain standing until counted.

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

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Conley, Cote, Devoe, Emerson, Huber, Katz, Martin, O'Leary, Pray, Shute.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Farley, Gill, Hichens, McBreairty, Minkowsky, Najarian, Perkins, Pierce, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENT — Danton, Lovell, Redmond.

A Roll Call was had.

10 Senators having voted in the affirmative and 19 Senators in the negative and 3 Senators being absent, the motion to Indefinitely Postpone does not prevail.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gill that the Senate Accept the Unanimous Ought to Pass Report of the Committee.

A Roll Call has been ordered.

Is the Senate ready for the question?

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Chapman, Clark, Collins, Gill, Hichens, McBreairty, Minkowsky, Najarian, Perkins, Pierce, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

NAY — Conley, Cote, Devoe, Emerson, Farley, Huber, Katz, Martin, O'Leary, Pray, Shute.

ABSENT — Danton, Lovell, Redmond.

A Roll Call was had.

18 Senators having voted in the affirmative and 11 Senators in the negative and 3 Senators being absent, the motion to accept the Majority Ought to Pass, as amended, Report of the Committee does prevail.

The Bill Read Once.

Committee Amendment "A" (H-26) Read.
House Amendment "A" (H-29) Read.

On motion by Senator Perkins of Hancock, House Amendment "A" Indefinitely Postponed, in non-concurrence.

The Senator has the floor.

Senator PERKINS: I offer Senate Amendment "A" (S-12).

The PRESIDENT: The Senator from Hancock Senator Perkins, now offers Senate Amendment "A" (S-12) to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" Read and Adopted.

Committee Amendment "A", as amended, Adopted in non-concurrence.

The Bill, as amended, tomorrow assigned for Second Reading.

The President laid before the Senate the Fourth tabled and assigned matter:

Bill, "An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons other than Arborists to Remove Trees within Municipal Boundaries." (S. P. 219)

Tabled—February 16, 1979 by Senator Pierce of Kennebec

Pending—Motion of Senator Redmond of Somerset to Refer to Committee on Local and County Government.

On motion by Senator Katz of Kennbec, re-tabled for 1 Legislative Day.

Senator Conley of Cumberland, was granted unanimous consent to address the Senate, off the Record.

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, off the Record.

Senator Trafton of Androscoggin, was granted unanimous consent to address the Senate, off the Record.

On motion by Senator Pierce of Kennebec, adjourned until 10 o'clock tomorrow morning.