

MAINE STATE LEGISLATURE

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organizations in some communities that provide a great deal of municipal service, public recreation, clean-up efforts, and various other activities, and in other municipalities I see the same type of organization existing only to enjoy social activity and to recite patriotic tradition. Now, that is not to downgrade patriotic tradition, it is important and I am for it, but whether we ought to subsidize the carrying on of patriotic tradition by exempting from taxation a building of some size, which may really be the chief effort of that organization, is a question we have to ask.

I have no illusions about ultimate successes of this type of legislation, but I do urge upon you to consider the direction that this effort leads to because there are times to re-examine old standards and to say is the Chamber of Commerce, is the organization called the Tent of the Recabites, is the organization known as the Odd Fellows, or whatever it may be, is this organization in my community providing a service to my community which warrants tax exemption. Some of them do, I am sure. Some of them do not. And I think that that decision ought to be faced, hard as it is — it is not easy to get up and say, for example, to a veterans group, we wonder if you are entitled to exemption — but I think the time is coming when we ought to do that if we do not wish to have further erosion of our base of taxation.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate, I have been listening with some interest to the debate because until the previous two speakers presented their points of view I really hadn't made up my mind how I was going to vote on this particular bill.

As I understand the previous speaker, the Senator from Knox, Senator Collins, his argument is that we should exempt only those organizations which provide a service which would otherwise have to be provided by government. I think as he put it, but for such institutions the government must do it. And what I don't quite understand is why then in the list of organizations which would lose their tax exemption under this bill churches are not included, because certainly we are in a situation where but for having the churches government would not have to do it. As a matter of fact, the constitution prohibits that government should provide a state church.

I think that the thoughts that have been expressed before are admirable, but I think they do not address the full and total picture. And it is my understanding that the next session of the legislature may be presented with some more detailed ideas about taxes and tax exemptions, so I think this type of piecemeal approach at this time is indeed discriminatory.

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

Mr. MERRILL: Mr. President, could I ask the Secretary of the Senate to read the report from the Committee on Taxation on this bill?

The PRESIDENT: The Secretary will read the report.

The SECRETARY: The Committee on Taxation, to which was referred the Bill, "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations," House

Paper 1886, Legislative Document 2064, have had the same under consideration and ask leave to report that the same ought not to pass. Signed: Senator Wyman, Representatives Maxwell, Finemore, Immonen, Dam, Senator Jackson and Representative Twitchell. The minority ought to pass in new draft and new title report was signed by Representatives Drigotas, Mulkern, Susi, Cox and Morton.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make clear for the record that the reason my name is not on the report is because I did not have a chance to see the new draft before it was put out as recognizable and, with good reason for haste in getting these bills out, inadvertently my name isn't there. For the record, I would like to state that I am in favor of this bill as amended and would have signed ought to pass.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I have listened with interest to the previous speakers, and the first two, at least, I think indicated that this is a foot in the door. I hope I didn't misunderstand that, but something ought to be done in this area and this is a start. It was also indicated that money collected by the towns would be minimal, and I think the good Senator from Knox explained there would be very little money. You are dealing with a very little money, you are dealing with a bill which seems to be causing quite a lot of confusion and seems to be cloudy, the other branch indefinitely postponed it, and I certainly hope that this legislature will go along and concur in indefinitely postponing the bill.

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

Mr. CONLEY: Mr. President and Members of the Senate: The good Senator from Washington, Senator Wyman, has stated that this would be a very minimal amount that would be collected in his community. Well, I think it might be interesting to look at the total picture, as they say, the big picture, and see just what kind of figures we do have relative to these organizations that hold exemptions.

The current tax-exempt values of property owned by veterans, boards of trade, and fraternal organizations have reported to the State Bureau of Taxation for 1975, and they follow as such: Veterans Organizations, \$5,416,308; Boards of Trade, \$1,538,077; Fraternal Organizations, \$15,405,24; not too minimal. If we had taxed an average municipal tax rate of 24.7 mills, the taxes would be \$552,000.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I think, in view of the permissiveness of this legislation, that it should receive the enthusiastic support of the legislature. The decision should be made back in the communities. We see around the country communities groping for income taxes and any form of income that they can get in order just to survive. I think we owe this to our Maine communities, be they small or large, to have them make the decision themselves. I think it is a very important question, Mr.

President, and I request we take the vote by a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, not to belabor this, but it certainly is a cloudy issue because the two previous speakers, if I understood them correctly, don't agree on how much money is involved. I just think there are too many unsolved parts of this, and I think we should certainly concur in the ought not to pass report of the committee, and I hope the Senate would so vote.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, as I understand it, the motion is to accept the ought not to pass report?

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Washington, Senator Wyman, that the Senate accept the majority ought not to pass report of the committee. A "Yes" vote will be in favor of accepting the majority ought not to pass report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Cianchette, Corson, Curtis, Cyr, Gahagan, Graffam, Greeley, Jackson, Johnston, McNally, O'Leary, Pray, Speers, Thomas, Wyman.

NAYS: Senators Berry, E.; Berry, R.; Carbonneau, Collins, Conley, Cummings, Graham, Huber, Katz, Merrill, Reeves, Trotzky.

ABSENT: Senators Clifford, Danton, Hichens, Marcotte, Roberts.

A roll call was had, 15 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with five Senators being absent, the Majority Ought Not to Pass Report of the Committee was Accepted.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, having voted on the prevailing side, I move reconsideration.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate reconsider its action whereby the Senate accepted the majority ought not to pass report of the committee. All those Senators in favor of reconsideration will please say "Yes"; Those opposed will say "No".

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

The President laid before the Senate the sixth tabled and Specially Assigned matter:

Bill, "An Act Relating to the Initiative and Referendum Processes." (H. P. 2027) (L. D. 2203)

Tabled — March 11, 1976 by Senator Speers of Kennebec.

Pending — Adoption of Senate Amendment "A" (S-426).

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-954)

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

Mr. SPEERS: Mr. President and Members of the Senate: Speaking as the Senator from Kennebec on this issue, I move that Senate Amendment "A" be indefinitely postponed.

Mr. President, what this amendment does, as the good Senator from Cumberland, Senator Merrill, expressed yesterday, is to remove the provisions explaining the law from petitions which are being circulated. If you look at L.D. 2203 on page 2, at the bottom of the page and the first paragraph at the top of the next page, you will see what those provisions are which are to be eliminated from the petitions. They explain very succinctly that it is illegal for an individual to sign a petition twice and, secondly, to sign anyone else's name other than his own to a petition. I am sure that there is no one here that would disagree with the idea that both of those actions should indeed be illegal, and in fact this law on petitions resulted from a rather lengthy study by the Committee on Judiciary having to do with circulating petitions which grew out of a very serious problem with circulation of petitions in regard to a very hotly contested political issue at that time.

It seems to me that there is nothing wrong with warning an individual or placing on the petition a warning that will apprise that individual of the state of the law; that law being, of course, that he may not sign someone else's name. I think we all are aware of the possibility certainly of a husband being presented with a petition and going ahead and signing his name and then looking it over and say, "Oh well, my wife is in favor of that also and I will sign her name as well." Certainly in this era of ERA we should not take these opinions quite so lightly, and we should be aware that it is illegal for any individual to sign someone else's name to a petition. We should also be aware that it is illegal for us to sign more than once on a particular issue. I just see nothing wrong, and I see a good deal of advantage really given to the idea that that law should be called to the attention of an individual before he is presented with a petition to sign. I do not feel that it is particularly inhibitive for an individual, because if he reads the warning and understands the law, then he certainly knows that he can sign if he is not breaking the law. So, I would move the indefinite postponement of that amendment.

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

Mr. MERRILL: Mr. President, I rise to oppose the motion to indefinitely postpone and I would like to speak briefly to it.

Mr. President and Members of the Senate: I know that the hour is late and this isn't going to be a monumental issue, the ship of state isn't going to sink either way we go on this or if the bill was never heard of, but it is an important issue to me, and I would just like to share why, and I think I have about three basic points to make about this.

First of all, part of the problem of the warning was made inadvertently but none-the-less clear in the remarks of the majority leader. He said what this warning would do is say to people that you are violating the law if you sign twice and if you sign the wrong name. Now, the majority leader is a lawyer and, I understand from people who practice with

him, a good one, but of course that is not what it says. What it says is that it is against the law if you do that knowingly. There is probably not any member in this Senate that hasn't signed some petitions twice, or signed more than one petition in the case of nominating petitions, unknowingly at one time or another. The requirement is knowingly, but the inadvertent mistake that the majority leader made, who is a good lawyer, is the same type of concern that may come up in the minds of someone who isn't schooled in the law, who will read that and who will be intimidated by the fact that on the bottom of the petition there is going to be a big warning. Certainly he isn't going to be as sophisticated in the law as Senator Speers and it very well may cause some concern on his part and he may not sign.

This may seem to be a hypothetical problem, but I would like to share just very quickly an experience I had when I was passing petitions for the public power referendum a few years ago, that same referendum that was referred to and the same referendum that had problems, and out of those problems grew this legislation. I was in a housing project for the elderly passing a petition, and I went to an elderly person's door and knocked on the door. An elderly person came out and I explained to him what the petition would do. He talked with me about it for a little while and then he signed the petition. So I went down and started to knock on the next door, and then the elderly gentleman came back out of the door and he said, "You know, I am in favor of that, but I am an old person and I have this public housing here, and I am afraid somebody might get me if I signed it, and I want to scratch my name off." Well, I allowed him to scratch his name off, and I have to admit that as I was leaving that project for the elderly I sort of chuckled at the old gentleman and his trepidation, thinking how meaningless it was, and actually I was a little bit amused by the fact that he was worried somebody would get him. Well, with the subsequent events that came about after those petitions were put in, I reflected many times on the old gentleman's concern and had to conclude that he was a little wiser in the ways of the world than I was.

I would just like to say, as far as this warning is concerned, in saying, well, it is against the law so we ought to put up a warning, you know, with all the laws that fill our books -- and there are so many now and it is growing so fast that we have to have supplements for the supplements -- we could very easily justify putting a sign up in front of everybody's house saying, "As you leave your house this morning, we want to warn you that you will probably violate the law sometime during the day", and I am sure we would be right, or if not on that day then probably the next one, with all the laws that we pass.

When we put that warning there, I think that it does have a chilling effect, I don't think that it is necessary, and certainly if this step was going to be taken, the same thing should be put at the bottom of our nominating petitions and all the petitions. Why single out this initiative and referendum process, which is a process so important to the framers of the constitution that when they wrote the constitution they laid out the powers of the legislature and then specifically excepted and kept for the people the power to make the laws themselves through the process of initiative and referendum.

You know, I think the real abuses that

have come in the past have come from people who have sat down and just filled out petitions, and we all know that that has happened. It has happened in relation to nominating petitions also. Those people aren't going to be intimidated by the fact that there is a warning on the bottom. Those people know clearly and well that they are violating the law when they do it. The effect of this warning is going to be to intimidate people who aren't versed in the law, people who have read of the events of the last few years of government investigations, government secrecy, and government organizations that are investigating government organizations, and they are going to be intimidated. I don't think that it is necessary to have this chilling effect on this most important constitutional right, so I would urge the Senate to defeat this motion, and ask for a division.

The PRESIDENT: A division has been requested. The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Speers, that Senate Amendment "A" be indefinitely postponed. Will all those in favor of the indefinite postponement of Senate Amendment "A" please rise in their places until counted. Will all those opposed to the motion please rise in their places until counted.

A division was had, 11 having voted in the affirmative, and 12 having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side, I would ask to reconsider our action whereby this bill was passed to be engrossed, and ask the Senate to vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate reconsider its action whereby the Senate passed this bill to be engrossed. All those in favor of reconsideration will please say "Yes"; all those opposed "No".

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

The President laid before the Senate the matter tabled earlier in today's session by Mr. Graffam of Cumberland:

Bill, "An Act to Permit a Manufacturer of Alcoholic Beverages to be a Stockholder in a Corporation which is a Licensee". (H. P. 1892) (L. D. 2072)

Pending — Passage to be Engrossed.

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

Mr. SPEERS: Mr. President, if the Senate will bear with the ensuing parliamentary motions, I would like to explain, first of all, what has occurred.

There exists at the present time a House Amendment "B" to Committee Amendment "A", and as well a Senate Amendment "A" to Committee Amendment "A", which we just adopted. Unfortunately, the Senate Amendment and the House Amendment to the Committee Amendment are inconsistent and, therefore, we would like to kill the House Amendment to the Committee Amendment.

With that in mind, Mr. President, I move that the Senate reconsider its action