

MAINE STATE LEGISLATURE

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OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

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probably felt that he could try to correct these problems, but the result of this, and you can say we shouldn't think about hypothetical situations, but we have to because this bill is going to deal with everybody in the state. There are going to be a lot of situations. If you really take a look at this bill and try to interpret the way the Liquor Commission is going to interpret it, it is the type of thing that if a guy was going to have some sort of a fundraiser at his home and maybe charge a buck a head to come in and people bring their own booze to maybe raise funds for some group or something in town, conceivably under this they would have to get a liquor license.

There are what I consider some conflicting parts on this because at the same time it says that you have got to maintain a clubhouse, or if a group wanted to hold a fundraising function but didn't have a clubhouse and maybe wanted to have it in a field or something like this, there are just too many variables in this that are going to apply to too many different groups and I think create too many different hassles. Perhaps if there is a problem in one city or two cities, maybe some city ordinances could take care of that and there would be one less group of state rules and regulations that the people of the state will have to deal with.

Mr. Boudreau of Waterville was granted permission to address the House a third time.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Under this bill, 501 of the internal revenue code, almost everybody in the state is exempt from it — fraternal and beneficiary societies, labor, agricultural, horticultural organizations, civic leagues, but I think the key word is profit — the key word is profit. All those clubs, I am not going to read them, there are four pages of them that are exempt under the Internal Revenue Code included in this bill. They are all exempt. The key word is profit. The people in the bottle club business are in the business for a profit, they are making a profit. It is as simple as that. They don't have bottle clubs to cater to the common man because they like him, but have the bottle clubs because it is a business, and that is their business and they make money doing it.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mr. Jacques, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Bachrach, Beaulieu, Bennett, Berry, Berube, Biron, Blodgett, Brown, K.L.; Brown, K.C.; Bunker, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Connors, Connolly, Curran, Davies, Dow, Durgin, Elias, Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Hickey, Hobbins, Howe, Kelleher, Kerry, Laffin, LaPlante, LeBlanc, Lizotte, Locke, Lunt, MacEachern, Mackel, Mahany, McHenry, McKean, McMahon, Mills, Mitchell, Moody, Nadeau, Najarian, Peltier, Plourde, Post, Quinn, Raymond, Rideout, Silsby, Smith, Spencer, Sprowl, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Wilfong, Wyman.

NAY — Alopis, Benoit, Birt, Boudreau, A.; Boudreau, P.; Brenerman, Burns, Byers, Churchill, Clark, Cox, Cunningham, Devoe, Dexter, Diamond, Fenlason, Garsoe, Gill, Gillis, Gould, Gray, Henderson, Higgins, Huber, Hughes, Hutchings, Immonen, Jackson, Jensen, Joyce, Kane, Kany, Kilcoyne, Lewis, Littlefield, Lougee, Lynch, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, Morton, Nelson, M.; Nelson, N.; Norris, Palmer, Peltier, Perkins, Prescott, Rollins, Shute, Stover, Strout, Stubbs, Tarbell, Tarr, Teague, Torrey, Tyndale, Wood.

ABSENT — Austin, Bagley, Cote, Drinkwater, Dudley, Dutremble, Gauthier, Hunter, Jacques, Jalbert, McPherson, Peakes, Peterson, Talbot, Whittemore.

Yes, 73; No, 62; Absent, 15.

The SPEAKER: Seventy-three having voted in the affirmative and sixty-two in the negative, with fifteen absent, the motion does prevail.

Sent up for concurrence.

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

House Divided Report — Majority (8) "Ought Not to Pass" — Minority (4) "Ought to Pass" — Committee on Judiciary on Bill "An Act Relating to Judicial Review of Public Utilities Commission Decisions" (H. P. 226) (L. D. 290)

Tabled — April 25, 1977 by Mr. Spencer of Standish.

Pending — Acceptance of either Report.

On motion of Mr. Spencer of Standish, the Bill was recommitted to the Committee on Judiciary and sent up for concurrence.

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

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-159) — Committee on Education on Bill "An Act to Facilitate Out-of-state Post Graduate Education in Certain Professions" (H. P. 408) (L. D. 502)

Tabled — April 25, 1977 by Mr. Lynch of Livermore Falls.

Pending — Acceptance of the Committee Report.

On motion of Mr. Lynch of Livermore Falls, tabled pending acceptance of the Committee Report and Specially assigned for Friday, April 29.

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

Joint Order — Relative to Joint Rule 20A — Reports of Committees (H. P. 1440) Read in House April 20.

Tabled — April 25, 1977 by Mr. Quinn of Gorham.

Pending — Passage.

Mr. Gillis of Calais was granted permission to withdraw the Joint Order.

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

Bill "An Act to Provide County Commissioner Districts in Washington County" (H. P. 1225) (L. D. 1359) In House, Passed to be Engrossed on April 12. In Senate, Indefinitely Postponed.

Tabled — April 25, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Further Consideration.

On motion of Mr. Tierney of Lisbon Falls, retabled pending further consideration and specially assigned for Friday, April 29.

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

Resolution, Proposing an Amendment to the Constitution to Eliminate the Office of Justice of the Peace as a Constitutional Office (H. P. 655) (L. D. 798)

Tabled — April 25, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Final Passage. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I believe I have the information that many of you expressed concern over last Friday when this bill was up for final enactment, and I will take just a minute of your time to explain this particular L. D. and what the consequences would be of final enactment.

Presently, for the position of justice of the peace, the process is that the Governor nominates and the Governor confirms. We are suggesting that this be sent out to referendum and that we take the nominating procedure for justice of the peace out of the Constitution. At that point, there were some fears of what this would do to people who presently hold a commission. I went to the Attorney General's Office, and he said it would not automatically terminate the commission of those justices of the peace then in existence, because the position of justice of the peace is contained in 4 M.R.S.A. 1001.

Presently, ladies and gentlemen of the House, the position of notary public was removed and has been placed in the Office of Secretary of State as an administrative task. You file, they decide if the application is a valid one and then they award the position of notary public. The position of notary public, as you well know, does carry a little more power than that of justice of the peace, because with it you can do interstate business, whereas the position of justice of the peace is only intrastate, within the State of Maine.

We are recommending that this be taken out of the Constitution so that the Governor will not have to handle the nominations and then the confirmations of this particular office. If the people were to agree next November, the effective date would be the day that he validates the elections, somewhere around January 1. At that point, we would not have a procedure for additional justices of the peace until the legislature, if they so desired in the next session, instituted a procedure similar to that of notary public to reinstate the position. Those who have the commissions would retain the commissions until the expiration date. There would not be a process for renewal for justice of the peace. However, they could apply for the notary public. It does not affect a notary public at all.

We are still recommending to this House that we do take that out of the Constitution. If the people agree, then next January, reinstate in statute the process for becoming a justice of the peace and the net effect might be that perhaps for a month or six weeks or so next session there would not be the possibility of getting that title, justice of the peace.

The SPEAKER: A roll call has been ordered. The pending question is on final passage of L. D. 798. All those in favor of this Resolution being finally passed will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Ault, Bachrach, Beaulieu, Bennett, Benoit, Berube, Biron, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K.C.; Bunker, Burns, Bustin, Byers, Carter, F.; Chonko, Churchill, Clark, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Durgin, Elias, Fenlason, Flanagan, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hickey, Higgins, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Jackson, Joyce, Kane, Kany, Kerry, Kilcoyne, LaPlante, LeBlanc, Lewis, Lizotte, Locke, Lougee, Lynch, Mackel, Mahany, Marshall, Martin, A.; Masterton, Maxwell, McBreairty, McHenry, McKean, McMahon, Moody, Morton, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peltier, Perkins, Plourde, Post, Quinn, Shute, Silsby, Smith, Sprowl, Stubbs, Tarbell, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Tyndale, Wyman, The Speaker.

NAY — Berry, Birt, Blodgett, Brown, K.L.; Carroll, Carter, D.; Connors, Connolly, Cox, Dow, Fowlie, Gillis, Green, Hutchings, Immonen, Jensen, Kelleher, Laffin, Lunt, Masterman, Mills, Mitchell, Nelson, N.; Pearson, Raymond, Rideout, Spencer, Tarr, Twitchell, Wilfong, Wood.

ABSENT — Austin, Bagley, Carey, Carrier.

Cote, Drinkwater, Dudley, Dutremble, Gauthier, Hunter, Jacques, Jalbert, Littlefield, MacEachern, McPherson, Peakes, Peterson, Prescott, Rollins, Stover, Strout, Talbot, Whittemore.

Yes, 97; No, 31; Absent, 23.

The SPEAKER: Ninety-seven having voted in the affirmative and thirty-one in the negative, with twenty-three being absent, and ninety-seven being more than two thirds of the members present and voting, the Resolution is finally passed.

Signed by the Speaker and sent to the Senate.

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

Bill "An Act to Revise Fees Which may be Charged by Towns for Licensing Innkeepers, Victualers or Tavernkeepers" (Emergency) (H. P. 640) (L. D. 784) (C. "A" H-176)

Tabled — April 26, 1977 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

On motion of Mrs. Huber of Falmouth, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-208) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: This amendment does, I believe, answer the concerns that have been expressed concerning this bill. The amendment allows local officials to set fees at what I believe are reasonable levels, and if you will look at the amendment, I hope you will agree as well.

If a town wishes to leave its fees at \$10, it may. If it in fact finds itself forced, in effect, to charge more, it must follow a schedule which places realistic limits on these fees. The purpose of these fees is to more nearly reflect the actual cost to many towns of making sure that these establishments are clean and sanitary.

I hope you will vote to adopt the amendment.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: When I first read this bill, I began to have hot flashes; now it has turned to cold sweat.

In all due respect to the gentlelady from Falmouth, I know what she is trying to accomplish and I admire her for her efforts. I do see some problems with the amendment and with the basic bill itself. First of all, I called Mr. Datsis from the Department of Human Services and I don't think there has been a lot of homework on this particular bill. Presently, there are 26 different classifications of victualer licenses and they have to have an associated health certificate from the state which range in prices from \$17.50 to \$30, depending on the business. So this is a problem here, because we are going to have to make a determination on classifications.

As I read House Amendment "A" I keep seeing the word victualers. Our particular town charges \$5 for all victualer licenses, and then you go to the state and you pay a fee of \$17.50 for the associated health certificate that goes with the license. As we go through the classifications, we look and in classification D it states, "Any business establishment such as but not limited to retail grocery stores." Well, first of all, the retail grocery that does not serve food to be consumed does not have to have a victualer's license. If the grocery store does have a hot dog machine or some sort of a device, such as an infra-red oven for sandwiches, then, are you going to classify that grocery store un-

der D or are you going to go back and say, okay, you have to have a victualer's license so we will have to classify you under A. In other words, I see little problems that start to crop up with this thing.

If we classify the grocery store under A because he does hold a victualer's license, then, of course, his fee could go up to \$50, according to the municipality. This is about a thousand percent rise in some of the present fees. If we classify it under D, it would go up to \$25. This is a five hundred percent rise in the people's license fees.

Just to give you a little idea of what happens, if you own a small grocery store, and I own one, there are a lot of retired people who own small grocery stores and you will find that they are not really wealthy, if I sell beer and wine in my grocery store, then I pay the State of Maine \$260 for a fee to do that. I pay for a \$54 federal tax stamp on top of that. I pay \$10 to the state for testing the water, because now I have got to go into the victualer's license, since I have a hot dog machine, then I have to pay the state \$17.50 for a health certificate to go along with the victualer's license. Then I go to the town office and they give me the victualer's license and they charge me \$5. In other words, I am beginning to get up to the point where it is cheaper to stay out of business than it is to get into business.

Who in the city or the town or municipality will have the expertise to make the determination of the classification of the business? What standards are they going to use? Are they going to be consistent standards throughout the state? Who is going to determine the cost of the classification of the license? We have a broad rule here we can use; however, again, are we going to be standard throughout the state?

I submit to you that we begin to raise these fees to where it becomes almost impossible for the small businessman to stay in business and I think we have to put a stop to it somewhere.

I believe in the concept that she has, but I do believe that we need some homework, especially with the Department of Human Services. Therefore, Mr. Speaker, my great leader, I may need your help. I would like to see this tabled unassigned so there could be some more homework done on this by the gentlelady. Is that in order, sir?

The SPEAKER: The Chair would answer that it is in order, but the gentleman may not table since he has obviously debated, but others might.

Whereupon, on motion of Mr. Garsoe of Cumberland, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and specially assigned for Friday, April 29.

The Chair laid before the House the following matter:

Bill "An Act to Provide that the Position on the Primary Election Ballot and on the General Election Ballot the Names of Candidates for Major Offices shall be Determined by Lot" (H. P. 479) (L. D. 594) which was tabled earlier in the day and later today assigned pending the motion of Mr. Birt of East Millinocket to recede and concur. In House, passed to be engrossed as amended by House Amendment "B" (H-165) on April 21. In Senate, the Bill and accompanying papers indefinitely postponed in non-concurrence.

Whereupon, Mr. Birt of East Millinocket requested permission to withdraw his motion to recede and concur, which was granted.

Mrs. Nelson of Portland moved that the House insist and request a committee of conference.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker and Members of the House: A short time ago, the Secretary of State was up here on the third floor and we had a drawing by lot to see what should be the demise of this particular bill, and the first let-

ter drawn was an R and the second letter drawn was a C, so I think the fate of the bill should be recede and concur.

Thereupon, Mr. Kelleher of Bangor moved that the House recede and concur.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 60 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mrs. Nelson of Portland, the House voted to insist and ask for a Committee of Conference.

On motion of Mr. Moody of Richmond, Adjourned until nine o'clock tomorrow morning.