

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

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Legislature*

OF THE

STATE OF MAINE

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drink and have a few dances, you won't have to worry about the liquor enforcement people coming in and putting you through the harassment of asking for ID's and what have you.

Now, these clubs, as we presently know them as bottle clubs, the liquor enforcement people really and truly couldn't come up at the hearing and tell us of any problems that they have with any of the clubs in any of the areas where they presently exist.

All this bill will do is allow liquor enforcement to into these barn dances, or whatever you want to call them, and have them under the enforcement of their department, and I hope you will vote with me to kill this bill.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from York, Senator Danton, to accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, a quick observation of the bill poses a question in my mind as to whether or not anyone could invite people over to their homes on any given night without being considered by perhaps the liquor enforcement people as having a private bottle club. It states that no person by himself, clerk, servant or agent, partnership, club, association, etc., not licensed under this title shall keep, maintain, operate, lease or otherwise furnish to its members, their guests or other persons any premises, building, apartment or place — it just seems to me as though it is play on words and doesn't actually define what a bottle club is.

I recall several years ago that we had another bill very similar to this in nature, and that some of the biggest legal minds here tried to define exactly what a bottle club was, and found that primarily what they come up with was the Portland Club in my community and some golf courses in the rural area. I wouldn't want to offend any of these fine people, and I would support the good Senator from York, Senator Danton, and move that this bill and all accompanying papers be indefinitely postponed.

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

Mr. GRAFFAM: Mr. President, the good Senator from Cumberland refers to the Portland Club and the Cumberland Club. They already hold a liquor license — I am sorry, I guess that was in error.

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

Mr. CARBONNEAU: Mr. President, I think we probably should explain the bottle club a little more. As I understand it, and I was at the hearing, there are several bottle clubs in the state. Practically all of them operate in a nice respectable way. Those are bottle clubs or private clubs. That means that you have your own bottle in the club but they will give you the set-ups, or they will sell you the set-ups.

There are a few bottle clubs per se that are not operating too well. They operate in dives. And this bill actually came out, I think, of the liquor law enforcement people because they want to get them under the umbrella of licenses. That is what the bottle club is.

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

Mr. CONLEY: Mr. President, not being one who likes to engage in extra-curricular activities in the evening, I wonder if perhaps the chairman of the Liquor Control Committee might define to me and the members of the Senate exactly what a bottle club is.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I know it is unusual to refer to the written text, but House Amendment 438 defines it in section 1 beautifully.

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

Mr. DANTON: Mr. President and Members of the Senate: If anyone was to take the trouble to read House Amendment 438, you would find that the bottle clubs are put into every category that a Class A restaurant and hotel or motel with a liquor license is in.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Conley, that L. D. 966 and all its accompanying papers be indefinitely postponed.

The Chair will order a division. Will all those Senators in favor of indefinite postponement please rise in their places until counted.

A division was had, 20 having voted in the affirmative, and 12 having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act to Clarify Certain Provisions of the Maine Right to Know Law." (H. P. 848) (L. D. 1035)

Tabled — earlier in the day by Senator Reeves of Kennebec.

Pending — Motion of Senator Cyr of Aroostook to Indefinitely Postpone Senate Amendment "A" (S-176).

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-285).)

(In the Senate — Committee Amendment "A", Adopted.)

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

Mr. REEVES: Mr. President, I think I saw the writing on the wall last time, and I now ask permission to withdraw Senate Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now requests permission to withdraw Senate Amendment "A". Is this the pleasure of the Senate?

It is a vote.

Whereupon, on motion by the same Senator, the Senate voted to reconsider its prior action whereby Committee Amendment "A" was Adopted.

The same Senator then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-201, to Committee Amendment "A" was Read.

The PRESIDENT: The Senate has the floor.

Mr. REEVES: Mr. President, I would like to just briefly explain this. This

amendment extends coverage of our present right to know law to the legislature. That is all it does. In fact, it makes our present practice of open meetings and hearings a fact in law.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to Committee Amendment "A"?

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I think this amendment should receive the same treatment as we gave the one before. In fact, possibly the author, the sponsor of it, should ask leave to withdraw as covered by other legislation. We are covered by regulations as it is now, and I see no way of opening up government by adopting this here. Already before we have a public hearing we have to advertise it in all the newspapers of the state. We have a public hearing, at which time all the pros and cons are very well debated, and nobody is refused the right to speak on the issue, as long as he is not abusive. After the public hearing the committees have their working sessions, or executive session, at which time nobody is refused admittance to the committee room. Also, if the committee desires more information on the part of the sponsor or the opposition, department heads, or anybody who we think might help out, then they will be invited to these sessions, and then the committees will move either a majority report or minority report, at which time you sign the one you favor. Then this comes onto your calendar with your name on the proper report that you supported, it is then debated here through the legislative channels, back and forth between the two bodies. And what more do you want?

You know, this business of opening up government is noble, but it can go too far, and I think this is exactly where we are going. We are going a little too far with this. After all, when a public official has had the trust of the voter at the ballot box, he should also receive the confidence of the public. Now, if he doesn't perform properly, the remedy is again through the ballot box. If we push this fishbowl atmosphere too far, instead of opening up the government we are going to close the government, because in these committee meetings that we have many times there will be probing questions that will not be asked because you just don't want to expose yourself to the unfavorable publicity that would derive from it. And in most cases if you open up too far, particularly to the press, my experience has been that in many cases the press will report their opinion of the facts, and it you happen to be on the side that they favor you are the good guys. If you are not, if you are on the other side, you are the bad guys, and that is the way it is going to be reported, just in that light. I have seen it personally last spring in our own town council, the same thing.

I am in favor of open government, I am in favor of what we have now. We have no problem here in the State of Maine, so let's not produce it by putting any more of this legislation on the books. I move indefinite postponement of this amendment.

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

Thereupon, on motion of Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Cyr

of Aroostook that Senate Amendment "A" to Committee Amendment "A" be Indefinitely Postponed.

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

Bill, "An Act Relating to Executive Sessions of Public Bodies or Agencies." (H. P. 722) (L. D. 899)

Tabled — earlier in the day by Senator Corson of Somerset.

Pending — Adoption of Senate Amendment "A" (S-187) to Committee Amendment "A" (H-286).

(In the House — Passed to be Engrossed as amended by Committee Amendment "A".)

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President and Members of the Senate: I would like to just take a moment and explain what Senate Amendment "A" does. It removes from the Committee Amendment a section dealing with the right of a person who is being subjected to perhaps a tribunal type of meeting, where he is facing potential charges or where his performance of his job is being discussed, having the right to demand that that be a public meeting. I quote from the amendment: "and provided that any person under discussion may by written request demand that such discussion concerning him be open to the public." The amendment would remove that right of the individual to have the meeting open to the public, and would simply allow these type of functions to be closed sessions.

We in the committee felt that it was a safeguard for the individual to at his request open it to the public, yet if he preferred to keep these proceedings private he had that right, that is the accused had the right. Therefore, I would move that Senate Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Somerset, Senator Corson, now moves that Senate Amendment "A" to Committee Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, Senate Amendment "A" to Committee Amendment "A", which is under Filing No. S-187, deals with executive sessions of public bodies in the personnel area. I think that the personnel area has always been well recognized as an area where the law allows public bodies to vote to go into executive session.

Now, what the Senate Amendment does is restore the bill to its original form pertaining to paragraphs 1 and 2 on page 2 of the bill. Those paragraphs deal deal discussions concerning the appointment, the promotion or the demotion of certain employees and the dismissal of certain employees.

Now, if the public body, for example the city council or the school board, votes to go into executive session to discuss an appointment or an assignment, or a promotion or a demotion, under the law, if the Amendment passes, the person concerning whom the discussion is about will have a right to be present, he will have a right to be present with counsel. The person concerning whom dismissal is being discussed will have a right to be present, he will have the right to be present with counsel. What we are talking about is the right to open that meeting up.

I think that this deals with the initial stages only; for example, in the dismissal area. Someone who is subject to a dismissal has, of course, the right to a public hearing before he is dismissed, but this deals with the initial steps in that procedure. It is a little bit like the grand jury proceeding, where it is a secret proceeding mostly for the protection of the accused. And under the grand jury law, the accused does not have a right to make that grand jury public, and the main reason being that it is to protect the individual himself or herself.

So that this would allow the city council or the school board to go into executive session to discuss appointments, to discuss promotions, to discuss assignments, to discuss demotions, and the person who is concerned would be entitled to be present and entitled to be represented by counsel. But I think that it is going a little too far to allow that person to open up the meeting, especially, for example, in the area of dismissal.

I think that the public complains very often in the area of public employment that the tenure laws tend to work against a person of outstanding ability to be raised in the status and the tenure laws tend — according to the public, I think there is a general feeling — the tenure laws tend to lock people into positions. And I think that anyone concerning whom there would be a discussion of dismissal would automatically open the meeting up, and I think that that would pretty much end any discussion of dismissal.

So I hope that you would adopt Senate Amendment "A" to Committee Amendment "A", and we would still have an improvement in the executive session law, but we would be protecting the public officials who have to make these decisions or discuss them freely and openly, and we would be protecting the individuals involved. So I hope that you would vote against the motion to indefinitely postpone Senate Amendment "A". Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Somerset, Senator Corson, that the Senate indefinitely postpone Senate Amendment "A" to Committee Amendment "A".

The Chair will order a division. Those Senators who are in favor of indefinite postponement of Senate Amendment "A" to Committee Amendment "A" will please rise in their places until counted.

A division was had, 10 having voted in the affirmative, and 21 having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "A" to Committee Amendment "A" was Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Relating to Licensing and Fee Requirements for Private Detective, Watch, Guard or Patrol Agencies." (H. P. 1299) (L. D. 1575)

Tabled — Earlier in the day by Senator Corson of Somerset.

Pending — Adoption of Senate Amendment "A" (S-192).

(In the House — Passed to be Engrossed as amended by Committee Amendment

"A" (H-266) as amended by House Amendment "A" Thereto (H-435).)

(In the Senate — Committee Amendment "A" as amended by House Amendment "A" Thereto, Adopted, in concurrence.)

On motion by Mr. Clifford of Androscoggin, Senate Amendment "A" was Indefinitely Postponed.

Thereupon, on motion by Mr. Collins of Knox, tabled and Specially Assigned for May 29, 1975, pending Passage to be Engrossed.

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

Bill, "An Act to Restrict Armed Forces Preferences in State Employment to Veterans Who Were Not Career Officers or Career Enlisted Personnel and to Remove a Barrier to Affirmative Action Programs." (H. P. 1491) (L. D. 1739)

Tabled — earlier in the day by Senator Katz of Kennebec.

Pending — Enactment.

(In the House — Indefinitely Postponed.)

On motion by Mr. Katz of Kennebec, and under suspension of the rules, the Senate voted to reconsider its prior action whereby Conference Committee Amendment "A" was Adopted.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President, after another motion or two, I am going to ask the Senate to accept this compromise on this veterans preference employment, which makes the veterans preference opened without regard to time limitation but which restricts the preference of career officers, which affords the veterans preference for one time only, and it clarifies the equality between the sexes with respect to widows and widowers and so forth. I move that Conference Committee Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Conference Committee Amendment "A" be indefinitely postponed. Is this the pleasure of the Senate?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, under suspension of the rules, I move the Senate reconsider its action whereby it adopted Senate Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that under suspension of the rules the Senate reconsider its action whereby it adopted Senate Amendment "A".

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, as a point of order is the Senate in a position whereby it can do something different from the Conference Committee Report?

The PRESIDENT: The Chair would reply in the affirmative, it is in order.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I would like to pose a question to Senator Katz of Kennebec. The Senate having accepted the Conference Committee Report, is he going about to emasculate it?

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question to the Senator from Kennebec, Senator Katz, who may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Katz.