

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

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OF THE

STATE OF MAINE

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KENNEBEC JOURNAL
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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.