HB 2576 PA 826 1967

House 3051-3054 (4)

Senate 2402 (1)

Judiciary 510, 517-520 (5)

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whom you have known. This young man lived in the villiage of Wauregan in the town of Plainfield, which is in the 57th district. It is on behalf of Representative Gosselin, who is representative of that district, and on my own behalf that I urge adoption of this resolution. I urge that we adopt this resolution in the same fashion that we have the previous one by a standing vote, Mr. Speaker.

THE SPEAKER:

Will you remark further on the resolution? If not all those in favor of the resolution will please rise. The resolution is adopted.

THE CLERK:

Business on the Calendar. Saturday, May 27, 1967

Calendar No. 669 Substitute for House Bill No. 2576. An Act Creating a Privilege of Non-Disclosure for Communications Between a Person and a Clergyman. Favorable report of the Committee on Judiciary and Governmental Functions. File No. 754.

MR. CARROZZELLA (81st)

I move for acceptance of the joint committee's favorable report and passage of the bill.

THE SPEAKER:

The question is on acceptance and passage. Will you remark?

MR. CARROZZELLA (81st)

Mr. Speaker, I would like at this time to yield to the gentleman of the 122nd for an amendment.

MR. STEVENS (122nd)

Mr. Speaker, the Clerk has an amendment. May the Clerk please read the amendment.

THE CLERK:

This is House amendment Schedule "A" offered by Mr. Stevens of the

122nd district. Strike out all after the enacting clause and insert in lieu thereof the following: A clergyman, priest, minister, rabbi or practitioner of any religious denomination accredited by the religious body to which he belongs who is settled in the work of the ministry shall not disclose confidential communications made to him in his professional capacity in any civil or criminal case or proceedings preliminary thereto, or in any legislative or administrative proceeding unless the person making the confidential communication waives such privilege herein provided.

MR. STEVENS (122nd)

Mr. Speaker, I move adoption of the amendment.

THE SPEAKER:

The question is on adoption of the amendmrnt. Will you remark?

MR. STEVENS (122nd)

Mr. Speaker, it may come as a surprise to some of the members of the General Assembly but there is no statuatory privilege in the State of Connecticut which today attaches to the communications made between an individual and his priest, rabbi, or practitioner of the particular faith to which he belongs. I am sure we will all agree that there should be a legally recognized privilege between a minister of any faith and the person who communicates information to him in confidence. This is the purpose behind this bill and the amendment which you have on your desk established this privilege and requires that the person who has made the confidential communication must waive his right not to have that information revealed before it can be revealed before a court, administrative, or legislative body. The amendment of offered to clear up a question which arose concerning the file copy as to whether or not it would be necessary for the person who has made the communication to waive the right to have that information released, The amendment clears this question up and will establish

in the State of Connecticut the right of a minister of a particular faith to remain silent concerning a confidential communication unless that right was waived by the person who has passed the information on the the minister of his faith. I think we need this in the State of Connecticut and I urge adoption of the amendment.

THE SPEAKER:

Will you remark further on the amendment.

MR. TORPEY (15th)

Mr. Speaker, this bill protects the clergyman who refuses to reveal what has been told to him in confidence. But more important it protects the right of the public to confide in the clergy. Forty-four states now have such a law. Not one of the forty-four states repealed the law after enacting it. This is sound public policy and I am certain most citizens believe they already have this legal protection in their confidential dealings with the clergy. I urge you to pass this bill.

THE SPEAKER:

Will you remark further on House Amendment Schedule "A". If not the question is on adoption of House amendment Schedule "A". All those in favor will say aye. All those opposed? The amendment is adopted. The Chair will rule that it is technical in nature and not order it to the Legislative Commissioner's office. The question now is on acceptance and passage of the bill as amended by House amendment Schedule "A". Will you remark further?

MR. CARROZZELLA (81st)

I think that the bill now before us is a good bill. It provides us privilege. I think it is an important privilege. I hope the bill passes.

THE SPEAKER:

Will you remark further? If not the question is on acceptance and

passage of the bill as amended by House amendment Schedule "A". All those in favor will say aye. All those opposed? The bill is passed.

THE CLERK:

Calendar No. 750 H.B. 2161

MR. CROMBIE (44th)

May Calendar No. 750 on page one be passed retaining?

THE SPEAKER:

Is there any objections to Calendar No. 750 being passed retaining?

MR. LENGE (13th)

I rise to object to the motion.

THE SPEAKER:

The question is on passed retaining Calendar No. 750.

MR. LENGE (13th)

Mr. Speaker, I move that when the vote be taken that it be by roll call.

THE SPEAKER:

The question is on a roll call. All those in favor of a roll call will say aye. All those opposed? In the opinion of the Chair a sufficient number has answered in the affirmative and a roll call will be ordered. The House will come to order. The question is on passing retaining Calendar No. 750, File #833. Will you remark?

MR. CROMBIE (44th)

I had asked when we adjourned yesterday for a meeting on Saturday. This is the first call for a session on Saturday, a day that we meet on Saturday in this session. I had asked to minority leader on the other side of the House some time ago if he would object to suspensionof the rules for taking up one star Senate items in order to advance this Calendar. I was refused. It is

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desirable bill and I urge its passage.

THE CHAIR:

The question is on passage of the bill. Will you remark further? If not, all in favor, signify by saying Aye. AYE. Opposed? The bill is passed.

THE CLERK:

Calendar 1073, file 754, substitute HB 2576, An Act Creating a Privilege of Non-Disclosure for Communications between a Person and a Clergyman. As amended by House Amendment Schedule "A". Favorable report of the Joint Committeeon Judiciary and Governmental Functions.

SENATOR JACKSON:

Mr. President, I move the acceptance of the joint committee's favorable report and passage of the bill. This is important new legislation creating a privilege between a person and any ordained or licensed clergyman of any religion established in this state or any other state who has settled in the work of his ministry so long as the communication between the two is confidential and is made to the clergyman in his professional capacity. I think this broadens our present act creating privileges. It's a good bill and I urge its passage.

THE CHAIR:

Will you remark further? If not, all in favor of the passage of this bill as amended, signify by saying Aye. AYE. Opposed? The bill as amended is passed.

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Joseph P. Cooney: eight cars, so seven of them are guilty of negligence under this bill. Can you imagine anything like that? As a matter of fact, the one fellow who may be guilty of negligence, is the fellow at the beginning of the line who makes a sudden and unwarned stop. He's responsible for all the collisions. But, this bill survives that foolishly. Now the other thing the bill provides, is that if a car goes off the road, that's Res Ipsa Loquitur. He could have been forced off by somebody coming in the opposite direction, forced off by a car trying to pass him, hit an obstruction in the road, hit an oily part, so this isn't Res Ipsa Loquitur. May I leave the memorandum? I only have one more Mr. Chairman, and I put on another hat. This is in regard to 2576 H. B. No. 2576 (Rep. Torpey) AN ACT CONCERNING CREATING A PRIVILEGE OF NON-DISCLOSURE FOR COMMUNICATIONS BETWEEN A PERSON AND A CLERGYMAN creating a privilege for non-disclosure for clergymen. Now actually, although I'm speaking for the Catholic Church in this instance, I think this affects all clergymen and perhaps others more so than catholics, because I think we all believe the seal of the confessional is inviolate and I don't think any Judge would attempt to require anything said in a confession to be disclosed but we must remember that clergymen of all faiths have a lot of contact where they're trying to maybe settle a family domestic situation and there's a serious question under the law now. If a clergyman had a couple in for a discussion to see if he could reconcile their marital difficulties, whether he couldn't be required to testify as to what was said by each at that counsel. Now actually, there are only six states which don't have a bill, a law of this nature and I'd like to leave this memorandum with you. Thank you very much.

Chr. Pickett: Mr. Morano wants to speak briefly. Then Mr. RisCassi, Mr. Danaher, Mr. Yudkin.

Mr. Morano: Mr. Chairman, members of the committee, I appear today to speak to you in behalf of H. B. No. 3604 (Rep. Morano) AN ACT CONCERNING GARNISHMENT OF BANK ACCOUNTS In the brevity of time, I will not comment on the bill. I trust that you will discuss it in committee but I do come dressed in St. Patrick's attire. In this spirit, I hope you give it a favorabl report. Thank you.

Leon RisCassi: S. B. No. 48 (Sen. Gunther) AN ACT CONCERNING THE TRIAL OF CIVIL ACTIONS FOR PERSONAL INJURY OR PROPERTY DAMAGE, TO SHORTEN THE TIME OF TRIALS, LESSEN CONGESTION IN THE COURTS AND EXPEDITE THE ADMINISTRATION OF JUSTICE I didn't hear Mr. Cooney on that. I hope he's against that. That's split trials on liability and damages. I don't think anyone that's ever had

John Yeomans: confused with a summons like a summons for contempt where they really have to be there. Thank you.

Chr. Carrozzella: Thank you, Mr. Yeomans. Mr. Finlay.

Kenneth W. Finlay: Mr. Chairman, I am Kenneth Finlay, Christian Science Committee on Publication for Connecticut, representing the Christian Science churches in this state. I am speaking in favor of H. B. No. 2576 (Rep. Torpey) AN ACT CONCERNING CREATING A PRIVILEGE OF NON-DISCLOSURE FOR COMMUNICATIONS BETWEEN A PERSON AND A CLERGYMAN but I would like to broaden the scope of it so that it might include Christian Science practitioners. Our practitioners are listed in the State Manual of Connecticut, and they are engaged in a religious ministry, as stipulated in the teachings of our church. This encompasses many of the duties of a clergyman, except that it does not include the giving of sermons or performance of marriage ceremonies. They are not ordained ministers. They counsel in human relations. They give spiritual advice and comfort. They pray for those who ask for help. Strict confidence is required, as specified in The Manual of The Mother Church of Christ, Scientist, Boston, Mass. In the Social Security Law classified with practitioners with ministers. There are probably a dozen states where Christian Science practitioners are included in a bill such as this. Christian Science practitioners serve as commissioned chaplains in the Armed Service. We will appreciate your approval of this bill but we would like to include the amendment in the third line, including any accredited Christian Science practitioner. Appreciate your consideration.

Chr. Carrozzella: Thank you very much. Rep. Torpey.

Rep. Torpey from the 15th District: Mr. Chairman, members of the committee, I'm representative Torpey from the 15th. I would like to point out that I feel very strongly in regards to bill 2576 H. B. No. 2576 (Rep. Torpey) AN ACT CONCERNING CREATING A PRIVILEGE OF NON-DISCLOSURE FOR COMMUNICATIONS BETWEEN A PERSON AND A CLERGYMAN This bill dragged me out of the celebration going on in the House and the only other thing I think that could do that, would be Gabriel himself. The object of this bill is to protect the right of the public, the individual, to confide in the clergy. Is it necessary to pass this law? 44 states have such a law now. We, in Connecticut, find ourselves in the company of such states as Alabama, Mississippi, and Texas. Is such a law necessary in this day and age in Connecticut?-or-Is this just a matter of passing needless legislation? I believe it is very necessary. Let me briefly relate some

Rep. Torpey: facts in a case. In 1965, a clergyman was subpoenaed to appear in Superior Court to testify in a criminal case on matters involving confidential communications. The subpoena was issued by a States Attorney's office with the full, personal knowledge, this was no accident, or clerical error. The subpoena was delivered at approximately 6:30 p.m. which required the clergyman to appear at 9:30 the next morning. The case was postponed because of the illness of one of the attorneys involved. For the next two weeks the clergyman was held under the subpoena and then was notified that he would not have to appear but supposing the case was not postponed and the attorney was not sick. Another case in 1965 when a clergyman was threatened with the possibility of a subpoena. He was advised by his legal counsel to get out of town until the case blew over. And again, we're talking about clergymen, not hoods. We're talking about 1965 not 1865. What a sad commentary in our state that this has to be. Again in 1963 there was another case of a similar nature where the clergyman was given similar advice. These three cases were brought to my attention. I did not search them out. They dramatically demonstrate the need of the legislation I propose. Will this law be abused? I think not. Not one of the 44 states that now have this law has repealed it. This is sound public policy and I am certain most citizens believe that they already have this legal protection in their confidential dealings with the clergy. Now in regards to the proposed amendment that was just offered, I feel that it is not necessary. That they are fully covered under the present ruling that is clearly spelled out--the argument that the gentleman has given classifies them without question as clergymen. However, if there is any question in your mind, I certainly have no objections whatsoever to the proposed amendment. Thank you.

Chr. Carrozzella: We'll close the hearing on Group 4, open the hearing on....

Egor Sikorsky: Mr. Chairman, My name is Egor Sikorski. I'm appearing here as a private citizen. I speak out in behalf of the bill 2576 H. B. No. 2576 (Rep. Torpey) AN ACT CONCERNING CREATING A PRIVILEGE OF NON-DISCLOSURE FOR COMMUNICATIONS BETWEEN A PERSON AND A CLERGYMAN the bill representative Torpey just spoke out. I also as an attorney practicing in this county would very strongly favor the bill that was presented to give the immunity here. I happen to know of one circumstance where an Episcopalian minister who is active in downtown Hartford as part of a mission to the slum area, contacted me with boys that he had, who had confessed to him a crime. They turned over to him, stolen goods which, in due course, I managed to return to the person from whom

Egor Sikorsky: they were stolen but all of us were a little nervous here as to whether we were covered by any privilege. He was, particularly. I went to the prosecutor and the state's attorney of the county involved and he was quite concerned about it. He said he wasn't going to call us in and he wasn't about to call in a member of the cloth but none-the-less he said to me he wished there were a clear cut statute here so that he would know more clearly what his rights were in this situation because after all, these boys had confessed to a crime to a minister, had made restitution and yet there was this fear that he might be called. He would have had to commit a contempt of court and refuse to answer and go to jail if he'd been called. Now obviously it may be remote and the reason it doesn't come up is no one is about to put a minister in jail but this case and this question actually came up and I know of others. I wish Mr. Cooney were here because I believe he could tell you, and I know as a fact he could tell you, that he does get calls from time to time from clergymen who ask, "What shall I do. I have been threatened to be called as a witness". Also, and this is in criminal matters, obviously it's quite important, it's equally important in divorce matters. Also it's very confidential. Occasionally criminal matters come out in a consultation a minister might have in an effort to try to settle a case or to try to help a marriage. It also comes up, as you know now the Circuit Court, I'm afraid some day some teen-ager will confess where he got liquor, and some Judge will be confronted with this rule that the Circuit Court judges, as you know, have, that they say "well, I can, anyone that knows where liquor came from, I can send them to jail". Some of the Judges have been doing that. Of course, these are acute but I think this is a very important bill and one of major principle here. I can say in point of fact, it will affect a lot of people but it is a matter of principle that I believe should be part of our statutes.

Rep. King, 48th District: Attorney Sikorsky, Rep. King, 48th District. As I understand the law in Connecticut, at the moment neither the clergy nor doctors have this immunity. Would you be in favor of the same argument applying to medical doctors?

Egor Sikorsky: Very definitely. I think that if a person consults with a doctor, gives him confidential communications, unless he waives that privilege by calling a doctor as his witness, I feel very definitely it should be covered. I know psychiatrists, for example, are actively engaged in marriage counselling. We had a case, in an old firm I was in years ago, where a doctor who had been counselling one of the parties in a divorce action, was called.

Egor Sikorsky: Now after a lot of juggling around, they never forced the issue but it was there and it obviously was something where he was honor-bound not to reveal confidential communications. Of course, if he calls him as his own witness, that's a different matter. He's waived at. But if the doctors are not covered now, and off hand I can't say that, I thought the legislature had done that one session, or two sessions ago. If they haven't, then I think it should be included.

Chr. Carrozzella: Thank you, Mr. Sikorsky. We'll close the hearing on Group 4 and open the hearing on Group 5 which includes the following bills. S. B. No. 515 (Sen. Amenta) AN ACT CONCERNING ACTIONS AGAINST THE STATE ON HIGHWAY AND PUBLIC WORKS CONTRACTS and S. B. No. 1240 (Sen. Amenta) AN ACT CONCERNING PAYMENT OF INTEREST AFTER JUDGMENT I have as the speakers, Paul Kane. Pardon? and 155 S. B. No. 155 (Sen. Buckley) AN ACT CONCERNING LIABILITY I have the speakers as listed here, Paul Kane on 515, Mr. RisCassi on 1240, Mr. Knurek of the Highway Dept. on 1240 and Mr. Yudkin.

Paul Kane: Mr. Chairman and members of the committee. My name is Attorney Paul Kane. Speaking on behalf of the Conn. Road Builders and speaking in favor of S. B. No. 515 (Sen. Amenta) AN ACT CONCERNING ACTIONS AGAINST THE STATE ON HIGHWAY AND PUBLIC WORKS CONTRACTS This is perhaps on e of the most important, although one of the non-controversial bills, that the road builders are interested in, in this session of the legislature. What this bill is, is an amendment to 4-61 of the Conn. General Statutes. Now Sec. 4-61 is of comparatively recent vintage and what it has done is allow contractors with the State of Connecticut to sue the State. At present, 4-61 provides that a contractor can sue only on a contract that was entered into the State of Conn. acting through; 1. The highway department 2. The department of Public Works. Now this agreement would have a two pronged effect. No. 1 it would allow suits by a contractor who is constructing a public works for the state of Connecticut against any agency in the state of Connecticut, not just the highway department, not just the Department of Public Works. Now this is very important because in recent years contracts started to be administered by the Dept. of Agriculture, and I believe the Aeronautics Commission and when money comes down from the Federal Government on a Flood Control Project for example, it's administered by the agricultural department and at present, if a contractor was to have a claim against the state based on a Flood Control project, he would have no right to sue under 4-61. The second thing that this amendment does, is make it clear that designers have a right to sue. At prese