

MAINE STATE LEGISLATURE

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October 12, 1973

Charles F. Trumbull, Chairman

State Liquor Commission

John Kendrick, Assistant

Attorney General

Men's taverns

SYLLABUS:

A "tavern" can no longer be operated for men only because such an operation constitutes a "public accommodation" which discriminates against women. Women may not be excluded from taverns.

FACTS:

28 M.R.S.A. § 2 sub-§22 restricts the license classification of a "tavern", to men only.

The State Liquor Commission calls attention to new legislation which went into effect October 3, 1973, guaranteeing both sexes equal access to places of "public accommodation." P.L. 1973, c. 347. The Commission asks whether continued operation of the "taverns" for men only would be unlawful.

QUESTION:

Is the "tavern", for men only, a "public accommodation" that unlawfully discriminates against women?

ANSWER:

Yes.

REASONS:

When Chapter 347 Public Laws of 1973 went into effect October 3 it established two new legal principles pertinent here. First a civil right of all citizens was recognized and declared, that each individual should have equal access to "public accommodation", free from discrimination on account of sex. 5 M.R.S.A. § 4591, as amended. Second, Chapter 347 made the practice of sex discrimination by "any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation" unlawful. 5 M.R.S.A. § 4592, as amended.

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The Maine Human Rights Commission, had earlier been created by an Act which gave an extensive definition of "public accommodation." 5 M.R.S.A. § 4553, sub-§8. This definition specifically includes taverns, saloons, barrooms or any enclosure where spirituous or malt liquors (beer or ale) are sold. There can be no doubt that the "stand-up tavern" for men only, described in 28 M.R.S.A. § 2 sub-§22, is covered by the intended meaning of "public accommodation" in the Maine Human Rights Act. Discrimination against women by any person operating such a tavern, or his agent or employee, thus would be unlawful.

The Liquor Commission can still license taverns, but women must be allowed to patronize them. The Commission should notify each tavern licensee to this effect.

An amendment to 28 M.R.S.A. § 2 sub-§22 striking the words "for men only" is advisable to avoid misunderstanding in future years, and would be a proper subject for the Errors and Inconsistencies Bill.

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JK/mf