

January 12, 1976

SENATOR SCHMIT: Hold the motion.

PRESIDENT: Hold the motion.

SENATOR SCHMIT: Maybe I can convince Senator Lewis of the error of his ways. I'd just like to point out that, in this instance and in everyother instance, what we are doing is to allow those two individuals, all of whom are of age and of sound mind and body, to enter into an agreement that is bordered upon their employment. It doesn't require that individual to sign that agreement if he desires not to do so. But if he does desire employment in a profession, in which he perhaps has no skill or limited skill, pursuant to that employment the employer requires him to agree that he will not, upon being trained, educated and becoming skilled, then enter into competition with him. I know there have been instances where employees have done this. Because of the fact they become access to privilege information that their employer must necessarily reveal to them, they are provided with the information relative to contracts and customers, many times because of the fact that they are not familiar with business practices it seems to them to be a very simple business, or a very simple situation whereby they can set up their own business, go into business, and compete with their former employer, not being familiar with the many problems that are inherent with business, not being familiar with the expenses of paying the workmens comp. insurance rates, the unemployment insurance rates, the taxes, the insurance of many other kinds that go along with operating a business, a former employee can very easily fail in a business. During the period of time that he was involved everyone suffers. His former employer suffers, he suffers, the customers suffer. Eventually the employee is the largest loser in the entire circle because he's lost his job and he's lost his business.

Now I'm not going to say that there are not extenuating circumstances. I think, however, to remove from the Statute the provision that allows, again, two persons of sound mind to enter into an agreement is one more intrusion upon business that we don't need.

I could support many of Senator Lewis' positions on bills in this body, but I would have to suggest that, in this instance, I think it is a mistake to remove this language. I'll hold that kill motion for awhile because I think, perhaps, there might be some more discussion on the bill.

PRESIDENT: Senator Dworak.

SENATOR DWORAK: Mr. President, I have a question of Senator Maresh. Under this non-compete bill, is it possible now ... or if this bill would pass, would it be possible for an employer to hire a man and then, in his employment contract, put the provision in that this man can leave that employer and go out into business in competition with that employer, but he cannot ... or could not compete on ... for those employers customers?