

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Third Legislature

OF THE

STATE OF MAINE

1947

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Mr. DENNY of Lincoln: Mr. President and members of the Senate, I cannot agree with Senator Bishop when he says it is a harmless bill and that it will not affect the economy of the towns. If I am correctly informed, I was told by someone who attended the hearing that the town managers of both Portland and Bangor stated that it would double their transportation costs if this idea was developed.

I call your attention once more to the fact that we have our public schools supported by public funds and they are to be used as public schools; and also to the fact that a parent who chooses to send his child to a private school assumes responsibility of the entire expense. I believe it is a mis-use of public funds to go into this field of transporting children to private schools when there are public schools available.

The PRESIDENT: The question is on the motion of the Senator from Lincoln, Senator Denny, to indefinitely postpone this bill. The Senator from Sagadahoc, Senator Bishop, has asked for a division.

A division of the Senate was had.

Eighteen having voted in the affirmative and thirteen opposed, the motion to indefinitely postpone in non-concurrence, prevailed.

Sent down for concurrence.

Mr. Cleaves of Cumberland was granted unanimous consent to address the Senate.

Mr. CLEAVES: Mr. President and members of the Senate, I want to call your attention to a little sheet placed on your desks which is the latest statement from the Appropriations and Financial Affairs Committee, showing the present status of the bills before us. This shows, as of last night, \$300,000 that is in committee in process of consideration. We have \$644,745 in process between the House and Senate that no disposal has yet been made of. We have already killed, if we may put it that way, \$3,351,851. We have on the table in the Senate, awaiting disposal, \$9,488,957, and these are "ought to pass" reports of committees. We have also on the Senate table "ought not to pass" totaling \$340,000, and we have had signed by the Governor \$37,388.

This is the latest up to date statement, and we would certainly appreciate it if you would study it very thoroughly in your considera-

tion of such tax measures as come before you.

On motion by Mr. Haskell of Penobscot, the Senate voted to take from the table, Bill, An Act Protecting the Right of Members and Non-Members of Labor Organizations to the Opportunity to Work (H. P. 1652) (L. D. 1346) tabled by that Senator on April 11th pending passage to be engrossed.

Mr. HASKELL of Penobscot: Mr. President and members of the Senate, this bill is the Tabb bill, so called. It was tabled on the 18th of April pending a clarifying amendment which sought to permit the union shop. It has stayed on the table pending consideration of other labor bills, which other labor bills sought to more clearly define the different types of union security.

As I interpret the wishes of at least some of the members of this Senate, we are confident that the labor legislation that is going to be passed at the federal level will solve our problems. I am sure we can be secure in the thought that anti-closed shop legislation will be included in whatever is passed at the federal level, for in both the House labor bill and the Senate labor committee bill in the Congress, the anti-closed shop provision is included, and such part as I have read of the congressional debate—such attacks as have been made by friends of labor, have not attacked the anti-closed shop provisions. While I signed the "ought to pass" report I had the feeling if we must pass anti-labor legislation here in the session this was the thing we probably ought to consider yet the action of the congress during the last six weeks and particularly the action during the last week now thoroughly convince me we ought not to pass this bill.

I think some of us are convinced this Republican legislature can well adjourn without enacting any anti-labor legislation, and if that is the feeling, and I think it is the sound and right feeling, and I think it is the thing labor in this State deserves and is entitled to from their record, and I think the proper procedure in the last of the labor bills is to indefinitely postpone it, and I therefore move that Legislative Document 1346 be indefinitely postponed.

Mr. HOPKINS of Kennebec: Mr. President and members of the Sen-

ate, I am glad Senator Haskell classified this as anti-labor legislation. I am sure you didn't, when you voted for this legislation before, consider yourselves as "anti-labor" and I am sure I do not consider myself as anti-labor." I do not believe it is "anti-labor" legislation to say that American citizens before they take jobs must first join a union and pay dues, dues without limit except those placed by the leadership. Personally, I think people who support legislation which provides such imposition against the working men of this country are not anti-labor.

When we had this bill before us before, I think I told you that as near as I was able to determine something less than 5% of the union security contracts of the State of Maine are closed shop contracts. I don't know just how many there are. I doubt if anyone else knows the exact number of closed shop contracts in the State of Maine. I also said that most of the excesses, the worst excesses being carried on in this country by labor leadership are in closed shop contracts. This morning I said that an unrestricted union shop contract should and sometimes did bring excesses against the workers which were almost as severe as those which exist under closed shop contracts. I gave you information before which showed a large number of organized labor, itself, do not favor closed shop contracts. I gave you some information showing what it did to costs, unrestricted costs on some phases of labor, and brought it to the State of Maine, admitting the figures I gave you were subject to such adjustments as you might find they needed as result of your study.

Of course this bill before us will not protect the workers unless you also have with it regulations of union shop contracts which definitely delineate the rights of labor leadership, of workers, employer and the public. I am sure I know how the members of the Senate feel about closed shop contracts. I personally am against them and I hope the motion of the Senator from Penobscot, Senator Haskell, does not prevail. I ask for a division.

The PRESIDENT: The question is on the motion of the Senator from Penobscot, Senator Haskell, to indefinitely postpone.

A division of the Senate was had. Fourteen having voted in the af-

firmative and sixteen opposed, the motion did not prevail.

Mr. Haskell of Penobscot presented Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to L. D. 1346: Amend said bill by adding at the end of the first paragraph of that part designated section 41-A the following underlined paragraph: **'Nothing in this section shall prohibit the execution, performance and enforcement of a union shop contract, so-called, wherein an employed person shall be required as the condition of continuing employment by the State or any subdivision thereof, or any corporation or individual or association of any kind to join and maintain membership in any labor organization, provided however, that an employed person shall not be required as condition of employment to join a labor organization during the first 30 days of his employment.'**"

Mr. HOPKINS of Kennebec: Mr. President, I'd like to say in regard to this amendment that it has been under consideration for a long time. When the committee reported out the Tabb bill it wrote the bill and made it as brief and concise as possible. We thought we had a bill which was good law and which was not subject to any dissertation as far as interpretation was concerned. After the bill had been approved by both houses of the legislature the question arose as to whether or not the bill was good law without any time factor in it. Some attorneys expressed the view it was not. Others expressed the view that it was. I think at the present time that most lawyers, although I am not sure, would agree that the bill as now written is good law. It does say in very simple English that you shall not withhold work from a man because he is or isn't a member of a labor organization. That is all it says in its present form. Had we passed a law that delineated the conditions under which union shop agreements could be entered into in the State of Maine, I think there is no question but the present Tabb bill would be good law. I have talked with the assistant attorney general about it on different occasions and he has expressed the view that the law is all right in its present form. There is nothing in the statute to prohibit union shop contracts at the present time. A large number

of such contracts are in operation in the State of Maine.

I see no reason at all in confusing the Tabb bill by hanging this amendment on it and it doesn't seem to me it would accomplish anything. All the amendment asks for is permitted under the law and is being practiced in the State of Maine in a quite general way. I think I told you that 20% or more of the new security contracts at the present time are union shop agreements, so we know there are a large number of these agreements being used in Maine today. The Tabb bill is simply a gesture, anyway. It simply says, as I previously stated, that you shall not refuse to hire a man for a job because he is or is not a member of a labor union. That simple statement on the law books of Maine is good enough for me. I think it is meaningful enough and I don't think it is necessary to add the amendment because all the amendment asks for is now being practiced. I hope the motion to adopt the amendment will not prevail.

Mr. HASKELL: Mr. President, the amendment that has been submitted, in the opinion of the legal representatives of many employers in the State is essential if you want to protect union shops in the State. There are all our major industries that are organized and operating under union shops and not closed shops and the reasons they submit to me for wishing clarification to permit the continuity of union shops are these: In the first place, their labor relations under union shop conditions, in the opinion of employers, have been excellent and they do not want the union shop relationship disturbed.

Senator Hopkins has indicated that there is nothing in the statutes that prohibits that. He is quite correct but I think there will be something in the statutes 90 days from the date the legislature adjourns, by virtue of this Tabb bill. In the first place, it provides that no person shall be denied the opportunity to obtain employment. That word "obtain" must stand the test of court adjudication as to time. Will the ruling be that it means the act of getting a job or will the courts rule it means getting a job and keeping it? That, I think, is a minor objection.

The major objection, I think, is this: If I am an employer and hire

a man, telling him when I hire him, that I am operating a union shop and as a condition of employment he must join the union three or six months from the date of employment along with other employees, and agrees and begins employment; and then he refuses to join, or having joined refuses to pay his dues. According to union shop agreements I must terminate employment. I call him in and remind him it is a union shop and he has not paid his dues and he says, "I am sorry" and goes on his way. He comes back the next day and says, "I would like a job". Naturally I would say, "I am sorry, you are not a member of the union." He looks at the laws passed by the 93rd Legislature and reminds me I cannot deny him the right of employment because of the membership or non-membership provision. It is that which is disturbing to many employers who have asked me to state if the legislature is sincerely desirous of continuing union shops under which a substantial part of Maine industry and a substantial part of Maine's \$400,000 payroll in this State operate successfully, they say "please see that our union shop is protected, and in our opinion it will protect those successful union shops, but without it those union shops will be placed in real hazard."

Mr. HOPKINS: Mr. President and members of the Senate, the point which Senator Haskell raised would indicate that he interprets the only reason anybody could bar a man from employment was because he was or was not a member of a union. It is, of course, an absurdity. If union security had been negotiated in Maine, and it can, requiring an employee when he goes to a union plant, to join a union, and that employee does not join the union, I wonder if there is any Senator here who believes that employer would have no other cause for denying him a job, if he came and asked reinstatement in his job, other than the fact that he was not a member of a labor organization. I am sure it is an absurdity. You could say to the man, "You don't keep your word and we are not interested in hiring people who do not keep their word."

Mr. BARNES of Aroostook: Mr. President, I think sometimes it is difficult for us to narrow our view on matters of labor legislation in

this State and I think sometimes we are bothered by national problems. I know when my coal bin, as it has in the past two years, got nearly empty I could not help thinking of the national problem.

I am quite amused that the chairman of the Labor Committee would oppose this amendment. He says in one breath that we don't intend to interfere with union shops and the next breath when the amendment is presented, opposes passage, because of the fact that lawyers who have studied it say there is some doubt in the statutes on the point. He says we don't want the amendment. I voted against the Tabb bill, in the original form without the amendment but I certainly hope the Senate will adopt the amendment. I don't like the reasoning of saying that we won't touch union shops and in the next breath saying that we don't want the amendment either. I come from a county which depends largely on pulpwood products for income and if the Great Northern Paper Company with their paper companies in Maine want union shop contracts, I for one, in my county, say we ought to make it possible for them to do so. I most sincerely hope this amendment which, from the mouth of the chairman of the Taxation Committee, we have heard is exactly what he wants—I hope this amendment will be adopted.

Mr. HOPKINS: Mr. President, I thought I made myself clear when I said that I opposed this amendment because I believed it was entirely unnecessary. I have said from the start that union shop contracts were acceptable to me and I wanted to see them protected in Maine and properly regulated, and the rights of employers and employees properly defined under the law. I see no reason at all for this amendment because it is just an addition which has no value.

Mr. LEAVITT of Cumberland: Mr. President, the only possible objection I have to this amendment is the fact that I think it will call for further amendments. If we can force a man to join a union in 30 days you could even bar him from the union by making him pay five or six hundred dollars initiation fee to the union, and some men who wanted employment could not afford to pay the initiation fee at the end of 30 days would not you

be barring him from employment? Now, I know certain unions that have union initiation fees that run as high as \$500. If this amendment goes on, unless there is a further amendment which says the dues cannot be exorbitant or beyond a certain figure, you are doing exactly the same thing—you are losing the entire effect of the Tabb bill by forcing a man to join a union in 30 days and making him pay more than he can possibly afford, and therefore, preventing him from getting work.

Mr. HOPKINS: Mr. President, I ask for a division.

Mr. CROSS of Kennebec: Mr. President and members of the Senate, amendments serve a number of purposes. Sometimes they sincerely improve the bill and sometimes they are intended to becloud the issue. It seems to me the Tabb bill is a very simple, uncomplicated document. You could take it or leave it. A child could understand it. If you complicate this thing with amendments I don't know how far the amendments would go. I think the bill itself is sufficient to do what we intend it to do. I think we feel it accomplishes a useful purpose. I rather doubt with this amendment it would accomplish that purpose.

Mr. HASKELL: Mr. President, it certainly was not my intention to becloud the issue. It is simply my intent to take my understanding and that of every member of the Committee on Labor and interpret it into this bill so that there is no question as to the legality of the union shop. I have no particular pride in the words proposed to you in that amendment but I do take at face value the insistence of every member of the Committee on Labor in passing out this bill, that they had no intention of disturbing in any way the union shop contracts in the State of Maine. Certainly it is not my intent to disturb the bill in any way as far as closed shops are concerned it is my real hope that you do not disturb the union shops. I think to insure employers and employees continuity of their contracts you do need this amendment.

Mr. LEAVITT: Mr. President, through the Chair I'd like to ask Senator Haskell if he would answer whether a union could charge an exorbitant rate and therefore make

it impossible for a person to seek employment?

Mr. HASKELL: Mr. President, I will say as the Tabb bill is written without the amendment, there is absolutely no limit on what a union can charge. The amendment in no way, shape or manner changes that. The Tabb bill puts no restriction on union fees. I have heard no evidence in the State of Maine of any exorbitant union fees or dues. As a matter of fact, those excesses cited usually go to Chicago and sometimes New York City in the building trades, but it is not a problem in the State of Maine. As far as the amendment is concerned, the problem is not changed one iota. The Tabb bill, as you have it before you, protects in no way whatsoever the union fees or dues, so it makes no change in that.

Mr. MORRILL of Cumberland: Mr. President, sometime ago I went on record as favoring the Tabb issue, the clear issue of closed shop. Senator Haskell, in offering this amendment, in my opinion, is beclouding this issue. He has raised a point on the use of the word "obtain," and the consequence of a man through non-payment of dues who sought employment again and was turned down and the results therefrom. I realize the final interpretation is for the courts, but I have talked with the assistant attorney general and have confidence enough in his judgment to be satisfied when he tells me the Tabb bill as it stands now does not do a thing to harm the union shop. I hope the motion to adopt the amendment does not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Haskell, to adopt Senate Amendment "A." A division has been requested.

A division of the Senate was had.

Thirteen having voted in the affirmative and seventeen opposed, the motion did not prevail.

Thereupon, on motion of Mr. Hopkins, the bill was passed to be engrossed, in concurrence.

On motion by Mr. Cleaves of Cumberland, the Senate voted to take from the table, Resolve in Favor of Knox Memorial Association, Inc., for Support and Maintenance of "Montpelier" (H. P. 1045) (L. D. 684) tabled by that Sena-

tor on May 2nd pending adoption of House Amendment "A" to Committee Amendment "A"; and on further motion by the same Senator, House Amendment "A" to Committee Amendment "A" was adopted in concurrence, and under suspension of the rules the bill was given its second reading and passed to be engrossed in concurrence.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, Senate Report "Ought Not to Pass" from the Committee on Legal Affairs on Bill, An Act Relating to Police Commission of the City of Lewiston (S. P. 322) (L. D. 870) tabled by that Senator on March 7th pending adoption of the report.

Mr. BOUCHER of Androscoggin: Mr. President, I wish to move to substitute the bill for the report with the intention of offering an amendment, if that is successful, which will attach a referendum to this matter to let it be decided by the citizens of Lewiston. I realize this is a controversial matter. I knew it at the hearing and I knew it was before I introduced the bill.

If you will bear with me a very few minutes I would like to give you the history and background of the new set-up in Lewiston under this form of government. Lewiston has had, since 1939 a unique way of conducting the municipal government. It still has a mayor and aldermen who makes laws and by-laws and ordinances for the city of Lewiston, and the administration or the executive department as I would call it is handled by the creation of six different boards. One is the Board of Finance with five members; there is a Board of Education with five members; a Board of Public Works with five members; Board of Health and Welfare with five members. Those members are appointed by the Mayor of Lewiston for a term of five years at the time of the municipal election, the municipal inauguration.

The Board of Police which this bill concerns is made up of three members and it has been that way—it was previous to the new charter—and it has been that way as far as I can find out, for over 30 years. At the time of the change of the charter in 1939 the question of changing that board to make it similar to the other boards of five mem-