

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Third Legislature

OF THE

STATE OF MAINE

1947

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mately eight hundred thousand dollars—we just didn't have money enough to go around.

Now, if the money is available this bridge can be built but the money, I assure you, is not set up in the budget because it just is not there. Mention has been made of the Kennebec Bridge. It is true that the Kennebec Bridge bill was up here on the floor of the Senate yesterday but that is a toll bridge urban-state-federal project on which tolls are going to be charged. This project being an international bridge as I understand it cannot be a toll bridge, neither can it be federal. So therefore the funds must come entirely from the state and we just didn't have enough to go around.

Mr. MURCHIE: Mr. President, I have another point I was trying to make. The situation regarding the bill as it will be presented is one that is very peculiar to me. I have been negotiating with the Canadian authorities in connection with this matter. They have been more or less enthusiastic in regard to this bill and I feel they will meet us when the time comes. But this bill would be of no use to me as it comes in for the reason it set up "if and when the funds are available." If I went to the Canadian authorities and said, "Yes, the bill is passed," they would say, "All right, when do we go to work?" And I will have to say I don't know. So you can see the bill is of no use to me in that particular form.

Committee Report

(Out of Order)

Mr. Welch from the Committee on Ways and Bridges on Bill "An Act to Provide for the Reconstruction or Enlargement of the International Bridge at Calais, in the County of Washington, Known as the Ferry Point Bridge," (S. P. 229) (L. D. 565) reported that the same ought to pass as amended by Committee Amendment "A".

Mr. MURCHIE of Washington: Mr. President, I would like to say that my thought in making the explanation on this particular bill a few minutes ago was that I had intended myself to ask for indefinite postponement but on the advice of some people whom I believe to be good friends of mine, I have decided to move the acceptance of the committee report.

Thereupon the report of the com-

mittee was adopted and the bill was given its first reading.

The Secretary read Committee Amendment A:

Committee Amendment "A" to S. P. 229, L. D. 565, Bill "An Act to Provide for the Reconstruction or Enlargement of the International Bridge at Calais, in the County of Washington, Known as the Ferry Point Bridge."

"Amend said Bill by striking out the words 'not exceeding in the aggregate the sum of \$110,000 for the fiscal year ending June 30, 1948, and \$110,000 for the fiscal year ending June 30, 1949' in the 2nd, 3rd, 4th and 5th lines of section 1 and inserting in place thereof the words 'and whenever available,'

Further amend said Bill by striking out the words', provided further, that the funds made available by this act shall only be available up to June 30, 1949' in the next to last and last lines of section 2 thereof."

Which admendment was adopted and under suspension of the rules, the bill was given its second reading and passed to be engrossed.

On motion by Mr. Murchie of Washington, the bill was sent forthwith to the House.

On motion by Mr. Davis of York, 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 May 9 pending passage to be enacted; and that Senator yielded to the Senator from Aroostook, Senator Barnes.

Mr. BARNES of Aroostook: Mr. President and members of the Senate I am going to make a motion that we reconsider our action whereby this bill was passed to be engrossed, for the purpose of offering an amendment, and because of the fact that if we don't vote to reconsider, of course the amendment can not possibly be brought before the Senate, I want to say a few words at this time on my reason for doing this.

Now we already have, as a result of action taken by this legislature, a bill that is going before the public, the Barlow Bill so-called which is against closed shop. This Tabb bill is also a bill which prohibits closed shop and I don't think there is anyone in this legislature, or at

least outside perhaps of a few labor members themselves, who have any fault to find with these two bills against the closed shop. I want to assure the members of the senate that I have no objection to outlawing closed shop. I think it is a good thing to do but my county and the counties of Penobscot, Washington, Piscataquis and Somerset, and a good many of the other counties in less degree, depend in large measure on the cutting and selling of pulpwood.

I believe I would be perfectly safe in saying that after potatoes, pulpwood is the next important product that comes out of our county and our pulpwood goes by truck, rail and river down the rivers, to a great many pulp mills such as the Great Northern Pulp Mill at Millinocket, and another one at East Millinocket, the pulp mill at Howland, the Eastern Pulp Mill, Hollingsworth and Whitney at Rumford, and I have been given to understand that all of these pulpwood manufacturing plants have union shop contracts.

Now the difference between union shop contract and closed shop contract is that a man cannot obtain employment to work under a closed shop contract without first joining the union. Under a union shop contract a man may be employed and according to the terms of the contract after a waiting period of thirty to sixty days he can make up his mind whether he wants to continue and work in that employment and join the union or whether he would prefer to go somewhere else and work.

The union shop contracts in existence in this state—and I am taking the pulpwood industry in particular because that is the one that affects our county—the union shop contracts in the pulpwood industry are agreed to and wanted and desired by both employees and employer. They like it. Therefore I for one want it—and I think the members of the Senate who are from those counties where pulpwood is important also want it. Now I am going to agree right at the start, having studied the bill carefully, that the Tabb bill as it is now written would not affect union shop contracts. I mean that is my interpretation. But labor itself feels there is still some doubt as to whether or not this Tabb bill would outlaw union shop contracts and I

say that my argument amounts to this, that even though we assume as a basis for argument that the bill doesn't do it, still if labor feels that it does we ought to make it perfectly plain and apparent to them that it doesn't.

This amendment is very brief. You had an amendment here within the last week or two which was designed to accomplish the same purpose as this amendment but it was long and involved and couched in legal language and I think there was some doubt in the minds of the Senate when they voted upon it at that time but what something was trying to be done to the bill that would hurt the bill itself as far as closed shop was concerned and you rejected that amendment. The amendment reads as follows: "Nothing in this section shall be construed to prohibit the making or maintaining of union shop contracts so-called." That is all there is to the amendment and I believe that even if we should agree as a matter of law that the Tabb bill as it exists does not outlaw union shop contracts, nevertheless while there is some feeling among the labor members of our legislature that it does, we should adopt this amendment.

You know there are a great many thousands of men employed in the pulp mills of this state and I would rather imagine that the proportion of the men who work in employment of that nature, so far as being Republicans and Democrats is concerned would be about the same as in the rest of the state so we can assume that we have a great many honest and sincere Republicans working in pulp mills in this state under union shop contracts. And I am going to say that we need their support and don't want to do anything in this legislature, anything unnecessary, to alienate them in any way, and I think it would be a good thing if this senate would adopt this amendment and send it along because even if it appeared in the very smallest type in the papers of this state that the Maine legislature had expressly accepted union shop contracts in the provisions of this bill it would be helpful to the Republican party.

So I am going to offer this amendment, if you allow me to reconsider, and I hope the members of the Senate when they come to

vote on this measure will remember these two things: In the first place, we were told it was not the purpose and intent of the Tabb bill to affect union shop contracts; and secondly, that perhaps it is a good thing for us as a practical matter to provide for it expressly in the bill by way of this amendment so there can be no doubt of our intentions so far as these thousands of good Republican workers are concerned. And, Mr. President, when the vote is taken on my motion to reconsider, I ask that it be taken by a division.

Mr. HASKELL of Penobscot: Mr. President and members of the Senate, I have two very good reasons for remaining in my seat and not talking on this measure. The first is that I am tired and the second is that I have talked too much on labor bills already. But I would like to read into the record not a plea from labor but a courteous request from my side of the table, and managing side, a letter from George Bearce, Manager of the Maine Seaboard Division of the St. Regis Paper Company:

"Dear Bob: Referring to the discussions in connection with the so-called Tabb bill, the wording appears to be such that it would be difficult to determine the status of many companies who now have the so-called Union Shop.

This company, which was the Maine Seaboard Paper Company until it was taken over by St. Regis Paper Company and is now the Maine Seaboard Division of the St. Regis Company, has had a Union Shop for some years. We are entirely satisfied with our Union Shop Agreement and hope that any law that is put through the legislature will not be such that it will disturb our present satisfactory labor relations.

Your consideration of this particular point will be greatly appreciated.

Very truly yours,
(Signed) George D. Bearce,
General Manager.

I simply submit to you that those of us who have union shops hope that this amendment will be put on this bill.

Mr. HOPKINS of Kennebec: Mr. President and members of the Senate, the letter just read indicates that the heat is on outside as well as inside. Apparently hot weather has arrived. I have been criticized

several times here in the Senate with respect to labor matters because I didn't bring the discussion down to the State of Maine and mention conditions here in the state. I have purposely not done that. It has not been my intention to make criticism of any people connected with labor matters in Maine either employers or employees or the labor leaders.

I have differences of opinion with some of the labor leaders but I want their respect and I am not going to criticize them personally because advocating what I think is sound labor legislation here is the business of the State of Maine and not a personal matter with me.

The question is not whether we will hang on an amendment which says that we believe something is in no way connected with the thing which the law says we don't intend. That is not the issue at all. If legislating has been reduced to a point where when we write a law after we get it to the enacting stage we have to hang on an amendment stating the things which we didn't intend to write into the law, we are writing some pretty poor laws.

The Senator from Aroostook has said that the bill which we have before us means what I have told you all along, that it means just one thing. It means we cannot require a free citizen of the State of Maine if he seeks work with a company which is engaged in intra-state business must join a labor organization in order to take a job or that he be denied the job because he is not a member of a labor organization. It is a very clear issue. You couldn't clarify it by hanging on fifty amendments stating what it doesn't mean. And you would not be improving the law if you attempted to do any such thing as that.

I think perhaps I have said enough on the measure. If the Senators believe that after you write a law and express yourself on it four times you ought to start hanging amendments on the tail end of it stating what you don't believe I have no objection. I would have no objection to amending the bill to say that this law doesn't mean that bald-headed men should no longer be elected to the Senate. It is very obvious that it doesn't mean that. I think that would be acceptable philosophy to some people. Maybe

bald-headed men shouldn't be elected to the Senate, I don't know. But anyway we have the issue. We have had quite a bit of repetition and everybody knows we never miss the water until the well runs dry and everybody knows we never miss the milk until the cow goes dry, and I think I will repeat by reminding you of the Vermonter who said the only time he was ever licked in school was when he told the truth, and his friend said, "Well, it cured you, didn't it?"

Well, gentlemen, you have told the truth four times on this bill I think. You have said you know what it means and that you favor it and I assume that the Senators in voting will say they haven't been cured.

Mr. BARNES of Aroostook: Mr. President and members of the Senate, I think within the first two weeks of the time I entered law school I began to bump into a proposition called "legislative intent" and I learned through the rest of my experience in law school that legislative intent was a very important thing. In eighteen years of practice at the Bar in the State of Maine, I have had it repeatedly drilled into me that legislative intent is a very important thing. Sometimes we have to follow legislation back to public laws that have been passed by legislators way back through 1820 to find out how the various changes came along and what the real intent of the legislature was.

There are 140 volumes of Maine Reports and I suppose one-third of the cases in those reports go up to the law court on a matter of legislative intent.

This amendment which I want to present, if you will allow me to reconsider, certainly clears up the intent of the legislature in this matter. Maybe it would be better for the lawyers if the amendment were not adopted because the question might come up sometime and we would have to go to the law court and there might be a good fee in it for Barnes. But this amendment which I am offering simply clarifies our intent in this matter and I hope it will be adopted and I hope no amendment will be offered to the bill to say that no bald-headed man may be elected to the Senate.

Mr. LEAVITT of Cumberland:

Mr. President if legislative intent is something we have to look up, I think any person who wants to can go to the record of the 93rd legislature and find plenty of places where it says this Tabb bill does not mean the abolition of the union shop. I think they can find that very clearly.

I agree with Senator Hopkins thoroughly that the law as it is now written is plain and clear and the intent is clear to anybody who want to look at it and I don't believe we should reconsider this bill and go back and put on this amendment. We argued it the other day and the other involved amendment which said just what this one does and we decided we didn't want it. So I say that we should leave the bill as it is.

Mr. HOPKINS: Mr. President and members of the Senate, I would like to promise the Senate that if they do not sustain the Senator from Aroostook, after the vote is taken, I will introduce an order providing for enclosing in a heavy block border the statements of the Senator from Aroostook which clearly state the intent of the bill.

Mr. BARNES: Mr. President I was hoping that we would not get confused on this issue and there is just one thing I want to say. If this motion to reconsider is defeated it will show in the records of the legislature that this amendment was attempted to be introduced and if in future years some lawyer were to go back and try to find the intent of this legislature he would see that on two separate occasions the Senate rejected amendments which were designed to exclude union shops and it seems to me that would be pretty good evidence to exclude them.

Mr. SPEAR of Cumberland: Mr. President and members of the Senate, as a member of the Committee on Labor, I signed the favorable report. The bill is quite short. It seems quite clear and for the benefit of the record I would like to say when they look back that there are good and bad in this world; the only complication is the good decide which is which. I hope the motion to reconsider will not prevail.

The PRESIDENT: The question is on the motion of the Senator from Aroostook, Senator Barnes, that the Senate reconsider its form-

er action whereby it passed this bill to be engrossed.

A division of the Senate was passed.

Eighteen having voted in the affirmative and eleven opposed, the motion to reconsider prevailed.

Mr. BARNES of Aroostook: Mr. President I want to thank the members of the Senate who voted with me on the motion to reconsider and I now present Senate Amendment B and move its adoption.

The Secretary read Senate Amendment B to L. D. 1346:

"Amend said bill by adding at the end of the 1st paragraph of that part designated 'Sec. 41A' the following underlined paragraph: 'Nothing in this section shall be construed to prohibit the making or maintaining of union shop contracts, so called.'"

The PRESIDENT: The question before the Senate is now on the adoption of Senate Amendment B.

Mr. CROSS of Kennebec: Mr. President and members of the Senate, I would like to reiterate the statement I made the other day regarding Senate Amendment A. At this stage of legislative proceedings, I would only point out that very few bills which are controversial and which are amended at this time have very much hope of surviving. They usually are tied up between the two branches and a Committee of Conference very rarely agrees. If you want to kill the Tabb bill that is what you are doing if you accept this amendment. If you want to kill the Tabb bill I think it would be better to do it in an outright, forthright manner.

Mr. BARNES: Mr. President and members of the Senate, I don't like to take issue with our Republican floor leader on this point, but have felt that the way Rule Eight has been construed this year has led to agreement on Committee of Conference reports in almost every case.

Mr. LEAVITT of Cumberland: Senator Barnes has thanked the ones who voted for reconsideration and although he explained in his debate, I thought that what we were voting on was not reconsideration but on the amendment itself because if we voted to reconsider we were voting for the amendment. The reason I was against reconsideration was not to be discourteous to the Senator from Aroostook, but simply that I was opposed to the amendment because I felt definitely

as our floor leader said, that this is an attempt to kill the Tabb bill and more legislation is killed by trying to put on amendments than by anything else. The bill is clear as it is and I think it is the intent of the legislature to have it so and I believe if this amendment is put on that before we finally adjourn we will find that the bill has been killed. I think the Tabb bill is a good bill and should be passed.

Mr. HASKELL of Penobscot: Mr. President, I cannot share the opinion that this amendment would place the two Branches in any disagreement. I think I heard most of the debate on this issue in the House and I think all the proponents of the bill have said they don't want to bar the union shop. I sincerely promise that it is not the thought of those who want the amendment to attempt in any way to kill the Tabb bill. Obviously I have no way of knowing whether we would be in disagreement or who would be on the Committee of Conference but if I had any influence with whomever is put on that conference it would be my pledge to you that before the bill was killed I would vote to kill the amendment. I think both branches have spoken sincerely and that they want the Tabb bill. I hope you will trust the sincerity of those who tried to put the clarifying amendment on for both labor and management.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Barnes that the Senate adopt Senate Amendment B.

Mr. SPEAR of Cumberland: Mr. President, I ask for a division..

A division of the Senate was had. Sixteen having voted in the affirmative and thirteen opposed, Senate Amendment B was adopted and the bill as so amended was passed to be engrossed in non-concurrence.

On motion by Mr. Barnes of Aroostook, sent forthwith to the House.

On motion by Mr. Cross of Kennebec

Recessed until 2 P. M. Eastern Standard Time.

After Recess

The Senate was called to order by the President.

Mr. BISHOP of Sagadahoc: Mr. President, I would like to inquire if