

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1200) (L.D. 1635) Bill "An Act to Correct an Incorrect Personnel Description in the Law Relating to the Board of Pesticides Control" (Emergency) Committee on Agriculture reporting "Ought to Pass"

(H.P. 1162) (L.D. 1588) Bill "An Act to Continue on an Annual Basis the Registration Fee Charged to Pesticide Manufacturers and Other Registrants in 1987" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-213)

(H.P. 952) (L.D. 1281) Bill "An Act to Extend the Boundaries of the Presque Isle Sewer District and the Presque Isle Water District" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-214)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Regulate Freshwater Fisheries in Coastal Waters" (H.P. 1252) (L.D. 1710)

Bill "An Act to Amend the Sardine Tax" (Emergency) (H.P. 1253) (L.D. 1711)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act to Prohibit Candidates from Receiving, Witnessing or Accepting Absentee Ballots" (H.P. 1254) (L.D. 1712)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Paradis of Augusta, tabled pending passage to be engrossed and later today assigned.

On motion of Representative Diamond of Bangor, the House reconsidered its action whereby Bill "An Act to Protect Existing Essential Public and Private Ground Water Supplies" (S.P. 573) (L.D. 1715) was referred to the Committee on Energy and Natural Resources.

On motion of the same Representative, tabled pending further consideration and later today assigned.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Provide Civil Enforcement of the Anti-strikebreaker Law to Encourage the Settlement and Peaceful Resolution of Labor Disputes" (H.P. 1238) (L.D. 1690)

TABLED - May 29, 1987 by Representative MCHENRY of Madawaska.

PENDING - Passage to be Engrossed.

Representative Baker of Portland offered House Amendment "A" (H-211) and moved its adoption.

House Amendment "A" (H-211) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that this Bill and all accompanying papers be indefinitely postponed.

The bill as was written, before the amendment was placed in, was exactly what we agreed on in the committee. As far as the amendment is concerned, it doesn't do much of anything. The security guard section in the original bill, in the last paragraph of the last section, clearly takes care of security guards, they are included in the bill.

Section 3, permanent employees -- since they are not excluded in the regular bill -- are taken care of. There is no reason why the company can't use their own personnel in these instances.

As far as Number 2 is concerned, the only maintenance obviously that could be done under this amendment is -- I guess warranty amendment, since it has to be done by the people who manufacture the machinery. You couldn't overhaul a paper machine or do any extensive maintenance work at all under this amendment. Those are the reasons that I believe that the amendment should be indefinitely postponed. It certainly doesn't do anything for the bill. If anything, it makes the bill worse than it was.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Baker.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Since this bill was not debated in its first reading, it may be somewhat confusing if we are referring to the amendment that was recently put on to it.

So, let me begin by telling you exactly what this bill does. This bill aims to provide a civil remedy to the already existing anti-strikebreaking law in this state. If this bill were to pass, a union could then get an injunction against a "professional" strikebreaking company.

Now, let me explain to you what these professional strikebreaking companies do. They don't simply hire people for permanent replacement during a labor dispute. They recruit people, many of them from the south, solely for the purpose of working during a strike. In other words, they are known as "rent a scab corporation." They are clearly a repulsive thing in the eyes of many people. These companies are violating Maine law. Now, if you are going to have a law which says that it is illegal for professional strikebreaking companies to bring their people in to break a strike, if you are going to have that law on the books, you might as well have a law on the books that is enforceable. Right now, it is a felony. Under this proposed legislation, it becomes a civil offense and an injunction can be obtained to stop it. Now, why do that? If an injunction can be obtained to stop this flagrant violation of Maine law, you prevent a situation whereby workers who are antagonized.....

The SPEAKER: The Chair recognizes the Representative from Hampden and inquires for what purpose he rises?

Representative WILLEY: Mr. Speaker, the reason I rise is, we seem to be debating the bill and not the amendment.

The SPEAKER: The Chair would advise the gentleman that the pending question is indefinite postponement of the bill and amendment.

Representative Baker may continue.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen: As I was saying, this is a flagrant violation of Maine law that already exists. Why you

want to get an injunction is simply this -- put yourself in a situation of workers watching these professional strikebreakers coming in, taking over their jobs, and what you have on your hands is a fuse that lights a powder keg that is going to explode. You are going to have a real violent situation on your hands. If you want to find a way to peaceably enforce a Maine law, then making it a civil violation where you can get an injunction to stop this practice, is the way to do it. That is why I do not believe it would be very wise of us to indefinitely postpone this bill.

Let me explain briefly about the amended version of the bill. There are some groups of workers who are not considered to be professional strikebreakers and this amendment clarifies what those groups are, security guards, permanent employees, and special maintenance work. In the original legislation, that special maintenance work is considered to be a part of those strikebreakers. Number 2 here, this special maintenance work having been exempted is sort of a concession in allowing some of that maintenance work to go on -- a concession that we have made in this law to try to get this thing passed. That is what the amendment does, it simply clarifies those people who are not considered to be professional strikebreakers.

I would hope that this House, in the interest of labor-peace would act against the motion of indefinite postponement, defeat that motion, and go on to pass this very reasonable piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not debating the bill in the first place and just the amendment, now I guess I have to do it all over again.

I mentioned a while ago, incidentally, in the lockout legislation that there was companion legislation coming along, this is it. With this bill, we are going to have some lockouts. We haven't had any for a couple of years but the employers are not going to have any alternatives except to resort to a lockout in this situation. They have always been allowed to hire contractors for certain jobs in the mill whether there was labor strife or whether there was not. This tends to preclude that practice almost entirely.

For instance, in this bill, it is referred to repeatedly as customary and repeated offenders. Now it defines that as being twice. If for instance, you had a contractor out there and let's say you took some of the computer work to Kelley Services and they cannot supply a person who has been involved in any of these things more than two times, that precludes them from doing that because they can get an injunction. All through the history of labor problems, it has always been allowable to do this sort of thing. A lot of the companies, a lot of the larger employers, for instance, have to send out billings and they have to pay bills so they have to have computer work done. It is generally taken out to a computer organization, an independent one, for this work to be done. It refers specifically in this bill, the original bill, that maintenance work can be contracted out. In the amendment, you can't contract it out. In the original bill, it says that security can be contracted out; in the amendment, it can't be contracted out.

Somehow or another, the balance in labor relations work has to be pretty perfect. I happen to think that in the State of Maine it is pretty perfect because there is very little labor strife and since both sides, the employer and the employee, are

unhappy with the act, I happen to think that is pretty good indication that the thing is working well. If one side was happy with it and the other side wasn't happy with it, you would think the system would be out of balance. I don't want that to happen, I don't think anybody should have it happen for the very simple reason we are going to have more labor strife if it does happen.

I sincerely hope that you will go along and indefinitely postpone this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that you do not vote for indefinite postponement of this bill.

This is mostly a paper industry anti-strike but presently all paper companies in the state before Boise-Cascade had never had any problem. With this bill as amended, the companies could continue doing exactly what they were doing before Boise-Cascade.

The bottom line of this bill is we, in the State of Maine, do not want professional strikebreakers, people that will come in from outside the state especially, come in to replace Maine workers on their jobs. We are not prohibiting companies from hiring people, we are not prohibiting companies from using people from within their corporation to do maintenance, we are not prohibiting companies from using pre-strike contract agreements with maintenance workers -- for instance, the IBM people that had a pre-existing contract with the company. All we are saying is, we do not want people to come in and replace Maine workers from the south, professional people, that is their job, that is what they put out -- the company puts out people that want to replace people that are out on strike. It has nothing to do with lockouts, it is not encouraging lockouts, you have a strike, it has nothing to do with a lockout. When you are on strike, you are on strike. People are out, you no longer have a contract. The employer goes out and seeks other people to replace you but all we are saying is, don't go to a professional company -- that is what they do, they go out to replace people that are out on strike. That is simply all it does.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not vote to indefinitely postpone this bill. If this legislation had been in place at the time of the Boise-Cascade strike, that strike would have been settled and we wouldn't have a lot of displaced workers in Rumford. I hope you will vote for this bill.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I guess the confusion comes here over what is a strikebreaker. The committee as a whole was very much against strikebreakers, professional strikebreakers, it really was and I am too. This bill went much further than that and the amendment goes further still. Is the fact that you hire a contractor and they might have one employee in their force, who has previously been involved in a labor dispute on two separate occasions, does that make them professional strikebreakers? Good heavens, no. If you have two accidents in your lifetime, it doesn't make you accident-prone necessarily. I think it is the same connotation here, it is a matter of degree. Nobody wants professional strikebreakers around. I realize the problems that they had in

Rumford a couple of years ago and that is what we tried to address but we went overboard and it frequently happens in this type of legislation. We went far too far, in my opinion, and it puts the whole labor relations act out of balance just simply because we went too far. If this bill just addressed professional strikebreakers, rest assured that I would be for it. It goes much further than that and for that reason, I hope that we do defeat the bill.

I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill does not go much too far, this bill does exactly what I said. It allows all the paper industries to continue to do what they did before Boise-Cascade.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Willey of Hampden that L.D. 1690 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 87

YEA - Anderson, Armstrong, Bailey, Begley, Bott, Bragg, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Scarpino, Seavey, Sherburne, Small, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Taylor, Telow, Tupper, Webster, M.; Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Allen, Anthony, Baker, Bickford, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hickey, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Reeves, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Swazey, Tammara, Tardy, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

ABSENT - Brown, Hillock, Kimball, Richard, Wentworth.

Yes, 60; No, 84; Absent, 5; Vacant, 2; Paired, 0; Excused, 0.

60 having voted in the affirmative and 84 in the negative with 5 being absent and 2 vacant, the motion to indefinitely postpone did not prevail.

Subsequently, the Bill was passed to be engrossed as amended and sent up for concurrence.

Representative Cote of Auburn was granted unanimous consent to address the House:

Representative COTE: Mr. Speaker, I wish to be recorded as nay instead of yea on L.D. 1367.

On motion of Representative Lord of Waterboro, Adjourned until Tuesday, June 2, 1987, at nine o'clock in the morning.

(Off Record Remarks)