

# 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

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
92nd Legislative Day  
Tuesday, June 30, 1987

The House met according to adjournment and was called to order by the Speaker.  
Prayer by Reverend Robert Hargreaves, St. Mark's Episcopal Church, Augusta.  
Pledge of Allegiance.  
The Journal of Thursday, June 18, 1987 was read and approved.  
Quorum call was held.

COMMUNICATIONS

The following Communication:  
UNIVERSITY OF MAINE SCHOOL OF LAW  
246 Deering Avenue  
Portland, Maine 04102  
June 23, 1987

Honorable Edwin H. Pert  
Clerk of the House of Representatives  
State House  
Augusta, Maine 04330  
Dear Mr. Pert:

I enclose my statement of Fees and Expenses for my service as Special Counsel to the House of Representatives in the matter of discipline and expulsion of a member of the House.

This matter arose from the indictment and conviction of Representative Donald F. Sproul for tampering with a ballot in furtherance of his own election to the House. My efforts in the initial stages of the House proceedings were first, to ensure that a complete evidentiary record of interference with the elections process was presented to the Elections Committee and thence to the full House, and second, immediately to establish regular and unimpeachable procedures to be followed by the Committee and the House. I estimated that a preliminary draft of rules and procedures would have to be presented to the Elections Committee by Monday, May 18th, and that all procedural matters would have to be resolved at three Committee meetings during that week. The following week would be devoted to evidentiary hearings before the Committee. Preparation of a report of the Committee's findings, conclusions, and recommendations and presentation of that report to the House would be accomplished during the third week. My activities during the first few days were directed toward those ends. On Friday, May 15th, Representative Sproul resigned. His action brought our proceedings to a successful conclusion. In my view, his resignation was prompted by seeing that the constitutional mechanism for expelling a member of the House was being put firmly in place. Abstract constitutional authority had by then taken on a palpable, undeniable quality.

I thank you and the many members of the legislative staff for your help and cooperation in bringing this matter to a successful conclusion.

Sincerely,  
s/David D. Gregory  
Special Counsel  
House of Representatives

Was read.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Permission to pose a question?

Mr. Speaker, I see nowhere here in the Communication the amount of the fees and the expenses. Could someone please indicate that amount?

The SPEAKER: The Representative from Kennebunk, Representative Murphy, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: In answer to the question from the gentleman from Kennebunk, I would answer that the House had authorized under Order approximately \$30,000. The fees for Mr. Gregory, Esquire, were approximately \$2,400 which included almost one week's time of preparing material and presenting it to the committee, meeting with the committee twice and reporting to the House. I hope that answers the question of the gentleman from Kennebunk.

Subsequently, the Communication and accompanying papers were ordered placed on file.

The following Communication:  
Department of Administration  
BUREAU OF EMPLOYEE RELATIONS  
June 10, 1987

John L. Martin, Speaker of the House  
House of Representatives  
State House Station #2  
Augusta, ME 04333  
RE: Administration of the State of Maine  
Self-Insured Workers' Compensation Program  
Dear Representative Martin:

Attached please find a copy of the above-referenced report for your review and information. Documented therein are: a synopsis of the history of the administration of the workers' compensation program in State government; a compilation of statistics detailing numbers and categories of injuries (7/1/81-6/1/86) and payments made on claims (7/1/82-6/30/86); and individual State departmental reports.

Should you have any questions regarding this report, please feel free to contact Roger H. Willette at 289-4440.

Sincerely,  
s/Kenneth A. Walo, Director  
Bureau of Employee  
Relations

Was read and with accompanying report ordered placed on file.

Later Today Assigned

The following Communication:  
STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE  
04333

June 19, 1987

TO: The Honorable Members of the 113th Maine Legislature

I am returning, without my signature or approval, L.D. 1690, "AN ACT to Provide Civil Enforcement of the Anti-Strikebreaker Law to Encourage the Settlement and Peaceful Resolution of Labor Disputes." My decision to veto this bill has been particularly difficult in light of the unfolding events at the International Paper Company's Jay, Maine plant. I am indeed mindful of the perception that my rejection of this legislation may create, even though this measure would not apply to that situation. My personal abhorrence of having Maine jobs potentially being filled, even temporarily, by "non-resident contractors" is a sad reminder of what can happen when the collective bargaining process

breaks down. We all suffer when there is labor-management strife.

I have every hope that management and labor both will strive to reach a mutually acceptable compromise as early as humanly possible, and I implore each side to bargain in good faith. I pledge to do whatever I can to assist in resolving this strike. Despite my personal, strong objection to certain potential hiring practices, I nonetheless must act upon what I believe to be the correct course regarding this bill on its merits alone. That course, to me, is clear. This bill goes beyond acceptable limits and beyond the apparent legislative intent to prohibit professional "strikebreaking" activity.

This bill would expand upon current statutory restrictions by prohibiting a struck employer from contracting with a company that previously has offered its services to other companies involved in labor disputes, strikes or lockouts, without regard to the type and nature of those services or the general business purpose for which any such company exists. The only exceptions to this broad prohibition regard special maintenance or security contractees. Such an overreaching proscription, which effectively includes companies otherwise never considered to employ professional "strikebreakers," unacceptably hampers an employer's legal right to fill vacated positions. Moreover, by effectively preventing an employer from operating during a strike, the bill substantially hinders the collective bargaining process by changing the incentives to bargain in good faith.

The United States Supreme Court already has ruled in a landmark decision that an employer has a right to hire and maintain replacements for striking employees. National Labor Relations Board v. MacKay Radio and Telegraph Co., 304 U.S. 333 (1937), at 346. Subsequent Supreme Court and lower court decisions have reaffirmed this right and further have recognized such rights in labor dispute and lockout situations. Additionally, the National Labor Relations Board consistently has recognized such a right.

I have expressed my concerns about the dangers of direct state entanglement in a private, collective bargaining process which is controlled by federal law. These concerns are worth noting here. Employers and labor organizations both have legitimate tools available to them when engaging in collective bargaining. Employees can provide considerable incentive to resolve disputes by means of a very powerful weapon -- the strike. Employers can respond, where allowed by federal law, by hiring replacements. This balance has been recognized federally as a just and reasonable one. That balance would be unjustly and adversely disrupted by reducing either side's incentives to continue the bargaining process in good faith.

Just as I oppose sweeping prohibitions of an employer's right to operate during a strike, I would also oppose, and veto, any legislation which attempted to allow an employer to fire a striking worker or which attempted to prevent or regulate in any manner a striking worker's right to seek other employment. If legislation was presented which regulated firms whose sole business was to provide replacement employees for striking workers and the Maine Supreme Judicial Court ruled or advised that such legislation did not violate federal law, I would accept legitimate, so-called "anti-strikebreaker" legislation. I cannot, however, endorse legislation, whether intended or not, which prohibits otherwise innocent companies from providing services to a struck employer.

I realize that some may use this veto to fuel the passions of union leaders or members, but I must do what is right for Maine in both the long and short term. As for the situation in Jay, I implore the parties to negotiate in good faith, to consider what is in the best interests of our State. In this respect, I support totally the recently passed Joint Resolution of the Legislature, urging the parties to find an agreement which would "allow the workers to return to their normal livelihood."

Because of the reservations and objections outlined above, however, I am in opposition to L.D. 1690 and urge you to sustain my veto.

Sincerely,  
s/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying 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) (H. "A" H-211).

On motion of Representative Diamond of Bangor, tabled pending further consideration and later today assigned.

Later Today Assigned

The following Communication:  
STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE  
04333

June 29, 1987

TO: The Honorable Members of the 113th Maine Legislature

I am returning without my signature or approval H.P. 1345, L.D. 1839, "AN ACT to Amend the Teacher Certification Law."

I simply cannot sign any legislation which removes the Master Teacher/Professional Level II certification from the law. The 112th Legislature was committed to this concept in 1984. I am committed to it now.

There has been a tremendous investment of quality time and energy already spent in a) developing and enacting this legislation, b) setting up the pilot sites, and c) writing proposed rules for final implementation of the law.

The pilot sites must be allowed to continue their work with the certification law intact. The original legislative intent was to pilot a concept that was established by law; not to continue under the cloud of an altered law which precludes, or even second guesses, their outcome. Now is not the time to revise the law before the final results of the pilots are in.

Additionally, this bill establishes another pilot process for local staff development laws the cost of which, in time and energy, is unnecessary and the presence of which would confuse and complicate the original and fundamental intent of the 1984 teacher certification laws. Local staff development plans, although they are an important and legitimate issue, do not need to be piloted. Proven methods of delivering staff development already exist and are, in fact, required as part of every school's local School Improvement Plan -- another of the Education Reform measures.

I believe that Maine needs the best teachers it can get in its classrooms, that we need to provide these teachers with the support teams and training that they need, and to recognize teachers who demonstrate exemplary performance. But we must do it