

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 24, 1995 to June 30, 1995

an IP worker without being run up and down. All this was done for the bottom line.

I think we have lost a lot. It has been replaced by continuing bitterness and tension that underlies a lot of relations in town and among towns. In my district I have people who were strikers and I have people who have gone back into the mill. I have people who were strike breakers. I have a lot of management people. Management people, most of them don't live in Jay, they live in some of the outlying towns. I do see it as a continuing underlying problem that we lost something that was actually good for the company and good for the community. I urge you to support the pending motion really for family and community.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House: I was involved in the strike. I was a member of the union, Local 14, and I spent a good part of my life, I feel, fighting for the people that I represented. Mainers that are union members just like you represent in your districts, I represented a group of people. You may belong to the National Federation of Independent Business and I belong to a labor organization that, supposedly gave us rights in the work place to bargain for wages and working conditions.

I would like you to consider the effects that this replacing workers has on the State of Maine or Maine people. We are not protecting Maine business. We are protecting the New York City Corporate CEO, John George, CEO of International Paper. Last year he got a bonus of \$979,000 and they are down here pleading poverty and begging us for tax incentives. Please excuse me, I get a little mad. It is not right. When you are negotiating a contract and you have been replaced, you are no longer bargaining for working conditions and wages, you are working to get your jobs back because they are using that as a wedge. They are making them promises and turn around and say we have made promises to them. The promise we made to you years ago is no longer valid.

We used to work without a contract and negotiate until it was settled. They don't do that, not if they don't choose to. I use that one company as an example. There are other companies that are good companies that will negotiate and they will treat the workers decent. Others will use this to get everything they want with no intention of bargaining. All the requirements to bargain in good faith or to show up at the table. They don't have to move one bit. I can't begin to say what I experienced over the last eight years and in 15 days it will be eight years from when we went out. I can't begin to tell you what I really feel. I ask you to support this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: The Wagner Act, also known as the National Labor Relations Act, was passed more than 50 years ago. Within that act was the guaranteed right for workers to be able to strike. After passage of that act, some years ago came a case in the Supreme Court called McKay Radio. McKay Radio allowed the permanent replacement of workers. Subsequent to McKay Radio was a case called Garmon. In the Attorney General's opinion it says the Garmon doctrine carved out by the Supreme Court were in a

state statute may be sustained. If it can be shown to touch interest so deeply rooted and local feeling and responsibility that in the absence of compelling congressional direction, we could not infer that congress had deprived the states of the power to act.

The bill before us today goes directly to the Garmon exception. This is very plausibly a constitutional matter, but more than that it is about fairness. The right to strike has brought a great deal of good things for working people in this country. It has brought quality health care. It has brought safe working conditions and, yes, it has brought a fair wage to many working men and women of this country. It is important to make sure that working men and women in this country have a right to strike as guaranteed by the Wagner Act. It is our responsibility as a legislature to give them that. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Minority "Ought to Pass". All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 125

YEA - Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Hatch, Heeschen, Hitchborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, O'Gara, O'Neal, Paul, Perkins, Pinkham, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Volenik, Watson, Winglass, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Greenlaw, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, McAlevy, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Plowman, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - Adams, Nadeau, Poirier, Rowe, True, Truman, Vigue, Winn, Yackobitz.

Yes, 81; No, 61; Absent, 9; Excused, 0.

81 having voted in the affirmative and 61 voted in the negative, with 9 being absent, the Minority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-310) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, June 5, 1995.

The Speaker resumed the Chair.

The House was called to Order by the Speaker.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-312) - Minority (6) "Ought Not to Pass" - Committee on Labor

on Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 505) (L.D. 686) TABLED - May 30, 1995 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Mr. Speaker, Men and Women of the House: This is a bill that I proposed. Currently under law it is illegal to do certain things as far as being a professional strikebreaker. Currently if you provide over 100 workers more than three times in a five year period you are considered a professional strikebreaker and this is illegal under current law that has been on the books for 30 years. The bill doesn't change that, but what the bill does is changes this from a criminal act to a civil act.

The reason for that is basically if this should occur, we would want injunctive relief by the people concerned. Currently you have to go to the District Attorney to prosecute people who are breaking laws and a lot of time this is very difficult, because in a situation where there is a strike there is a lot of problems. The police are involved in keeping peace and so forth. It is extremely difficult. This would degrade that from a criminal act to a civil act, to give regular people like you and I the ability to bring it to court.

This exempts people that work in that facility. It exempts security guards and special maintenance. This would only be companies that are in the business of breaking strikes by providing professional strikebreakers. I hope that you vote "Ought to Pass". Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: I will not debate the relative merits or lack of merits of this bill. I think it suffices to say that the Attorney General has also ruled that this one is unconstitutional and preempted by federal law. Again, we are being asked to pass a bill that will not have no meaning within the state and will probably just wind up with more situations of people being in court and more money wasted. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I would encourage you to support the good Representative from Jay, Representative Sampson in his support of this bill. I question whether opponents to this issue would support this issue whether it was legal or not.

The bill prohibits any organizations from performing strike breaking activities. If that entity had contacted at least three times in the past five years to supply 100 employees to an employer involved in labor disputes. The bill allows individuals or corporations to bring civil action and enforceability and it removes the criminal penalties. I think as the Representative from Jay, Representative Samson has told you, it is considerably better than what we have. I think what this bill does is it makes the current law more workable. I think permanent replacements only make labor disputes worse. I think we have heard much

testimony on that today. I think it is the same reasoning as a recent Presidential Executive Order.

I received a few letters from different people on this issue. The first one is somebody from Bowdoinham. It said, "please support these bills. It would make the hiring of replacement workers during strikes a lot more workable for Maine workers. I urge you to support this bill and give a little bit back to the workers of the state, with the hope that we will never have to go through this again." Another letter was from a gentlemen from Biddeford and says, "I am writing you to convey my thoughts on replacement workers. I believe corporations presently have the upper hand with the present situation. Companies are allowed to replace replacement workers during labor disputes. By not allowing the use of replacement workers it evens the playing field. In my opinion it would make the State of Maine and the working conditions in the state a lot better."

Labor has been at a disadvantage for quite a while. Many people spoke to you about this today. Lets do the right thing and vote for these bills and allow Maine workers to have an equal playing field once again.

Representative JACQUES of Waterville requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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 members present and voting. All 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 Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: It seems that I rise today for the third time. I would ask for your support also on this bill for all the reasons that were stated before. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 126

YEA - Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Campbell, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gould, Green, Guerrette, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Madore, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Pinkham, Poulin, Povich, Richardson, Ricker, Rosebush, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Volenik, Watson, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gooley, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey,

Pendleton, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Adams, DiPietro, Kerr, Pouliot, Rotondi, Rowe, True, Truman, Vigue, Winn, Yackobitz.
Yes, 79; No, 61; Absent, 11; Excused, 0.

79 having voted in the affirmative and 61 voted in the negative, with 11 being absent, the Majority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-312) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, June 5, 1995.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative JACQUES of Waterville, the House recessed until 4:30 p.m.

(After Recess)

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Improve Bicycle Safety in This State" (S.P. 580) (L.D. 1557)

Came from the Senate referred to the Committee on **Transportation** and Ordered Printed.

Was referred to the Committee on **Transportation** in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 582)

117TH MAINE LEGISLATURE

May 31, 1995

Senator Stephen E. Hall
Representative Dorothy Rotondi
Chairpersons
Joint Standing Committee on Inland Fisheries and Wildlife
117th Legislature
Augusta, Maine 04333

Dear Senator Hall and Representative Rotondi:

Please be advised that Governor Angus S. King, Jr. has nominated Eric N. Davis of Vinalhaven as a member of the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA Section 7033-A, this nomination will require review by the Joint Standing Committee on Inland Fisheries and Wildlife and confirmation by the Senate.

Sincerely,
S/Jeffrey H. Butland
President of the Senate
S/Dan A. Gwadosky
Speaker of the House

Came from the Senate read and referred to the Committee on **Inland Fisheries and Wildlife**.

Was read and referred to the Committee on **Inland Fisheries and Wildlife** in concurrence.

The Chair laid before the House the following item which was tabled earlier in today's session:

An Act to Reduce Paperwork and Promote On-site Elementary Neutralization of Low-hazard Wastes (EMERGENCY) (H.P. 475) (L.D. 656) (C. "A" H-277) which was tabled by Representative JACQUES of Waterville pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was Tabled and Today Assigned:

The following item was taken up out of order by unanimous consent:

An Act to Authorize a Multi-day Bass Tournament Permit (H.P. 795) (L.D. 1112) (C. "A" H-253)

TABLED - May 31, 1995 by Representative UNDERWOOD of Oxford.

PENDING - Passage to be Enacted.

On motion of Representative UNDERWOOD of Oxford, under suspension of the rules, the House reconsidered its action whereby L.D. 1112 was passed to be engrossed.

The same Representative presented House Amendment "B" (H-351) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Underwood.

Representative UNDERWOOD: Mr. Speaker, Men and Women of the House: This amendment will do nothing but allow the towns that are in the area of these lakes that the department would like to have a multi-day bass tournament receive 10 days notice from the commissioner to allow them an opportunity to object to a date or a time of when they are having one of these tournaments. It doesn't do anything else to the bill, but that. Thank you.

House Amendment "B" (H-351) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-351) in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative KNEELAND of Easton, the House adjourned at 5:30 p.m. pursuant to the Joint Order (S.P. 581).