

February 4, 1977

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Friday, February 4, 1977, at 6:30 p.m. in the House Chambers of the State Capitol. Representatives Williams, Ellerd and Lynch were excused; Representatives Baeth and Brand were absent.

The purpose of the meeting was to hear HOUSE JOINT RESOLUTION 25. The hearing took place as follows:

The sponsor Representative Fabrega opened, stating that this resolution addresses a real controversy in our times. We need to have safety and health measures, but there has got to be a better, more effective way, which is more in line with our constitutional process. He then presented Professor Gary Lane from the Delaware Law School. Professor Lane went over the text of the resolution. The law sets up a totally unworkable bureaucracy because it is centered in Washington. He suggested the possibility of forming state regulatory agencies to follow these guidelines. The federal government has an unfair advantage over the private citizen. In addition, all 4400 of the regulations are so complex that no one can understand them. If an employee willingly violates these regulations the employer will be fined, not the offending employee. Many efforts to repeal this act are taking place in other states. Federal Court rulings have declared OSHA proceedings to be unconstitutional. No one is complaining about health and safety regulations. What the complaint is, is "why federal involvement?" Why burden other states with one state's problems? Ralph Nader is against OSHA. Through OSHA's first four years more than 90% of its citations involved non-serious cases. Accident rates have not gone down. The consumer has to pay for the expenses of the businessman who receives these fines. The main thrust of OSHA is supposed to be safety, but in fact that has not happened. Even if it were working, why give jurisdiction to the federal government? Why function with an administrative body that cannot give you any guidelines? The only way to have OSHA declared unconstitutional is through the states filing actions; and by letting the courts know that the states are opposed to OSHA. At the same time, Congress should be informed by the states that this law should be repealed; a national effort has to be made.

The next proponent was Ken Clark, operator of "The House of Glass" in Great Falls. He explained that the average cost of a fine was \$145.00 and that OSHA picked up \$9 1/2 million in fines. On January 30, 1975, his business was visited by an OSHA inspector; 8 violations were found and a fine of \$145 was levied. He quoted from the letter of protest he mailed to OSHA and others. He stated that the inspector is the "judge, the jury and the executioner".

Louis Rivera, "Riverside Automotive and Machine", spoke, saying that no businessman is against good safety measures. He refused to pay the fine levied against his business. Until there is a law on the

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books that can be explained, OSHA is a bad thing. Terry W. Bass, Manager of the Montana Contractor's Association, expressed his association's support of the resolution. He feels that injuries are caused by the human being. He objects not to the standards, but to the inspection procedures and the lack of the businessman's ability to fight OSHA.

Tom Winsor, Montana Chamber of Commerce, then spoke. A recent survey showed government regulations the single most pressing problem for the small businessman. The business communities support worker safety. The government cannot tell what is safety and what is pure nonsense. He objects to OSHA's gestapo-like techniques of entering without due process; this has proved to be in violation of the fourth amendment and at present only Idaho is free of OSHA. Alex Dziekonski from East Helena voiced his support of House Joint Resolution 25. There were no further proponents.

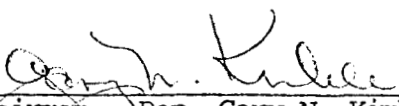
The first opponent to House Joint Resolution 25 was Jim Murry, Executive Secretary of the Montana State AFL-CIO, see prepared statement. Arlyn L. Plowman, United Cement, Lime and Gypsum Workers Local No. 239, presented to the committee a memo and petition signed by his co-workers urging defeat of House Joint Resolution 25. Also, see his prepared statement. Phil Tawney, Environmental Information Center then spoke. There is today more than ever before a common cause between workers and environmentalists. A strong economy will not exist in an unhealthy environment. The idea that business will be driven to bankruptcy and workers will lose their jobs is the same line which has been used by companies through the years. The Ford Administration did not try to accomplish the spirit of this law. The farmer and the small businessman have been unduly harassed by OSHA; they should go to the Carter Administration. OSHA needs a housecleaning, not to be repealed. The Environmental Quality Council expresses their stand beside labor in opposition to this resolution. Richard Zaharko, Safety Director for LPILU #3038 in Bonner, Montana, expressed the opposition of House Joint Resolution 25 on the part of this union's 1000 members. 8-10 accidents are caused each month by failure to follow OSHA regulations. OSHA has helped to enlighten management as to violations which pose hazards. Lewis R. Ball, Missoula County Trades and Labor Council then spoke, see prepared text. Kenneth Tritz, Local 885 of the United Paperworkers also spoke and left a prepared statement. Robert Fowler, representing himself also spoke and left a prepared statement. He pointed out that Ralph Nader was behind a one-hour documentary recently televised which was done by doctors. He offered two solutions to the problem of what could be done if OSHA were repealed. (1) An eye for an eye; a tooth for a tooth (2) declare all workers to be fish and game because the fish and game laws are very protective of our wildlife. He urged that the Legislature vote with its conscience.

The sponsor Representative Fabrega then closed. The only questions asked were by Chairman Kimble, in relation to the due process problem

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with the inspections. In reference to the Idaho Supreme Court ruling, it was determined that OSHA did not have jurisdiction. The supreme court granted a stay for all states outside of Idaho. The ruling of the panel in Idaho was also recently stayed; the decision is only in effect with that particular employer in Idaho. It was also explained that OSHA regulations were listed under civil codes and only if a fatality occurs because of a violation does this come under the criminal code.

The hearing was closed and the meeting was adjourned.


Chairman - Rep. Gary N. Kimble

Secretary