

# 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 Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 10, 1989 to June 14, 1989

THE PRESIDENT: The pending question before the Senate is the motion by Senator PEARSON of Penobscot, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

A vote of Yes will be in favor to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator RANDALL of Washington who would have voted YEA requested and received Leave of the Senate to pair his vote with Senator HOLLOWAY of Lincoln who would have voted NAY.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YFAS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, PERKINS, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators None

PAIRED: Senators HOLLOWAY, RANDALL

20 having voted in the affirmative and 13 Senators having voted in the negative, with No Senators being absent, and 2 Senators having paired their votes, the motion by Senator PEARSON of Penobscot, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-423) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on HUMAN RESOURCES on Bill "An Act to Strengthen Maine's Restaurant Smoking Law"

H.P. 966 L.D. 1344

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-409)

Minority - Ought Not to Pass

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 12, 1989, Reports READ.)

(In House, June 9, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-409).)

On motion by Senator GAUVREAU of Androscoggin, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-409) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on JUDICIARY on Bill "An Act to Allow Recovery for Wrongful Death of Unborn Children"

H.P. 408 L.D. 551

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-429)

Minority - Ought Not to Pass

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 12, 1989, Reports READ.)

(In House, June 9, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429).)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE OF EITHER REPORT.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 292 L.D. 404

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-417)

Minority - Ought Not to Pass

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 12, 1989, Reports READ.)

(In House, June 9, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

Senator ESTY of Cumberland, moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Whitmore.

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. This is not the first time that this issue has come before the Legislature in Maine. Again, it is one more Bill that is a spin off from the major labor strife that existed about a couple of years ago in the State of Maine. My concern is, as the signer of the Minority Ought Not to Pass Report, is that labor issues are covered by federal legislation. The reason it is covered by federal legislation is so that each state does not have a hodge podge or a mix and match of legislation concerning labor issues.

My main objection to this piece of legislation is the potential of the federal preemption, where it provides strike employers the legal right to hire replacement workers. The commerce and supremacy clause of the U.S. Constitution enforced the right by prohibiting states from enacting laws that infringe upon it. This is where I feel that this Bill goes astray. The second concern I have is the broad scope of the Bill, because the Bill seeks to prevent potential violence, this Bill would not enable a court to adjoint an employer whose replacement hirings have not contributed to approximately cause the violence in the community.

It is just saying up front that because you are in this action, that you are automatically guilty. I think that the strife that we went through and the people in Jay and prior to that the people in Rumford had gone through is very severe. I think many of the actions were uncalled for on both sides, but I don't believe that this piece of legislation is going to

solve the problem. In fact, it does go overboard, as I earlier made reference to, in stepping upon federal preemption. I would urge that you vote against the pending motion.

Senator WHITMORE of Androscoggin requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator ESTY: Thank you Mr. President. Mr. President, men and women of the Senate. If you believe that during a labor dispute, companies should be able to contract with outside firms regarding strike breaking activities and hiring of replacement workers that often end open discussions of differences and encourage tremendous anger and potential violence, then vote no and support the Minority Report.

However, if you believe that interference from outside firms should be limited, if they have a negative history of involvement in labor disputes, and you support continuing good faith negotiations between parties, vote yes on this Bill and support the Majority Report. This Bill will reduce violence during labor disputes. I would also add that this was one of the Bills that there was a pure difference of philosophy within the Committee. We did not fight bitterly over it, it was a difference of opinion and you can see the difference in philosophies. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

A Division has been requested.

Will all those Senators in favor of the motion by Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-417) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act Regarding the Review of the Workers' Compensation Denials"

H.P. 919 L.D. 1285

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-439)

Minority - Ought Not to Pass

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 12, 1989, Reports READ.)

(In House, June 9, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439).)

On motion by Senator ESTY of Cumberland, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-439) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.)

Off Record Remarks

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

An Act Concerning Unemployment Benefits for Lockouts

H.P. 456 L.D. 621

(C "A" 353)

Tabled - June 12, 1989, by Senator WEBSTER of Franklin.

Pending - ENACTMENT

(In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED, in concurrence.)

(In House, June 12, 1989, PASSED TO BE ENACTED.)

Senator WEBSTER of Franklin requested a Division.

On motion by Senator DUTREMBLE of York, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Mr. President, men and women of the Senate. I asked to have this Bill set aside because I represent an area of the state that feels very strongly about these issues. As a matter of fact, during the labor dispute in Jay last year, I had more people accost me because of the fact that people who were on strike received unemployment compensation, something the people in my area did not feel was appropriate. As a matter of fact, several years ago when I served in the other Body, we had a Bill which would allow unemployment compensation to strikers and I opposed it, as I have always opposed it. Unfortunately, this Legislature, in its wisdom, compromised on this matter and gave under certain circumstances there would be a chance for people to get unemployment. The people in my area feel very strongly that the unemployment fund shouldn't be a tool for negotiation between labor and management. It shouldn't be a tool that if things don't go the way you want, you can always go on unemployment, whether it is through a lockout or through a strike. For those reasons, I oppose this Bill. I believe that you are asking small businessmen out there, and let's not forget that is who pays into this fund, and in turn you might as well say that you are asking employees, because they are the ones that are indirectly paying this fund. You are asking them to get involved in a labor dispute. That is something that I don't think is appropriate and something that the people in my area feel very strongly about. I would ask you to vote against this.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. Before we vote on this, I don't want anybody to get the wrong impression that by voting the way the Senator from Franklin, Senator Webster, is suggesting, that we are protecting the employees of the State of Maine. This Bill is the Bill that would protect the employees of the State of Maine from unfair lockouts. If we are really seriously concerned about helping people, than let's make sure that the employer just can't lock his doors to an employee who may go to work one morning and find that the doors are locked, has to go home, and has no money at all to raise his family. That is