

# MAINE STATE LEGISLATURE

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**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

ORDERS OF THE DAY

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

Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 292 L.D. 404  
(C "A" H-417)

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, June 13, 1989, RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

(In House, June 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

On motion by Senator ESTY of Cumberland, Senate Amendment "A" (S-262) READ.

THE PRESIDENT: The pending question before the Senate is the ADOPTION of Senate Amendment "A" (S-262).

Senator WEBSTER of Franklin requested a Division.

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. I would say this is catching me by surprise, as I have not seen this before. I guess I would like to the good Senator from Cumberland, Senator Esty, to explain the Amendment to those present.

THE PRESIDENT: The Senator from Androscoggin, Senator Whitmore, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator ESTY: Thank you Mr. President. Mr. President, men and women of the Senate. This Amendment more clearly defines Section 1, in L.D. 404, "An Act to Reduce the Potential for Violence During Labor Disputes", that we gave first reading and passed yesterday.

It more clearly defines that Section, in which it discusses the types of companies, partnerships, corporations that may perform strikebreaking activities. It defines it more clearly than what the present Bill had done and it was the intent of the majority of the Labor Committee to define it in the fashion that the Amendment so does. Thank you.

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. As I read this, in going back to the time that we discussed it in Committee, it seemed that at that time it was set aside or Tabled for a period of time, so that both sides could get together and work out some language. If I remember correctly, the language from those Representatives that were representing what appears to be the majority of the Committee, I thought they couldn't come to some type of agreement between there and the administration, that something would be palatable. The last thing I heard for a figure that was being used was three times within the last five years for twenty-five employees, as opposed to one hundred. Clearly, when you tighten it up to read twice in ten years for ten people, I would say that tightens it up about as well as you could lock the door on anything. I would urge the Body present to reject the pending motion.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262).

A Division has been requested.

Will all those Senators in favor of the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262), please rise in their places and remain standing until counted.

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

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262), PREVAILED.

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. Before this Senate routinely Passes this Bill to be Engrossed, I sat through all of these labor Bills out of the Committee that are diversified on philosophy and the things we have heard about this Bill and some of the other Bills coming out of the Labor Committee. I find it interesting, to say the least, that we continue to deal with the strikebreaker Bill. There are very few people in this Chamber, and people in this State, who actually agree that a company ought to be able to mass lay off people and replace them. The problem is, what say do we have here in Maine, when we come right down to it. The federal government says, 'you can only go sixty-five miles an hour in the country.' Maine can't pass a law you can go one hundred miles per hour. It is very simple.

You don't have to be a Philadelphia lawyer to know that federal government has jurisdiction over labor relation laws. Why are we dealing with this issue? Why do we continue to posture and pass laws, so we can sustain vetoes, when they are unnecessary? Everybody agrees that the law ought to be changed. What we ought to be doing is going down and calling our Congressmen and getting them to change this law in Washington. It ought to be changed, but it ought to be done where the jurisdiction lies, in Washington. Let Mr. Brennan and Mrs. Snowe and all of those people down in Washington do what they should be doing, do what we want them to do, if that is what we want. Why are we presenting this Bill? Why do we continue to pass these Bills, that we know are going to end up not being passed and we know are going to end up being vetoed? It ought to be vetoed, it is unconstitutional. My four year old could figure that out. Why are we dealing with this? I suggest that we ought to stop wasting the people's time, do the business we are elected to do, and go home. I am opposing this measure and I hope in the future you will do the same.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. In response to the questions and the statements by the good Senator from Franklin, our good Congressman, Joseph E. Brennan, is pursuing legislation and we are very thankful for that, but we are here to do a job and let's let the voters make that decision.

I would submit that the constituents in the good Senator from Franklin's district and mine and across the state, don't particularly appreciate what strikebreakers do. Let's let them decide.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. Seldom does the Senator from Franklin, Senator Webster, get to his feet to pontificate that it doesn't prompt me to get to my feet to pontificate.

Suffice it to say, at this hour after a rather long and challenging and demanding day, that labor laws are not the exclusive purview of the United States government. If that were the case, then we would, indeed, find ourselves in a mass of bureaucracy from which it would be difficult to extricate ourselves. It is not unconstitutional within the realm of state control to pass laws addressing labor issues. That is why we are here. And, four year olds can understand that too. Thank you.

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 listened to the debate and this time after I had spoken and the Senator from Cumberland has risen, I will respond. I haven't done that yet, but I am ready to do that. I would hope that what we might do is Table this Bill, what I would do, if we really think this is Constitutional, and we will ask the courts to look at this and see if it is Constitutional.

If that is what everybody believes here, we don't need to waste the time of the people here. I will have an Amendment drafted and we will ask the courts to look at this Bill and see whether it is Constitutional. If that is what we really believe, if we are not just posturing and playing politics and trying to show the good guys and the bad guys and all the foolishness that goes along with it, then I suggest that we ought to ask the courts whether this is something we can do. I suggest it isn't something we can do and I suggest that members of this Body know that. If you think we can do it, then I would suggest that you Table this Bill and I will draft an Amendment, or we will ask the courts to decide. To tell us whether this Bill, which we are prepared to Enact, is Constitutional and whether we can Enact a law like this.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I have been here a number of years, and I know it takes to make a solemn occasion. One of the things it takes to make a solemn occasion to ask the courts, is that your Bill has to be matured enough in the process in order to be able to do that. In order to be able to do that, you have to have it right next to being signed into law by the Governor. If the Senator from Franklin is really sincere in this, I ask him to join with the rest of us in voting for the Bill, to get it to that mature point and then we could consider whether we wanted to ask for a solemn occasion or not.

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. For some reason we are reliving here the whole Jay situation from a couple of years ago. I don't believe we can send an Amendment to the courts and ask them to rule on a Bill that is before us. But, I would venture to guess that if we sent that over to the court, and if every judge on the court would tell us, 'yes, you can do this', I would be willing to bet you that the good Senator from Franklin, still wouldn't support this.

We are not the ones making this political, we are not the ones who caused the problems at Jay a few years ago. We are not the ones that brought those people up from the south and replaced all the workers in Maine so that they could go home and not be able to feed their families. We are not the ones who did that. If that is what you call being political, than by all means, I don't mind being political, because I

was elected here to protect the people of the State of Maine, whether they are the workers or the business owners. For the most part, I think, we do a pretty good job at being balanced. Unfortunately, on some cases we don't do that and this one here and a lockout Bill is an example, where we are allowing injustices to the workers of the State of Maine to continue as long as we sit down and say, 'this is Constitutional'. If you want to know if it is Constitutional or not, pass it, and then let someone challenge it, and bring it to the courts, as is the normal process for any law that is passed by government. Thank you.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

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 Encourage Family Unity" H.P. 917 L.D. 1283

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-484).

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 13, 1989, Reports READ.)

(In House, June 13, 1989, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in concurrence.

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

SENATE REPORTS - from the Committee on LABOR on Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law" S.P. 300 L.D. 798

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-253).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator WHITMORE of Androscoggin to ACCEPT the Minority Ought Not to Pass Report

(In Senate, June 13, 1989, Reports READ.)

On motion by Senator WHITMORE of Androscoggin, the Minority OUGHT NOT TO PASS Report was ACCEPTED.

(See Action Later Today)

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

Bill "An Act Providing Confidentiality for Public Sector Job Applicants" (Emergency) S.P. 486 L.D. 1328

(C "A" S-232)

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator GAUVREAU of Androscoggin to RECONSIDER whereby the Senate INDEFINITELY POSTPONED House Amendment "A" (H-468) to Committee Amendment "A" (S-232)

(In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232).)

(In House, June 12, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232) AS