

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 996

S.P. 372

In Senate, March 30, 1989

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Representative PRIEST of Brunswick and Representative PINEAU of Jay.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Limit the Granting of Injunctions in Labor Disputes.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **26 MRSA §5**, as amended by PL 1987, c. 736, §43, is further
5 amended to read:

7 **§5. Injunctions in labor disputes without hearing prohibited**

9 No court nor any judge or judges thereof of any court shall
11 may issue a preliminary or permanent injunction in any case
13 involving or growing out of a labor dispute except after hearing
15 the testimony of witnesses in open court with opportunity for
17 cross-examination and after a showing that sueh the injunction is
19 necessary to avoid a substantial and irreparable injury to the
complainant's property and that the public officers charged with
the duty to protect the complainant's property are unable or
unwilling to furnish adequate protection. Sueh The hearing shall
be held after due and personal notice thereof of the hearing has
been given in such manner as the court shall ~~direct~~ directs to
all known persons against whom relief is sought.

21 If a complainant shall ~~allege~~ alleges that the issuance of a
23 temporary restraining order before sueh the hearing can be held
25 is necessary ~~in--order~~ to avoid a substantial and irreparable
27 injury to complainant's property, a temporary restraining order
may be granted upon the expiration of sueh any reasonable notice
as the court may direct by order to show cause but in no case
less than 48 hours.

29 Said The order to show cause shall must specify facts
31 sufficient to justify the court to issue a preliminary
33 injunction. Said The order shall be based upon testimony under
oath or, in the discretion of the court, upon affidavits sworn to
before a notary public. Sueh The order shall be served upon the
party or parties to be restrained.

35 Sueh The temporary restraining order shall be effective for
37 no longer than 5 days except as hereafter provided in this
39 section. If the hearing for a preliminary injunction shall ~~have~~
been has begun before the expiration of the said 5 days, and if
41 the complainant has shown by clear and convincing evidence that
43 an imminent danger of substantial and irreparable injury to his
~~or--its--property--or--to--his--person~~ the complainant's property or
person will exist if the restraining order is not continued, the
45 restraining order may, in the court's discretion, be continued
47 until a decision is reached upon the issuance of the preliminary
injunction.

49 A temporary restraining order without notice may be issued
51 only on the condition that the complainant has shown by clear and
convincing evidence that an imminent danger of substantial and
irreparable injury to ~~his--or--its~~ the complainant's property or ~~to~~
his person exists in the absence of a restraining order. Said The

1 order without notice may furthermore be issued only on the
condition that the complainant shall must first file an
3 undertaking with adequate security sufficient to recompense those
enjoined for any loss, expense or damage caused by the issuance
5 of such the order, including all reasonable costs and expense for
defense against the order or against the granting of any
7 injunctive relief sought in the same proceeding and subsequently
denied by the court.

9
No restraining order or injunctive relief may be granted to
11 any complainant who has failed to comply with any obligation
imposed by law which is involved in the labor dispute in
13 question, or who has failed to make every reasonable effort to
settle the dispute either by negotiation or with the aid of any
15 available governmental machinery of mediation or voluntary
arbitration.

17
No officer or member of any association or organization, and
19 no association or organization participating or interested in a
labor dispute, may be held responsible or liable in any state
21 court for the unlawful acts of individual officers, members or
agents, except upon clear proof of actual participation in or
23 actual authorization of these acts, or of ratification of these
acts after actual knowledge of the acts.

25
Nothing in this section shall may deprive any party of any
27 remedy that may be had at law.

29

31

STATEMENT OF FACT

33 This bill incorporates 3 provisions of the federal
Norris-LaGuardia Act in the law prohibiting the issuance of
35 injunctions in labor disputes without a hearing.