

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber

Thursday

February 6, 1992

Senate called to Order by the President.

Prayer by Reverend Terence McKinley of the Pleasant Street United Methodist Church in Waterville.

REVEREND TERENCE MCKINLEY: While sitting waiting to begin the prayer, I noticed the translation of Scripture that is here is the New American Bible. If you make an acronym out of the initials it would be NAB. It is NAB. Let us hope that God nabs us on this day, gets our attention, and works out the divine purpose. Let us pray.

Serene God, Creator of the Universe, maker of all who dwell in that universe, we give you praise in this glorious day which comes out of the benevolence of your power and your grace. It is our fervent prayer particularly as we have passed the mid point of this day, that we might find a way to use the moment to Your honor and Your glory and as a way of fulfilling Your purpose for all the women, men, children, and creatures who reside on this planet.

Closer to home, Oh God, we implore Your presence in these chambers. Even amidst the consternation, the dilemmas, the arguments pro and con, may we give pause to find Your word, Your presence, Your will, and Your purpose in it all. We give thanks that You have called some to decide, others to nurture and support. We give thanks for staff, for people across this State who ponder the great truths of life and sift them down in ways that give order, meaning, purpose, and safety to life. We confess, Oh God, that we often fall short of our calling. Just when you seek to reach out and nab us and get our attention, we turn the other way and run fleetingly to other callings though minor. We give thanks for those whom you have called to perform the Legislative lawmaking functions on this date. Empower them, Oh God, with your Spirit. Use their personalities, their call to service, their will, their background, and their future in ways which blend to make a mighty chorus of praise, affirming the lives and livelihood of all over whom they have charge. It is with thanksgiving in our hearts that we implore Your divine presence, Your sustaining Spirit, Your power and promise which go on into the future which is ever open and ever before us. It is in Your Holy name, Oh God, that we pray and ask for blessing. Amen.

Reading of the Journal of Tuesday, February 4, 1992.

Out of order and under suspension of the Rules, on motion by Senator **DUTREMBLE** of York, the following Joint Order:

S.P. 896

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 11, 1992, at four o'clock in the afternoon.

Which was **READ** and **PASSED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Require Group Insurance Companies to Notify Covered Employees of Nonpayment of Premiums by Employers"

H.P. 1617 L.D. 2278

Comes from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Law Regulating Architects"

H.P. 1624 L.D. 2287

Bill "An Act to Amend the Laws Governing Respiratory Care Practitioners" (Emergency)

H.P. 1631 L.D. 2295

Come from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Expand the Membership of the Maine Committee for Global Education"

H.P. 1623 L.D. 2286

Comes from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Allow Municipalities to Operate Stump Dumps"

H.P. 1613 L.D. 2274

Resolve, Concerning the Removal of Residential Underground Oil Tanks (Emergency)

H.P. 1614 L.D. 2275

Bill "An Act to Amend the Definition of "Freshwater Wetlands" for Purposes of Development Laws"

H.P. 1615 L.D. 2276

Bill "An Act Concerning Landfill Operation on Certain Islands and to Correct an Error in the Landfill Operation Laws"

H.P. 1622 L.D. 2285

Bill "An Act to Ensure the Safe Collection and Management of Certain Household Hazardous Wastes"

H.P. 1632 L.D. 2296

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Consolidate the 10 Existing Committees Dealing with Children and Families into the Maine Commission for Children and Families"

H.P. 1628 L.D. 2291

Bill "An Act to Provide Accountability for Certain Purchased Services Related to Substance Abuse"

H.P. 1630 L.D. 2294

Resolve, to Ensure Protection and Family Support for Maine's Children (Emergency)

H.P. 1633 L.D. 2297

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.
Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Require Out-of-control Children under 15 Years of Age to Receive Needed Substance Abuse and Mental Health and Educational Services Involuntarily"

H.P. 1626 L.D. 2289

Bill "An Act to Open State Government to Public View"

H.P. 1627 L.D. 2290

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Broaden and Specify Conduct for Which the Certificate of a Law Enforcement Officer May Be Suspended or Revoked"

H.P. 1616 L.D. 2277

Comes from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Resolve, to Authorize the Director of the Bureau of Public Improvements to Condemn in the Name of the State Certain State-owned Land in the Town of Warren and the Town of Cushing and Exchange Boundary Line Agreements with Abutting Land Owners

H.P. 1611 L.D. 2272

Bill "An Act to Establish a Boundary between the Town of Skowhegan and the Town of Madison"

H.P. 1612 L.D. 2273

Bill "An Act to Strengthen Maine's Governmental Ethics Laws" (Emergency)

H.P. 1618 L.D. 2279

Bill "An Act to Authorize a Bond Issue of \$300,000 to Expand the Sagadahoc County Courthouse to Include Detention Facilities" (Emergency)

H.P. 1619 L.D. 2280

Bill "An Act to Allow the Separation of Certain Islands in Casco Bay from the City of Portland"

H.P. 1634 L.D. 2298

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning the Bureau of Intergovernmental Drug Enforcement" (Emergency)

H.P. 1629 L.D. 2292

Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Eligibility Requirements for the Maine Residents Property Tax Program"

H.P. 1621 L.D. 2284

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.
Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (Emergency)

H.P. 1625 L.D. 2288

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Joint Orders

The following Joint Order: H
.P. 1635

ORDERED, the Senate concurring, that "An Act Prohibiting the Driving or Parking of Vehicles on Ice-covered Bodies of Water," S.P. 216, L.D. 543, and all its accompanying papers, be recalled from the legislative files to the House.

Comes from the House **READ** and **PASSED**.

Which was **READ**.

Pursuant to Joint Rule 15, this Joint Order requires the affirmative vote of two-thirds of the members present and voting. 24 Senators having voted in the affirmative and No Senators having voted in the negative, and 24 being more than two-thirds of the members present and voting, the Joint Order was **PASSED**, in concurrence.

COMMUNICATIONS

The Following Communication: H
.P. 1620

**STATE OF MAINE
SECRETARY OF STATE
AUGUSTA, MAINE 04333**

January 22, 1992
Honorable John L. Martin
Speaker of the House
115th Maine State Legislature
State House Station #2
Augusta, Maine 04333
Dear Mr. Speaker:

In accordance with the provisions of Title 30-A, Section 701 of the Revised Statutes, as amended, I have the honor to transmit herewith the budget estimates of expenses of the counties within the State for the year 1991.

They are as follows:

- Androscoggin
- Hancock
- Kennebec
- Penobscot
- Piscataquis
- Somerset
- Washington
- York

Respectfully,
S/G. William Diamond
Secretary of State

Comes from the House **READ** and referred to the Committee on **STATE & LOCAL GOVERNMENT**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT**, in concurrence.

The Following Communication:
**MAINE COUNCIL ON ALCOHOL AND DRUG ABUSE
PREVENTION AND TREATMENT
STATE HOUSE STATION 159
AUGUSTA, MAINE 04333**

February 1, 1992

The Honorable Charles P. Pray
President of the Senate
State House
Augusta, ME 04333

Dear Senator Pray:

I am pleased to present the Maine Council on Alcohol and Drug Abuse Prevention and Treatment's 1992 Annual Report to the Governor, the Legislature, the Judicial Council, and the Director of the Office of Substance Abuse.

The Report is the result of many hours of analysis and discussion by members of the Maine Council. It includes an assessment of the current continuum of alcohol and other drug abuse prevention and treatment services as well as important recommendations for the future.

The Maine Council's description of the extent of the alcohol and other drug abuse problem in Maine, and a discussion of funding issues, are presented on the first few pages. Recommendations to the Legislature, the Executive branch, and the Judicial Council follow, and identify areas on which the Maine Council will continue to focus during the coming year. Appendices contain the reports of five Maine Council Subcommittees: Treatment, Prevention, Education, Legal Issues, and Research and Evaluation. On behalf of the Maine Council, I hope you find the 1992 Annual Report informative and useful.

Sincerely,

S/Granville V. Henthorne

Chair, Maine Council on Alcohol and
Drug Abuse Prevention and Treatment

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act Relating to Legislative Confirmation Hearings"

S.P. 894 L.D. 2299

Presented by Senator GAUVREAU of Androscoggin
Cosponsored by Representative PARADIS of Augusta
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

ORDERS

Joint Resolution

On motion by Senator **MILLS** of Oxford (Cosponsored by: Senator **WEBSTER** of Franklin, Representative **HEESCHEN** of Wilton, Representative **POWERS** of Coplin

Plantation) (Approved for Introduction by a majority of the Legislative Council pursuant to Joint Rule 35) the following Joint Resolution:

S.P. 895

JOINT RESOLUTION OPPOSING LOW-LEVEL FLIGHTS IN WESTERN AND NORTHERN MAINE

WHEREAS, the Air National Guard proposes to expand the number of low-level jet training flights in the "Condor" military operations areas in western Maine and in "the Great State of Maine" military operations areas in northern Maine; and

WHEREAS, the proposal allows jets to fly as low as 300 feet in western Maine, down from the current legal floor of 7,000 feet and the floor in northern Maine drops to as low as 100 feet; and

WHEREAS, the Air National Guard's proposal for an increase in the number of low-level jet flights has met with opposition by residents near the flight paths as well as other concerned citizens throughout the State because of problems associated with the low altitude of the jets, the increased volume in jet flights, the increased noise levels that will disturb the serenity of the areas for both residents and tourists and the potential for driving away wildlife; and

WHEREAS, the citizens of Maine appreciate the serenity of the western and northern Maine wilderness regions and are mindful of its fragile beauty; now, therefore, be it

RESOLVED: That the people of Maine do not want an increase in the number of low-level jet flights over western and northern Maine and call upon Maine's Congressional delegation to urge the Air National Guard to withdraw proposals to expand low-level flights over the "Condor" and "the Great State of Maine" military operations areas; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to each Member of the Maine Congressional Delegation.

Which was **READ** and **ADOPTED.**
Sent down for concurrence.

Off Record Remarks

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports were placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **BANKING & INSURANCE** Bill "An Act to Clarify the Rights of Persons to Recover Insurance Proceeds When They Are Injured by an Underinsured Motorist"

H.P. 1476 L.D. 2088

From the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act to Eliminate or Modify Certain Environmental Licensing and Permitting Requirements of the Department of Environmental Protection" (Emergency)

H.P. 1530 L.D. 2161

From the Committee on **JUDICIARY** Bill "An Act to Amend the Distribution of Money and Property Seized in Drug Busts"

H.P. 1408 L.D. 2020

From the Committee on **LEGAL AFFAIRS** Bill "An Act to Clarify the Law Concerning the Safety Course Necessary to Obtain a Concealed Firearms Permit"

H.P. 1424 L.D. 2036
 From the Committee on **LEGAL AFFAIRS** Bill "An Act
 to Allow Sheriffs' Deputies to Seek Certain
 Nonpartisan Offices" (Emergency)
 H.P. 1439 L.D. 2051

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act to
 Clarify the Scope of the Laws Governing
 Administrative Correction of Statutory Errors"
 (Emergency)

H.P. 1492 L.D. 2104

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS
 AMENDED BY HOUSE AMENDMENT "A" (H-880)**.

Which Report was **READ** and **ACCEPTED**, in
 concurrence.

The Bill **READ ONCE**.

House Amendment "A" (H-880) **READ** and **ADOPTED**, in
 concurrence.

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

Senate

Leave to Withdraw

The following **Leave to Withdraw** Report were
 placed in the Legislative Files without further
 action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **BOST** for the Committee on
TAXATION Resolve, to Exclude from State Taxes Certain
 Federal Payments to Eji Suyama (Emergency)

S.P. 804 L.D. 2003

Ought to Pass

Senator **VOSE** for the Committee on **UTILITIES** on
 Bill "An Act to Continue Modified Rate Regulation for
 Small Consumer-owned Electric Utilities"

S.P. 851 L.D. 2164

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Senator **VOSE** for the Committee on **UTILITIES** on
 Bill "An Act to Amend the Mars Hill Utility District"

S.P. 870 L.D. 2217

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

Senator **TITCOMB** for the Committee on **ENERGY &
 NATURAL RESOURCES** on Bill "An Act to Authorize Forest
 Rangers to Enforce the Rules and Laws Pertaining to
 the Bureau of Public Lands"

S.P. 852 L.D. 2165

Reported that the same **Ought to Pass as Amended
 by Committee Amendment "A" (S-538)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-538) **READ** and **ADOPTED**.
 The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND
 READING**.

Off Record Remarks

Divided Report

The Majority of the Committee on **LABOR** on Bill
 "An Act to Amend the Municipal Public Employees Labor
 Relations Laws"

S.P. 465 L.D. 1248

Reported that the same **Ought to Pass as Amended
 by Committee Amendment "A" (S-537)**.

Signed:

Senators:

ESTY of Cumberland
 CONLEY of Cumberland

Representatives:

RUHLIN of Brewer
 PINEAU of Jay
 MCKEEN of Windham
 MCHENRY of Madawaska
 RAND of Portland
 ST. ONGE of Greene

The Minority of the same Committee on the same
 subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

CARPENTER of York

Representatives:

BENNETT of Norway
 HASTINGS of Fryeburg
 AIKMAN of Poland
 LIPMAN of Augusta

Which Reports were **READ**.

Senator **ESTY** of Cumberland moved to **ACCEPT** the
 Majority **UGHT TO PASS AS AMENDED** Report.

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

Senator **CARPENTER:** Thank you Mr. President.
 Ladies and Gentlemen of the Senate. I think I really
 want to start this little debate with where I really
 stand with teachers. I think teaching is a very
 honorable profession. Teachers are well educated and
 do an excellent job teaching our children. I also
 really feel an awful lot of teachers are underpaid.
 I have three teachers in my family, two daughters and
 a son-in-law. I have a junior in high school and I
 would be very proud if she were to become a teacher.
 That being said, I oppose this Bill and I request a
 Division.

The Bill, in itself, takes things away from an
 elected school board which the public has elected to
 administer the school system. The School Boards hire
 a superintendent and other administrators to
 implement their policies. I do not think that it is
 anything other than a management decision - when
 vacations occur, lunchbreaks occur and rest periods
 occur. I have done a lot of negotiating in the
 Sanford system with the department there and this
 always has been and always should be a management
 decision. Thank you.

Senator **CARPENTER** of York requested a Division.

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

Senator **ESTY:** Thank you Mr. President. Ladies
 and Gentlemen of the Senate. I do appreciate and
 recognize the comments by the good Senator from

York, Senator Carpenter and his recognition of teachers as an important role model in the state and those who are valuable in the state as far as their service to our children.

Let me begin today's brief comments and I promise they will be relatively brief, with a newspaper article that appeared today. I don't believe I have quoted from the newspaper during my tenure in the Maine Legislature, but I need to tell you this morning when I read today's paper I was outraged. I was outraged first, and secondly, I was hurt. I need to tell you why. I picked up the Portland Press Herald today and it had an article regarding this Bill. The quote in this article was blocked off from the Executive Director of the Maine School Management Association. A person who represents School Boards and Superintendents in this State said "You can bet one thing, teachers are going to be more interested in themselves than the students. That is usually the way it goes." I can tell you, as a teacher, that is not usually the way this goes. People don't get into education for the money. They don't get into education because it is an easy job. They get into education because they care about students. They have a real desire to improve the quality of life for the children in our State or in our community. This kind of callous and uncaring remark, I frankly think is uncalled for and doesn't represent the people this man was hired to represent. I found it insulting to all of us. It also misrepresents the Bill and what it was intended to do. I hate to start off this kind of debate by dealing with such a negative but I was disappointed that a rational discussion of the issues couldn't take place, and instead, an insulting comment like that.

Having said that, let me now briefly address the Bill which Senator Carpenter of York and myself and the rest of the members of the committee were able to discuss and differ in a rational way. The Bill deals with two categories. They are: What is educational policy, and what are working conditions? It is not clear. Frankly, this Bill does not completely clear up those two categories. It begins to define what are working conditions and what is educational policy. It allows for better discussions to occur regarding restructuring and education reform. The Bill began broadly in its introduction as a starting point for us to discuss as a Labor Committee. We narrowed it down dramatically into a few areas that specifically were clearly working conditions. It is not and was not the intention of the Labor Committee to impact educational policy in this State. We had no intention and this Bill does not harm students, impact students, or have any effect on the educational day regarding student instructional time. What it does do is clarify working conditions and I think it was an important step in an area that hasn't been addressed in a real way since 1969. I would ask that this Senate endorse and support this Bill. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Being the other certified teacher in the Body, I wish to pose a question through the Chair. I just saw this article the good Senator from Cumberland, Senator Esty is talking about just as he called my attention to it. The one thing I do agree with him on is I take

offense at what they say about teachers. I do agree if you go into teaching you certainly have to be a dedicated person. My question is and I am very concerned and serious about this Bill, how will this Bill, if passed, affect the local School Board and the policy in the way we do business now? I really would like to hear some more specifics about this Bill and about the working conditions. It sounds like it should go to the Education Committee but it didn't, it went to Labor and I don't know anything about this Bill and would like some more information.

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The reason this Bill came to Labor instead of Education, from my understanding of the process, was because it was viewed as a Bill that dealt with the bargaining and Labor negotiations verses educational issues and policies. We tried to restrict our discussions to those kinds of issues that were labor management orientated verses educational orientated. That is also the reason we took this Bill from a broad basic starting point to a very narrow conclusion. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I too have my article from this mornings paper on the same quotes. I was going to say pretty much the same thing the good Senator from Cumberland, Senator Esty said. He did a very good job of doing it. I was very disappointed at seeing that in print also. As a matter of fact, this quote comes from a person that I respect. If I am not mistaken someone that maybe a few years ago, twenty or twenty five, I had him in class when he was a teacher. I don't remember ever thinking at that time that he gave the appearance that he was there not thinking about the students and that is the way it goes. I thought he was a very caring person and I don't think that has changed. I would hope that this quote is a mistake in print and those words were not really said. You know how that can happen and it has happened to a lot of us as elected officials. If that is the case I hope that person would make that known. If that person did make this quote I think that person owes the teachers in this State a serious apology. An apology for every teacher who spent the time with the exceptional student, with high risk students, teachers who go home and take their jobs with them and sometimes can't sleep because of the problems they are having with students or the problems students are having themselves. I think this flies in the opposite direction as to what people in the teaching profession really believe in. I would hope that this matter would be clarified. I would also like to pose a question to the good Senator from Cumberland, Senator Esty. If this Bill passes, does it just open it up for negotiation or does it mean that teachers are going to go out and say this is what is going to happen? Thank you.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Seeing a good colleague from the Labor Committee is detained in conversation, I will try to answer the question of the good Senator from York, Senator Dutremble and also the Senator

from Knox, Senator Brawn who posed a similar question in reference to what does this Bill do. First of all the Senator from York is correct. This doesn't mean that anything is going to happen overnight. It more clearly defines what working conditions are and puts those items into law and says the parties must meet and discuss them. Nobody has to agree to anything. It is only for the purpose of negotiation. That really leads into an answer to the good Senator from Knox, Senator Brawn question. What does this Bill do, why is it needed, and what is it trying to accomplish? If you look at Senate Amendment 537, it details what working conditions are more clearly, it lays out three specific areas that would now be open to negotiation, non instructional duties, internal transfers and reassignment of non probationary employees. Again, not binding management on what they have to do in any of those areas but saying they should now discuss them. Those areas are no longer educational policy which is really a wall behind which management in the area of school negotiations has been able to hide. Sometimes teachers, believe it or not, have pretty good ideas on the way things should be done in schools when they sit down and negotiate. If management has liked them in the past they say that is a good idea let's do it. If they didn't like them they say we don't have to negotiate that, it's educational policy. What this Bill has done is try to more clearly define what is educational policy and what is not. This has really laid out some specific exceptions to what educational policy is, that which we have left to school boards.

Really it gets to a more basic question also eluded to by the good Senator from Knox, Senator Brawn, why wouldn't this go to the Education Committee? I would suggest to the Body that if this went to the Education Committee, we would be looking at the same Divided Report which we have before us now. Which is Democrats on one side and Republicans on the other side. Democrats stick up for working men and women and try to get the best deal they can for them so they can better their working situation. Republicans, on the other hand, tend to identify with management and business. Although the good Senator from York, Senator Carpenter who also serves with me on this committee, says he has teachers in his family so he is not against teachers. What is really being said here is we like teachers but we really don't want to talk to them about certain things. There are certain things we think we can decide best. That is what this Bill is all about trying to open the door for discussions. My question is if we trust these people with our kids, why can't we trust them to discuss some of these very basic issues which are laid out in this amendment? Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I think the teachers bargaining units and negotiations with the bargaining units and the School Boards have been difficult enough in the past. It seemed like it took a year to reach an agreement. With these items, now on the negotiating table if they are, I can see it extending even longer than that. I would think the main positions of the negotiating teams would be for salary items. The way things are right now, probably they are saying they aren't going to give salary items so we will work on these. I think it will take just as long. In my humble opinion, I can see it

costing the local School Boards more money, if in fact the bargaining teachers bargaining unit should secure longer lunch periods, rest period, or more vacations. I can see them having to hire either another teacher to fill up the schedule the teachers would not be with the children. The other point I would like to clarify, I have not read the Portland Press article but if it was quoted correctly and written the way it was read, I am certainly offended also. I have spent some weekends helping daughters correct papers. The other thing I would like to refer to is that the good Senator from Cumberland, Senator Conley mentioned that it is always this way - the Republicans against the Democrats. I refer you to a Bill that is making its way through the lower body right now LD 1657. I think you will see it is a different way there. I pride myself on being fair and voting the way I personally feel. Thank you.

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

Senator **CLEVELAND:** Thank You Mr. President. Ladies and Gentlemen of the Senate. I would like to pose two questions through the Chair to any Senator who may wish to respond. In light of the fact that I serve neither on the Education or the Labor Committee, I am perhaps somewhat unfamiliar with the issues. I would pose two questions I would find helpful. The first question is generally when there is a piece of legislation introduced that is meant to rectify a deficiency or problem, what has been the problem? Give some examples of how this particular legislation could rectify the disadvantage that teachers have. On the reverse side, I would also find it helpful if those who feel this would inappropriately diminish the role of the administrators or school committee in restricting their freedom and therefore cause a difficulty. I would like to have some examples of how that may occur as well.

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

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to comment on a few points. Number one, the issue regarding additional costs to communities or to schools was brought up by the good Senator from York, Senator Carpenter and that was an issue we discussed as well. I think it is beneficial for us to recognize that in negotiations often times a new cost item may be developed while at the same time another cost item is given up. Certainly these days schools and municipalities have few dollars and very few additional dollars because we have taken away most of their dollars to operate with anyway. In a negotiation process if something is gained something else must be given up. This will not force any new costs at all. That was of critical importance to us.

Number Two, in regards to one of the questions for Senator Cleveland, the good Senator from Androscoggin. This Bill, the amendment specifically deals with allowing negotiations having to do with wages, salaries, pensions, and insurance some of which are allowed to be negotiated now. Rest and meal breaks, vacation and compensatory time which has been an issue in the elementary schools, working conditions, working conditions for non instructional duties, again somewhat of a concern in some school districts throughout the State primarily in elementary schools and internal transfers the procedural part of internal transfers particularly

these days with teachers being ripped and cut. It is important not that you can do transfers, but the procedures for transfers be discussed and negotiated. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I didn't feel my question was addressed so I will make it simple. How will this Bill affect local school boards?

THE PRESIDENT: The Senator from Knox, Senator Brawn poses a question through the Chair. The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator **ESTY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. School Boards will still be the policy makers in each community. School Boards will be the bodies in which educational policy will be developed and enacted. The meet and consult law that exists regarding educational policy will still be the same. They are working conditions that will be negotiated as part of the contract. School Boards are part of those negotiations so they will be part of that negotiable process regarding working conditions and non instructional time regarding teachers. They will be very much a part of that process as they have always been and will still control all issues regarding educational policy. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It seems to me that we are viewing the Bill based on a management organized labor point of view. I think we have neglected somewhat the role of elected School Board members in the discussion. This country has a long tradition of elected School Boards being responsible for our school systems. Essentially, it seems to me, that what this Bill does is diminish the role of those elected officials who have made policy for our school system ever since this country began. I suspect part of our differences is the view that we use when we talk about working conditions. Those who support this legislation are expanding that role a great deal. They are expanding it to include things which, it seems to me, are properly policy functions that ought to be the prerogative of the elected School Boards.

Once upon a time many years ago, there was a Secretary of the Federal HEW which was Health Education and Welfare and I recall reading in the late 60's, he said education was too important of a matter to be left entirely to the professionals. It seems to me that says something to all of us about the role the public ought to play in this debate. That is the role the School Boards have and we are in fact diminishing that role if we choose to approve this legislation. Thank you Mr. President.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have always in the past been supportive of measures such as this and other working people's issues. I have had today and yesterday, however, many calls from the towns I represent and my city also. As you know I represent eight towns. I was reading in the letter that was left to us by MTA that passage of this Bill will not have a negative fiscal impact on municipal budgets. I always come back to mundane issues, i.e. money.

According to what I hear from the School Board members who have called me at home are very concerned that this would impact the budget. For instance, one of them told me in one of my SADs that they can now negotiate for a break. This would allow them to negotiate when they could take a break or when they could do whatever. One thing would be that if that were the case there could be a conflict of other staff people who are administrative or cafeteria, there might be a conflict of time there. The cost would incur if they were able to negotiate, for instance when they meet with parents after school or attend open houses, this sort of thing. To a small community, \$26,400 cost which is estimated would bear quite a burden on the tax payer. I bring that out simply to get a question answered. Will it indeed impact a local budget negatively? Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would think there is no absolute definite answer for that. My own opinion is that, yes, there will be an increase in cost. I don't think either one knows whether there will be an increase. I know teachers don't like bus duty, maybe they will have to hire someone to do bus duty. They don't like certain functions, if it gets into the negotiations it is quite possible that you would have to hire someone to cover.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have listened with some interest and have gotten a lot of mail and some phone calls on this particular issue. I would like to comment on the question that the good Senator from Knox, Senator Brawn posed and the reply she got. Some of the things that might be considered is the fact that 60 year old school teachers who are teaching kindergarten who are asked to put on the coats, boots, and button everybody up might just ask for some help doing that. It might be a little too much for them and they might want to ask the School Board if they could have some help doing that. I say that because that is what happened to my Aunt. She just couldn't take it anymore because it was too much of a strain and we kept telling her she didn't have to do that. She said if you're going to get them out the door at recess and get them home at night you have to do this. My mother would tell her she wasn't well enough to do that, you can't physically do that for them anymore. She said she tried to get some help and the School Board won't help me and the administration won't help me. She had only taught in school for thirty five years. After she had taught there for thirty five years, they weren't even considerate enough to do that for her. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hadn't intended to rise this many times and since I have asked questions I have been flooded with all kinds of information. I couldn't help to rise to comment to the good Senator from Penobscot, Senator Pearson. Senator Kany can substantiate this that at lunch today I was saying the reason I gave up teaching 3 and 4 year olds was because the night I found myself out to eat with my husband and I was cutting the chicken and the man beside me, my husband when we got home said I think

you better think about doing something else. I understand what it is like to try to get 20 kids ready to go out on the playground.

I would like to comment that since I have asked these questions and been flooded with information, I think there is a fact that needs to be put on the record. This news media that we love here, that we live on and thrive on and drives me crazy is that this sentence is really taken out of context. Again the comment has been made that this happens to all of us. They may start a sentence and put it in the paper but they may not finish it. I think it would be wise if we found out the whole story. I will end by saying that I plan to vote against this Bill because of many reasons but this really made up my mind. Before we do, I am so glad that my good seat mate the Senator from Cumberland, Senator Conley chuckled at that. I have sat in this seat now for six years and I won't be sitting in it next year at this time. A year ago we started this vicious debate that I wish would end. Nobody wins when we do these things and the people of the State of Maine are suffering. When my good seat mate gets up and makes accusations that Democrats are for working men and women and Republicans are for management and business, that makes me sick. I am a working women, I cut sardines, I raked blueberries, I represent all the people and I resent that. I hope that doesn't continuously go on in this session. Can't we please take those masks off and work together. The point is and again I am a teacher, my brother is a teacher, and I come from a family of teachers. This is the point I can't go along with. If passed this would permit teachers who attended a staff meeting for one and half hours one afternoon to negotiate. If they did it one and a half hours then they wouldn't have to come to work for another hour and a half later the next day or it would permit negotiation or similar arrangement for individual teachers who may be involved in parent conferences or other necessary activities. When we get into playing these kinds of games, Ladies and Gentlemen, whether you agree with me or disagree with me, the children of the State of Maine are the ones who are losing. When school buses go home at 2:00 and the hours are less, it is our kids who are losing out on this. I hope you will vote against it in this division.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question to the good Senator from Knox, Senator Brawn. I would like to know if this information came from teachers or management?

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The answer to your question is it came from management.

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

A Division has been requested.

Will all those in favor of the motion by Senator **ESTY** of Cumberland to **ACCEPT** the Majority **UGHT 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 14 Senators having voted in the negative, the motion by Senator **ESTY** of Cumberland to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-537) **READ** and **ADOPTED**.

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

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act to Establish a Forest Service Bureau in Each Division of the District Court"

H.P. 1482 L.D. 2094

Bill "An Act to Authorize Transfer of Venue for Multiple Cases by the Chief Justice of the Superior Court"

H.P. 1511 L.D. 2123

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act Regarding the Relocation of Utility Facilities as a Result of State Highway Construction"

H.P. 508 L.D. 702

(C "A" H-871)

Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks"

H.P. 1217 L.D. 1775

(C "A" H-874)

Bill "An Act to Clarify the Economic Impact Analysis in Administrative Rule-making Procedures"

H.P. 1235 L.D. 1799

(C "A" H-873)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Senate As Amended

Bill "An Act to Establish a Seasonal Permit for the Sale of Deer Hides"

S.P. 519 L.D. 1397

(C "B" S-533)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

Bill "An Act to Create a Budget Advisory Committee for Hancock County"

S.P. 814 L.D. 2013

(C "A" S-536)

Which was **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Bill and Accompanying Papers **RECOMMITTED** to the Committee on **STATE & LOCAL GOVERNMENT**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

An Act to Require that Financial Examinations of Home Service Companies Be Conducted by the Superintendent of Insurance

S.P. 688 L.D. 1829
(C "A" S-524)

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Establish a Special Housing Allowance for the Aid to Families with Dependent Children Program

H.P. 977 L.D. 1420
(C "A" H-864)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Improve the Effectiveness of the Office of Substance Abuse"

H.P. 1640 L.D. 2303

Comes from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Clarify the Definition of Certain Vehicles for Insurance Purposes"

H.P. 1644 L.D. 2307

Come from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning Staffing at Correctional Facilities"

H.P. 1639 L.D. 2302

Comes from the House referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

Which was referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning Septage" (Emergency)

H.P. 1638 L.D. 2301

Bill "An Act to Establish the Motor Vehicle Emission Inspection Program"

H.P. 1645 L.D. 2308

Bill "An Act to Encourage the Wise Use and Management of Maine's Water Resources"

H.P. 1646 L.D. 2309

Come from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Prohibit the State from Entering into Residential Treatment Facility Contracts That Give Preference to Former Patients of State Mental Health Institutes"

H.P. 1637 L.D. 2300

Comes from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Prohibiting Persons Convicted of Operating under the Influence from Operating School Buses"

H.P. 1641 L.D. 2304

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Ensure the Availability of Ferry Service in Casco Bay" (Emergency)

H.P. 1643 L.D. 2306

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **GAUVREAU** of Androscoggin, **ADJOURNED** until Tuesday, February 11, 1992, at 4:00 in the afternoon.