

LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

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House of Representatives January 3, 1996 to April 3, 1996

Senate January 3, 1996 to March 13, 1996

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

In Senate Chamber Tuesday February 13, 1996 che President, Jeffrey

Senate called to Order by the President, Jeffrey H. Butland of Cumberland.

Prayer by the Reverend Levering B. Sherman, St. Barnabas Episcopal Church, Augusta. **REVEREND LEVERING B. SHERMAN:** Just to introduce

REVEREND LEVERING B. SHERMAN: Just to introduce myself briefly to you, my name is Lev Sherman of St. Barnabas Episcopal Church here in Augusta. I also was formerly a producer with Maine Public Broadcasting and spent a lot of time in these Chambers in that capacity. It is a pleasure to be here on a more personal note. I believe very strongly that our spiritual guidance and spiritual direction must come into each and every day of our lives. So with that in mind, let us pray now for guidance for this day, that we may seek right ways in all of our duties and all that we do. May we stand mindful that we are all, indeed, public servants. That in light of larger and more powerful ways, our passage into the greater life of all eternity. In that movement, our accumulation of the things of this world, finally, amount to nothing. All that is left of us is the memory of what we have left for those whose time is yet to come. Yet, in this life we do touch upon that eternity in the ways of our compassion, of our caring, and of our sense of true mission for each other. The spirit which unites us remains and endures forever. That spirit is made alive in the ways that we serve one to the other. Eternal and Almighty God, Keeper of the Spirit of our precious life, keep us ever mindful of those in need, of those less fortunate than we, of all who are in any trouble, sorrow, sickness or pain. Guide us, truly, into the ways of peace, to seek honestly and with open hearts that which is best for all of our human family and for what is best for this earth, our temporary but bounteous home. Inspire and guide this body, that they may do Your work, may do it wisely, and may do it well. Amen.

Pledge of Allegiance led by **SENATOR HARRIMAN** of Cumberland.

Reading of the Journal of Thursday, February 8, 1996.

Out of order and under suspension of the Rules, on motion by Senator **KIEFFER** of Aroostook, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Joint Convention of both branches in the Hall of the House at 11:00 o'clock in the morning for the purpose of extending to the Honorable Daniel E. Wathen, Chief Justice of the Supreme Judicial Court, and members of the Judiciary an invitation to attend the Convention and make such communication as pleases them.

S.O. 38

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

The Chair appointed the Senator from Aroostook, Senator **KIEFFER**, to deliver the message to the House of Representatives.

Off Record Remarks

PAPER FROM THE HOUSE Joint Resolution The following Joint Resolution:

JOINT RESOLUTION MEMORIALIZING THE MEMBERS OF THE MAINE CONGRESSIONAL DELEGATION TO INSIST THAT THE UNITED STATES SECRETARY OF AGRICULTURE MAINTAIN AND INTENSIFY INSPECTIONS OF CANADIAN POTATO SHIPMENTS ALONG MAINE'S BORDER AND DETERMINE THE EXISTENCE OF UNFAIR TRADE PRACTICES BY THE CANADIAN GOVERNMENT

UNFAIR TRADE PRACTICES BY THE CANADIAN GOVERNMENT WE, your Memorialists, the Members of the One Hundred Seventeenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Members of the Maine Delegation to the Congress of the United States, as follows:

WHEREAS, in response to complaints by Maine potato growers, the Federal-State Inspection Service recently began inspecting Canadian potatoes being imported into Maine; and

WHEREAS, in the course of these inspections, approximately 18% of the potatoes inspected were found to be "suspect" because they were mislabeled or did not meet grading requirements; and

WHEREAS, while Maine potato crops are at their lowest levels since 1922 due to drought, Canadian crops are at their highest; and

WHEREAS, this disparity in crop size between the 2 countries, when combined with possible subsidization of the potato industry by the Canadian Government, has led to a severe underselling of Maine potatoes, which has been exacerbated by the favorable exchange rate on the U.S. dollar received by Canadian farmers; and

WHEREAS, import restrictions on potatoes and other trade practices by the Canadian Government place an unfair burden on U.S. farmers, since the same restrictions are not placed on the import of Canadian potatoes by the U.S. Government; and

WHEREAS, these conditions, if not dealt with in a timely manner, could have disastrous effects on Maine potato farmers who are at risk of not being able to ship their potatoes, thus defaulting on their debts and losing their farms; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Maine Delegation to the United States Congress insist that the U.S. Secretary of Agriculture continue and intensify the inspections of Canadian potatoes being imported into the United States along Maine boarders; and be it further

RESOLVED: That We, your Memorialists, respectfully request that the Maine Delegation to the United States Congress insist that the U.S. Secretary of Agriculture and the U.S. Trade Representative intensify their investigations of import restrictions, subsidies and unfair trade practices by the Canadian Government; and be it further

RESOLVED: That We, your Memorialists, respectfully request that, if the investigation reveals unfair trade practices, the U.S. Trade Representative take appropriate action under the General Agreement on Tariffs and Trade to allow Maine

farmers to compete with Canadian farmers on a fair and equal basis; and be it further **RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to each Member of the Maine Congressional Delegation.

H.P. 1283 Comes from the House READ and ADOPTED. Which was **READ** and **ADOPTED**, in concurrence.

COMMUNICATION

The Following Communication: PUBLIC UTILITIES COMMISSION **242 STATE STREET 18 STATE HOUSE STATION** AUGUSTA, MAINE 04333-0018 February 8, 1996

The Honorable Angus S. King, Jr.

Governor

State House Station #1

Augusta, ME 04333-0001

The Honorable Jeffrey H. Butland

President of the Senate

State House Station 3 Augusta, ME 04333-0003

The Honorable Dan A. Gwadosky

Speaker of the House

State House Station 2

Augusta, Maine 04333-0002

Re: P.L. 1993, ch. 662, An Act to Establish the Maine Surplus Energy Auction Program Dear Governor King, Senate President Butland, House

Speaker Gwadosky:

In 1994, the Legislature enacted P.L. 1993, ch. 662, An Act to Establish the Maine Surplus Energy Auction Program (attached). The act created sections 4401-4404 of Title 35-A and required that

[t]he commission shall report annually to the Governor and the Legislature on the status of the Maine Surplus Energy Auction Program. The purpose of this letter is to provide the

Commission's first annual report to the Governor and the Legislature.

I. THE SURPLUS ENERGY PROGRAM

P.L. 1993, ch. 662, required all electric utilities with more than \$35,000,000 in annual revenues to hold an auction for their surplus electricity, and to make such surplus energy available to all commercial and industrial customers within each utility's service area. Three Maine electric utilities, Central Maine Power, Bangor Hydro-Electric Company, and Maine Public Service Company, have annual revenues greater than \$35,000,000 and were, therefore, subject to the requirements of this program.

The Commission was required by this legislation to estimate by October 14, 1994 the total amount of surplus electricity that each eligible electric utility was likely to have available and the periods during which these surpluses would be available. After the Commission assessed the quantity and duration of available surplus electricity, each eligible electric utility was required to provide notice of the program to all its industrial and commercial customers.

II. PROGRAM RESULTS

The Commission determined in October of 1994 that neither Bangor Hydro-Electric nor Maine Public Service had surplus electricity sufficient to require an auction. At that same time, the Commission estimated Central Maine Power's surplus electricity at between 0 GWh and 109 GWh from 1994 through 2010, with most of this surplus occurring in off-peak hours. The Commission determined that it was in the public interest for Central Maine Power to proceed with an auction of 15% of this amount. A bid deadline of February 15, 1995 was established by the Commission (see attached Commission Order in Docket No. 94-235).

Central Maine Power issued notice of the energy auction in December 1994. Bid packages were subsequently mailed to seven persons who requested additional information. In June of 1995, Central Maine Power notified the Commission that no bids had been received in response to the surplus electricity auction.

III. CONCLUSION

There is no way, short of polling potential bidders, to determine exactly why there was such limited interest in this program. However, the Commission has reviewed the operation of the program and believes the following factors may have contributed to this lack of interest:

- the availability of the surplus electricity 1) is sporadic and uncertain;
- 2)
- the surplus electricity is generally available only during off-peak times, such as the very early morning hours; with the approval of Central Maine Power's Alternative Rate Plan in January of 1995, many large industrial customers received 3) discounted rate contracts. Therefore, the customers that could have most likely benefited from lower cost, off-peak power were already receiving a discount.

These three conditions are not expected to change in the near future. In addition, since the time the Commission performed its original analysis of available surpluses, Central Maine Power has reduced the amount of surplus energy on its system by improving its mix of generating units. IV. COMMISSION RECOMMENDATION

The Commission does not believe surplus electricity will be available in the quantities that would make future energy auctions viable. Having satisfied the requirements of P.L. 1993, chapter 662, the Commission recommends repeal of Chapter 44 of Title 35-A M.R.S.A., entitled Maine Surplus Energy Auction Program. If in the future, the amount of surplus electricity increases or the availability of such surplus improves significantly, the Commission will re-evaluate the feasibility of holding a future auction and provide its recommendations to the Legislature.

Respectfully submitted, S/Thomas L. Welch Chairman S/William M. Nugent Commissioner S/Heather F. Hunt Commissioner

¹35-A M.R.S.A. §4404.

S.C. 470 Which was **READ** and, with Accompanying Papers, ORDERED PLACED ON FILE.

Off Record Remarks

SENATE PAPERS

Bill "An Act to Exempt All Individuals Engaged in Fishing from Unemployment Insurance Requirements" (Emergency)

S.P. 696 L.D. 1770 Presented by Senator LAWRENCE of York

Cosponsored by Representative: MARSHALL of Eliot Approved for introduction by a majority of Legislative Council pursuant to Joint Rule 27. the Reference to the Committee on LABOR suggested and

ORDERED PRINTED.

Which was referred to the Committee on LABOR and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act Concerning Technical Changes to the Tax Laws" (Emergency)

S.P. 697 L.D. 1771

Presented by Senator HATHAWAY of York Cosponsored by Representative TRIPP of Topsham and Senators: CAREY of Kennebec, FERGUSON, JR. of Oxford, Representatives: DORE of Auburn, DUNN of Gray, GREEN of Monmouth, MURPHY of Berwick, REED of Falmouth Submitted by the Department of Administrative and

Financial Services pursuant to Joint Rule 24. Reference to the Committee on **TAXATION** suggested

and ORDERED PRINTED.

Which was referred to the Committee on TAXATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Certain Reporting Extend Deadlines" (Emergency)

S.P. 698 L.D. 1779 Presented by Senator AMERO of Cumberland Cosponsored by Representative: MITCHELL of Vassalboro

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Which was under suspension of the Rules, READ

ONCE without reference to a Committee. Under further suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, without reference to a Committee.

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

At this point Senator KIEFFER of Aroostook reported that he had delivered the message with which he was charged.

At this point, a message was received from the House of Representatives, borne by Representative MITCHELL of Vassalboro, informing the Senate that the House concurred in the proposition for a Joint Convention, to be held in the Hall of the House at 11:00 o'clock in the morning for the purpose of extending to the Honorable Daniel E. Wathen, Chief Justice of the Supreme Judicial Court, and members of the Judiciary an invitation to attend the Convention and make such communication as pleases them.

COMMITTEE REPORTS House

Ought to Pass

The Committee on LABOR on Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1997" (Emergency)

H.P. 1193 L.D. 1637

Reported that the same Ought to Pass. Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

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

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on **BANKING AND** INSURANCE on Bill "An Act to Clarify the Laws Regarding the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund" (Emergency)

H.P. 1213 L.D. 1663 Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-688).

Signed: Senators: ABROMSON of Cumberland MCCORMICK of Kennebec SMALL of Sagadahoc **Representatives: VIGUE of Winslow GATES of Rockport** SAXL of Portland JONES, JR. of Pittsfield CAMPBELL of Holden CHASE of China GUERRETTE of Pittston LUMBRA of Bangor

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

Signed: Representative:

MAYO, III of Bath Comes from the House with the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY Amendment "A" (H-688). COMMITTEE

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-688) Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-688) READ and ADOPTED, in concurrence.

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 Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage"

H.P. 1186 L.D. 1627

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

House As Amended

Bill "An Act to Improve the Local Road Assistance Program"

H.P. 345 L.D. 465

(C "A" H-684) Bill "An Act to Decrease the Burden on the Trucking Industry by Permitting Photocopies of Registration to Be Kept in Trailers and Semitrailers" H.P. 543 L.D. 739

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

ENACTORS

The Committee on Engrossed Bills reported as

truly and strictly engrossed the following: An Act to Promote Parity Between State Federally Chartered Credit Unions and

H.P. 1184 L.D. 1622 (C "A" H-683)

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 Amend the Overtime Laws as They Pertain to Bonuses

H.P. 1174 L.D. 1606 This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senator 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.

Emergency

An Act to Restore the Safety Defense to the Maine Human Rights Act

S.P. 620 L.D. 1625 This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senator having voted in the negative, and 29 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.

Under suspension of the Rules, all matters thus acted on were sent forthwith.

> Senate at Ease Senate called to order by the President.

> > Off Record Remarks

Senator CARPENTER of York was granted unanimous consent to address the Senate off the Record.

Senator LORD of York was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator AMERO of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator LAMRENCE of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator LAWRENCE of York, RECESSED for 17 minutes.

> After Recess Senate called to order by the President.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

> AFTER CONVENTION IN SENATE

Senate called to order by the President.

Off Record Remarks

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 and Expand the Functions of the Department of Audit"

H.P. 1292 L.D. 1774 Reference to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House, referred to the Committee APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED on. PRINTED.

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS, in concurrence.

Bill "An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation" (Emergency)

H.P. 1291 L.D. 1773

Reference to the Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.

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

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

Bill "An Act to Support Abatement of Uncontrolled Tire Stockpiles"

H.P. 1298 L.D. 1781 Reference to the Committee on NATURAL RESOURCES suggested and ORDERED PRINTED.

Comes from the House, referred to the Committee on NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on NATURAL RESOURCES, in concurrence.

Pursuant to Public Law MAINE HEALTH CARE REFORM COMMISSION

The **MAINE HEALTH CARE REFORM COMMISSION**, pursuant to the Public Law 1993, chapter 707, Part AA, section 5, asked leave to submit its findings and to report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Create a Uniform Health Information System"

H.P. 1289 L.D. 1772 Be referred to the Committee on HUMAN RESOURCES for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **HUMAN RESOURCES**, in concurrence.

Pursuant to Public Law STUDY COMMITTEE ON MOTOR CARRIER TRAINING

The **STUDY COMMITTEE ON MOTOR CARRIER TRAINING**, pursuant to the Public Law 1995, chapter 376, section 5, asked leave to submit its findings and to report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Create the Motor Carrier Training Advisory Board"

H.P. 1299 L.D. 1782 Be referred to the Committee on **TRANSPORTATION** for Public Hearing and printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on TRANSPORTATION, in concurrence.

Pursuant to Resolve COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE The COMMISSION TO STUDY OPTIONS FOR PRESERVING

THE DAIRY INDUSTRY IN THE STATE, pursuant to Resolve 1995, chapter 35, section 6 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Resolve, to Require Additional Promotion of the Maine Quality Seal (Emergency)

H.P. 1294 L.D. 1776 Be referred to the Committee on **AGRICULTURE**, **CONSERVATION AND FORESTRY** for Public Hearing and ordered printed.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY and ORDERED PRINTED. Which Report was READ and ACCEPTED, in

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

The Bill referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY, in concurrence.

Pursuant to Resolve COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE The COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE, pursuant to Resolve 1995, chapter 35, section 6 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Resolve, to Require the Department of Agriculture, Food and Rural Resources to Take Various Actions in Support of the Dairy Industry (Emergency)

H.P. 1296 L.D. 1778 Be referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY for Public Hearing and ordered printed.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY and ORDERED PRINTED.

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

The Bill referred to the Committee on AGRICULTURE, CONSERVATION AND FORESTRY, in concurrence.

Pursuant to Resolve COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE

The COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE, pursuant to Resolve 1995, chapter 35, section 6 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Exempt Farms from the Sales Tax on Electricity"

H.P. 1293 L.D. 1775

Be referred to the Committee on **TAXATION** for Public Hearing and ordered printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **TAXATION**, in concurrence.

Pursuant to Resolve COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE

The COMMISSION TO STUDY OPTIONS FOR PRESERVING THE DAIRY INDUSTRY IN THE STATE, pursuant to Resolve 1995, chapter 35, section 6 asked leave to submit its findings and report, pursuant to Joint Rule 20, that the accompanying Bill "An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law"

H.P. 1295 L.D. 1777 Be referred to the Committee on **TAXATION** for Public Hearing and ordered printed.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

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

The Bill referred to the Committee on **TAXATION**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following: PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: ORDERED, the Senate concurring, that the Joint Standing Committee on Marine Resources report out legislation regarding the assets of the Maine Sardine Council to the House.

H.P. 1300 Comes from the House READ and PASSED. Which was **READ** and **PASSED**, in concurrence.

Joint Order

The following Joint Order: ORDERED, the Senate concurring, that the Joint Standing Committee on Criminal Justice report out a bill to the House incorporating recommendations for changes in the law to make the requirements for correctional system impact statements consistent with the requirements for judicial system impact statements.

H.P. 1301 Comes from the House READ and PASSED. Which was **READ** and **PASSED**, in concurrence.

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

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

An Act to Extend Certain Reporting Deadlines

S.P. 698 L.D. 1779 This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being 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.

On motion by Senator **KIEFFER** of Aroostook, **ADJOURNED** until Thursday, February 15, 1996, at 10:00 o'clock in the morning.