

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Seventeenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**

**Senate**

December 7, 1994 to April 27, 1995

Off Record Remarks

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

In Senate Chamber  
Thursday  
February 23, 1995

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

Prayer by the Reverend John Ross, of the First Baptist Church in Dexter.

REVEREND JOHN ROSS: Good morning everyone. It is great to be here today and to come and be introduced to Maine politics. I hope you will be able to withstand a Canadian being up here and I hope to learn a lot today about how things go in Maine. Will you please join me as we open this day in prayer?

Our Heavenly Father, as we begin this new day of business, we do so ever conscious of your presence and the need for your divine blessing. We acknowledge that we are finite and limited and without your wisdom and strength we would be nothing. We thank you for the blessings of a free and democratic country and state. We praise you God, for freedom of expression and choice and ask that you would help us not to take our liberties for granted. We thank you for the revelation of your presence, the revelation of your gospel, and the freedom to proclaim truth and liberty and justice for all. As we come together today, as you have ordained, we pray for those who are in an elected position. We pray for the Governor and his cabinet, for the members of both Houses and members of all political persuasions. Grant that each one would know your wisdom and grant that each one would know your grace in these days of opportunity and challenge. Grant that all who inhabit their seats today, elected positions, would know that they were answerable to their people as they have been so elected. Grant, God, that each one would be concerned enough to be informed, wise enough to be leaders of integrity and ability, American enough to rise above party loyalty, and responsible enough to vote for the sake of justice. Grant, God, your blessings upon this day. In the name of Him who reigns and lives even Jesus Christ our Lord. Amen.

Reading of the Journal of Yesterday.

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

S.O. 20

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 10:20 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.

Which was READ and PASSED.

The President appointed the Senator from Aroostook, Senator KIEFFER, to deliver the message.

Subsequently, the Senator from Aroostook, Senator KIEFFER reported that he had delivered the message with which he was charged.

Out of order and under suspension of the Rules, on motion by Senator AMERO of Cumberland, the following Joint Order:

S.P. 236

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 28, 1995, at 9:30 o'clock in the morning.

Which was READ and PASSED.

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

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Continue Funding for the Maine Quality Centers Program"

H.P. 435 L.D. 601

Reference to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Encourage Savings in the Medicaid Program through the Medicaid Waiver"  
H.P. 438 L.D. 604

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.

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Bill "An Act to Allow the Sale of Irradiated Food in the State"  
H.P. 437 L.D. 603

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

Comes from the House, referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Require the State to Pay for Mediation Sessions"  
H.P. 439 L.D. 605

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Modify the Presidential Primary Laws"  
H.P. 442 L.D. 608

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

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

Which was referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

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Bill "An Act to Include More Information in the Report of the Board of Environmental Protection to the Legislature"  
H.P. 436 L.D. 602

Bill "An Act to Abolish the Process of Permit by Rule by the Board of Environmental Protection"  
H.P. 440 L.D. 606

Reference to the Committee on **NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Give Increased Local Control in Fiscal Matters by Allowing Municipalities the Option of Charging Minimum User Fees on Certain Tax-exempt Property"  
H.P. 441 L.D. 607

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

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

Maine-Canadian Legislative Advisory Commission; Pursuant to Title 3 MRSA, Section 227:  
Senator Vinton Cassidy of Washington, Senate member  
Senator Leo Kieffer of Aroostook, Senate member  
Senator John Hathaway of York  
Senator Judy Paradis of Aroostook

At this point, a message was received from the House of Representatives, borne by Representative JACQUES of Waterville, informing the Senate that the House concurred in the proposition for a Joint Convention, to be held in the Hall of the House, at 10:20 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.

New England and Eastern Canada Legislative Commission; Pursuant to Title 3 MRSA, Section 231:  
Senator Vinton Cassidy of Washington  
Senator Leo Kieffer of Aroostook

Child Care Advisory Council; Pursuant to Title 22 MRSA, Section 3739:  
Senator Donald Esty of Cumberland

Maine Criminal Justice Commission; Pursuant to Title 5 MRSA, Section 3358:  
Senator John Benoit of Franklin  
Senator Stephen Hall of Piscataquis

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

Board of the Maine Children's Trust Incorporated; Pursuant to Title 22 MRSA, Section 3883:  
Senator Susan Longley of Waldo

Petroleum Advisory Committee; Pursuant to Title 10 MRSA, Section 1678:  
Senator Alton Cianchette of Somerset (reappointment)

Piscataqua River Basin Council; Pursuant to Maine P & S 1992, Chapter 95:  
Senator David Carpenter of York  
Senator Willis Lord of York

Advisory Commission on Radioactive Waste; Pursuant to Title 38 MRSA, Section 1453-A:  
Senator Charles Begley of Lincoln  
Senator Richard Carey of Kennebec (reappointment)

Substance Abuse Services Commission; Pursuant to Title 5 MRSA, Section 20065:  
Senator Albert Stevens of Androscoggin.

Please let me know if you have any questions regarding these appointments.

**AFTER CONVENTION**

**IN SENATE**

Senate called to order by the President.

**Off Record Remarks**

**COMMUNICATIONS**

The Following Communication: S.C. 73

**THE MAINE SENATE  
OFFICE OF THE PRESIDENT**

February 17, 1995

The Honorable May M. Ross  
Secretary of the Senate  
State House Station #3  
Augusta, ME 04333

Dear Madam Secretary:

Please be advised that I have made the following appointments:

Sincerely,

S/Jeffrey H. Butland  
President of the Senate

Which was READ.

On motion by Senator LAWRENCE of York, Tabled until Later in Today's Session, pending **PLACING ON FILE**.

**SENATE PAPERS**

Bill "An Act to Create the Maine Budget and Economic Stabilization Fund"

S.P. 241 L.D. 638

Presented by Senator **MICHAUD** of Penobscot  
Cosponsored by Representative **KERR** of Old Orchard  
Beach and Senator: **CAREY** of Kennebec

Reference to the Committee on **APPROPRIATIONS AND  
FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on  
**APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and  
**ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Modify Joint and Several  
Liability in Medical Malpractice Actions"  
S.P. 239 L.D. 636

Presented by Senator **RUHLIN** of Penobscot  
Cosponsored by Senators: **BEGLEY** of Lincoln,  
**BERUBE** of Androscoggin, **CAREY** of Kennebec,  
**CIANCHETTE** of Somerset, **FERGUSON, JR.** of Oxford,  
**HARRIMAN** of Cumberland, **KIEFFER** of Aroostook,  
**PENDEXTER** of Cumberland, Representatives: **AULT** of  
Wayne, **DONNELLY** of Presque Isle, **GOULD** of  
Greenville, **HARTNETT** of Freeport, **LINDAHL** of  
Northport, **MADORE** of Augusta, **NASS** of Acton,  
**PLOWMAN** of Hampden, **SIMONEAU** of Thomaston, **VIGUE**  
of Winslow

Reference to the Committee on **JUDICIARY** suggested  
and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY**  
suggested and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Change the Commissions Payable to  
the State from Off-track Betting" (Emergency)  
S.P. 240 L.D. 637

Presented by Senator **PARADIS** of Aroostook  
Cosponsored by Senator: **KIEFFER** of Aroostook,  
Representatives: **AHEARNE** of Madawaska, **BAILEY** of  
Township 27, **CLARK** of Millinocket, **DONNELLY** of  
Presque Isle, **KNEELAND** of Easton, **MARTIN** of Eagle  
Lake, **O'NEAL** of Limestone, **SIROIS** of Caribou

Reference to the Committee on **LEGAL AND VETERANS  
AFFAIRS** suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AND  
VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

Sent down for concurrence.

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Resolve, to Study the Use of Wooden and Wire  
Lobster Traps in Coastal Waters  
S.P. 238 L.D. 635

Presented by Senator **ESTY, JR.** of Cumberland

Reference to the Committee on **MARINE RESOURCES**  
suggested and **ORDERED PRINTED**.

Which was referred to the Committee on **MARINE  
RESOURCES** suggested and **ORDERED PRINTED**.

Sent down for concurrence.

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Bill "An Act to Amend the Laws Pertaining to the  
Taxes Paid on Sales Involving Trade-in Equipment"  
S.P. 237 L.D. 634

Presented by Senator **MICHAUD** of Penobscot

Reference to the Committee on **TAXATION** suggested  
and **ORDERED PRINTED**.

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

Sent down for concurrence.

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## SECOND READERS

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

### Senate as Amended

Bill "An Act to Amend the Charter of the Port  
Clyde Water District" (Emergency)  
S.P. 41 L.D. 71  
C "A" S-11

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

Sent down for concurrence.

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Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator LAWRENCE of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator KIEFFER of Aroostook, RECESSED until 4 o'clock this afternoon.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment, has preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Specially Assigned (February 6, 1995) matter:

An Act to Transfer Legislative Jurisdiction over Loring Air Force Base from the United States to the State

S.P. 125 L.D. 308

Tabled - February 1, 1995, by Senator KIEFFER of Aroostook.

Pending - ENACTMENT.

(In House February 1, 1995, PASSED TO BE ENACTED.)

On motion by Senator KIEFFER of Aroostook, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED.

On further motion by same Senator, Senate Amendment "A" (S-13) READ and ADOPTED.

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

Senator KIEFFER: Thank you Mr. President, Ladies and Gentlemen of the Senate. This is a bill that was sent down for clarification purposes to the Attorney General's Office back in October. In January we had an incident at Loring Air Force Base which I spoke to you about here on the floor of the Senate, regarding an undesirable. We found out, after the State Police had picked him up and taken him to jail, that they had no authority to do that because the legislative authority, especially from the policing standpoint, had not been transferred from the United States Air Force to the State of Maine. At that time I asked that this bill not be referred to Committee and that it be enacted as emergency legislation, subject to a letter from the Attorney General's Office through the Office of the Governor. This morning I received the letter from the Governor, clarifying that this bill now could be taken off the Table. Then this afternoon I received another letter from the Attorney

General's Office, asking that certain technical changes be made in the wording of this bill and that is what Senate Amendment "A" to L.D. 308 is all about. It is the technical changes that the Attorney General's Office has requested. It does not change the substance of the bill. I would appreciate it being voted on and accepted so we can move this off of the Unassigned Table. Thank you.

Which was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for 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 Change the Reimbursement Procedure for Law Enforcement Personnel Testifying in Court"

H.P. 446 L.D. 612

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

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

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

**ORDERS**

**Joint Resolution**

On motion by Senator **LAWRENCE** of York. (Cosponsored by: Senator **AMERO** of Cumberland, Senator **BUSTIN** of Kennebec, Senator **BUTLAND** of Cumberland, Senator **CARPENTER** of York, Senator **HATHAWAY** of York, Senator **KIEFFER** of Aroostook, Senator **LORD** of York, Senator **McCORMICK** of Kennebec, Senator **PENDEXTER** of Cumberland, Representative **CARLETON** of Wells, Representative **CHICK** of Lebanon, Representative **FARNUM** of South Berwick, Representative **GWADOSKY** of Fairfield, Representative **JACQUES** of Waterville, Representative **JOYCE** of Biddeford, Representative **JOYNER** of Hollis, Representative **KERR** of Old Orchard Beach, Representative **LaFOUNTAIN** of Biddeford, Representative **LANE** of Enfield, Representative **LEMONT** of Kittery, Representative **LIBBY** of Kennebunk, Representative **LIBBY** of Buxton, Representative

**McALEVEY** of Waterboro, Representative **MURPHY** of Berwick, Representative **OTT** of York, Representative **POIRIER** of Saco, Representative **TRUE** of Fryeburg, Representative **TRUMAN** of Biddeford, Representative **TUTTLE** of Sanford, Representative **WHITCOMB** of Waldo.) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35) the following Joint Resolution:

S.P. 252

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES ON THE FUTURE OF THE UNITED STATES NAVAL SHIPYARD AT KITTERY, MAINE**

**WE**, your Memorialists, the members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the Congress of the United States as follows:

**WHEREAS**, the Department of the Navy has maintained a shipyard at Kittery, Maine since June 12, 1800; and

**WHEREAS**, the United States Naval Shipyard at Kittery has performed duties in an exemplary manner throughout its almost 2 centuries of history; and

**WHEREAS**, the Kittery shipyard is one of the most up-to-date facilities available in the United States for the repair, overhauling and refueling of naval vessels; and

**WHEREAS**, the communities in Maine, New Hampshire and Massachusetts located near the Kittery shipyard offer an abundance of highly trained, skilled and experienced workers who have an outstanding work ethic; and

**WHEREAS**, the State of Maine is firmly committed to actively supporting the continuation of the United States Naval Shipyard at Kittery; now, therefore, be it

**RESOLVED:** That **We**, your Memorialists, respectfully recommend and urge the Congress of the United States to continue to operate, develop and diversify the United States Naval Shipyard at Kittery, Maine; and be it further

**RESOLVED:** That we further urge the Congress of the United States to take all necessary action to ensure that the Kittery shipyard remains an integral component in a post-Cold War defense strategy; and be it further

**RESOLVED:** That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Which was **READ** and **ADOPTED**.



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

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

**COMMUNICATIONS**

The Following Communication: S.C. 74

**STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE  
04333**

February 22, 1995

The Honorable Jeffrey Butland  
President of the Senate  
117th Maine Legislature  
Capitol Building - Third Floor  
Augusta, Maine 04333

The Honorable Dan Gwadosky  
Speaker of the House  
117th Maine Legislature  
Capitol Building - Third Floor  
Augusta, Maine 04333

Dear President Butland and Speaker Gwadosky:

As authorized by 1 M.R.S.A. §8, I am transmitting the notice received by the State of Maine from the United States Department of the Air Force proposing to retrocede all federal legislative jurisdiction over Loring Air Force Base, Loring Water System and the Loring Family House Annex.

Also enclosed are the comments and recommendations of the Maine Attorney General concluding that all necessary preconditions have apparently been met for approval of this offer of the federal government to relinquish its exclusive legislative jurisdiction over these lands to the State of Maine. The detailed recommendations also make clear that the State of Maine stands to benefit from the transfer of jurisdiction, as it will be empowered to enforce its criminal and civil laws on these lands after this relinquishment of exclusive jurisdiction. The Attorney General concluded that the State of Maine will not expose itself to new potential liability for any condition now existing on such lands if it accepts the transfer of legislative jurisdiction (as opposed to any fee interest).

In light of the Attorney General's support of this proposal, I recommend that the Legislature adopt an Act approving the proposed action as outlined in the notice received from the United States Department of the Air Force.

Please note that if the Legislature adopts this Act, the Governor is required by 1 M.R.S.A. §8 to record a duly authenticated copy of the Department of the Air Force notice and the state enabling Act in the appropriate Registry of Deeds before the transfer of jurisdiction may take effect.

Thank you for your attention to this matter.

Sincerely,

S/Angus S. King, Jr.  
Governor

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

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act to Include Loss of Tax Revenue to the State When Considering a Credit Union Application for Expansion"

H.P. 454 L.D. 620

Bill "An Act Regarding Checks Issued by Insurance Companies to Cover Losses"

H.P. 455 L.D. 621

Reference to the Committee on **BANKING AND INSURANCE** suggested and **ORDERED PRINTED.**

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

Which were referred to the Committee on **BANKING AND INSURANCE**, in concurrence.

Resolve, to Extend the Reporting Date of the Commission to Study Biotechnology and Genetic Engineering (Emergency)

H.P. 443 L.D. 609

Reference to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** suggested and **ORDERED PRINTED.**

Comes from the House, referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED.**

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.

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Bill "An Act to Require the Provision of Transportation to Private School Students"  
H.P. 447 L.D. 613

Reference to the Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House, referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in concurrence.

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Bill "An Act to Expand the Jurisdiction of the Consumer Advisory Board of the Department of Mental Health and Mental Retardation by Giving Board Members and Its Staff Direct Access to All Areas of Agencies That Serve People with Autism"  
H.P. 456 L.D. 622

Resolve, Establishing a Public Participation Process to Make Recommendations Concerning the Delivery of Health and Social Services (Emergency)  
H.P. 462 L.D. 628

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

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

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

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Bill "An Act to Correct Problems Created in Implementing Recent Changes in the Adoption Laws"  
H.P. 463 L.D. 629

Bill "An Act to Require a 24-Hour Waiting Period before an Abortion May Be Performed"  
H.P. 464 L.D. 630

Bill "An Act to Reform the Child Custody Laws"  
H.P. 466 L.D. 632

Bill "An Act to Require Parental Notification for Minors Seeking Abortions"  
H.P. 467 L.D. 633

Reference to the Committee on **JUDICIARY** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act Concerning Binding Arbitration"  
H.P. 458 L.D. 624

Reference to the Committee on **LABOR** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Create an Open Primary in the State"  
H.P. 444 L.D. 610

Bill "An Act to Set Spending Limits for Legislative Campaigns"  
H.P. 457 L.D. 623

Reference to the Committee on **LEGAL AND VETERANS AFFAIRS** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **LEGAL AND VETERANS AFFAIRS** and **ORDERED PRINTED**.

Which were referred to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

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Bill "An Act to Expand the Research Budget of the Department of Marine Resources"  
H.P. 449 L.D. 615

Bill "An Act to Impose a Moratorium on New Lobster and Crab Fishing Licenses and to Develop a Resource Management Plan for the Lobster Industry" (Emergency)  
H.P. 460 L.D. 626

Reference to the Committee on **MARINE RESOURCES** suggested and **ORDERED PRINTED**.

Come from the House, referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **MARINE RESOURCES**, in concurrence.

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Bill "An Act to Change the Definitions of "River," "Stream" and "Brook" in the Environmental Laws"

H.P. 452 L.D. 618

Resolve, to Reduce the Economic Impacts of the Clean Air Act on Maine's Citizens and Businesses (Emergency)

H.P. 459 L.D. 625

Reference to the Committee on **NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

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

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

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Bill "An Act to Increase Access to the Legislature and Government Services for Persons Who Are Deaf or Hard of Hearing and to Make Progress towards Compliance with the Americans with Disabilities Act"

H.P. 465 L.D. 631

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

Comes 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.

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Bill "An Act to Reduce the State Sales Tax from 6% to 5%"

H.P. 445 L.D. 611

Bill "An Act to Increase Levels of Property Tax Relief Found in the Maine Residents Property Tax Program"

H.P. 450 L.D. 616

Reference to the Committee on **TAXATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TAXATION**, in concurrence.

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Bill "An Act to Improve Safety of School Buses"  
H.P. 448 L.D. 614

Bill "An Act to Raise the Fee for Legislative Registration Plates"

H.P. 451 L.D. 617

Reference to the Committee on **TRANSPORTATION** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **TRANSPORTATION**, in concurrence.

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Bill "An Act Regarding Consumer-owned Electric Utilities"

H.P. 453 L.D. 619

Bill "An Act to Amend the Kennebec Water District Charter by Allowing the Town of Vassalboro and the Town of Benton to have a Permanent Member on the Board of Trustees"

H.P. 461 L.D. 627

Reference to the Committee on **UTILITIES AND ENERGY** suggested and **ORDERED PRINTED**.

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

Which were referred to the Committee on **UTILITIES AND ENERGY**, in concurrence.

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

SENATE PAPERS

Bill "An Act to Modify the Motor Vehicle Emission Inspection Requirement for Vehicle Registration" (Emergency)

S.P. 242 L.D. 639

Presented by Senator CAREY of Kennebec (GOVERNOR'S BILL)  
 Cosponsored by Senator LORD of York and Representative GOULD of Greenville and, Representative: JACQUES of Waterville

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

Under suspension of the Rules, READ TWICE without reference to a Committee.

On motion by Senator HATHAWAY of York, Senate Amendment "A" (S-12) READ.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would just like to briefly review some things that have gone on in the last few months that we are all well aware of and certainly something the people of the State of Maine have been greatly involved in. That is the repeal of the emissions testing bill. It seems that we have been told that we do have an ozone problem, yet we are not quite sure what that problem is. Reports since 1988 seem to show that we have greatly reduced that problem. In fact, in 1994 we were told that seven counties were not in attainment and now we are told that three counties are not. We are not quite sure what the EPA is telling us today. I think we all agree on that. This problem has been monitored. It seems that in 1994 we were not in attainment for a total of six hours in the State of Maine. We have all wrestled with the question as to what exactly is it worth to our citizens to try to relieve this six hour non-attainment. We have also discussed the issue of who has caused this problem and I think we all agree on that. We seem to agree that 80%, or maybe even up to 90%, of this problem is brought to us from neighboring states. Yet we also read in the papers every day that even though we are responsible for very little of this problem here in Maine, our neighboring states - Massachusetts, New Hampshire, Vermont, New York, Pennsylvania, and several others - are opting out of similar plans or are at least delaying them. Yet we are still burdened with cleaning up what I would consider to be their problem. The question is, what do we do about it? I think the first place we have to look is to the people of the State of Maine and what is the will of our people. I think our people, in the last few months, have been very confused and indeed outraged over what has transpired with this program. I have to admit I feel the same way. I know one of my neighbors came to me the other day and said, "I know March 1 is coming up. What do I do now?" I think that has been a common question to all of us during the campaigns and even today.

I can remember at the end of last June when Roger Campagna called a meeting in his service station in Biddeford. I know that it took a lot of courage for him to call out to the public and see if anyone else felt as outraged as he did at the time. I think Roger is probably, in some ways, a typical hard-working Maine person who works very hard for his dollars and doesn't want to waste them. On the other hand, he is very atypical to some of us in the fact that he would not sit still when he saw something that he didn't like and he stood up to make his feelings known. In fact Roger's influence and his hard work, I think, is really the basis of all of these issues with these emissions statutes across the country today. Roger and his group have been responsible, as we know, for having over 60,000 people sign a petition to repeal this emissions law. My commitment is, like yours has been, to support Roger and these thousands and thousands of people in Maine who wish to repeal this law. I guess it saddens me a little bit to see last night, when I found out this bill was coming up to delay our decision on what we would do with the program and whether or not we would repeal it. What I have heard since that time is not so much a repeal as ways to modify the program. I don't think that's what the people of Maine want. I think they have spoken loud and clear and it is their will that they want to repeal this law. I think most of us, in our campaigns, told them face-to-face that we agreed with them and that we would come here to do exactly that. I think we have all talked about unfunded mandates. I think this is the worst offense. Again, when I think of unfunded mandates, I always picture in my mind a child on Christmas, coming down and looking for that toy under the Christmas tree and then finding exactly the toy that they wanted, and wanting to play with that toy and then turning it over and seeing the little sign that we are all familiar with, "batteries not included". So I think that, as it has been told to us today, that our interest should be in the stakeholders in this issue, I would urge you to look at who those stakeholders really are. I think it is hard to disagree that the real stakeholders are the people in your district, the people that you talk with face-to-face, and the people who have suffered a great burden in trying to meet all of the restrictions of this law.

I know that there have been negotiations going on, and I certainly don't want to interfere with those negotiations, but I also think that before you sit down at a table to negotiate you need to know where you stand. I think, clearly once again, that it is the will of the people of this State, and they have made it clear where they stand, and that is that they want to repeal this law before we do anything else. I want to make it clear that I understand the ramifications of this, and I understand that the EPA has a lot of power and that they have made several threats, which as a person who believes strongly in the ability of this State to govern ourselves, I don't take kindly to those threats. I want to make it clear that the 15% restriction that they put on is something that has to be dealt with. I'm not here attempting in any way to hurt the industries in this State. I, in fact, will fight just as hard for the industries in relieving some of the problems that they face with the EPA as I plan to do in the repeal

of this law. That is why I have also prepared a resolution which I will be presenting at a future date to ask Congress to amend the Clean Air Act, to exempt us from this 15% restriction. I think we all agree that the transport of the pollution, across our State lines, is not a problem that we solely should be responsible for. I feel that if we fight hard, then Congress will listen to us and they will exempt us and they will be able to amend the Clean Air Act to make it fairer for the people of the State of Maine.

Finally, I just want to say that I think it is highly unusual that so many people in this State have come together for one purpose. Certainly all of us - Democrats, Republicans, Independents, and even the Green Party - has come out in favor of repeal. I would like to see us, from this day forward, attack these problems united and not continue to be confused, outraged, and divisive. I hope that each of you will go home and be able, once again, to look those same people in the eye and let them know that when you told them that you would repeal this law, and you had the opportunity to do so, that you did what you said you would do. Mr. President, I would also like to request a Roll Call. Thank you.

On motion by Senator HATHAWAY of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator RUHLIN: Thank you Mr. President. First of all I would like to raise a point of order, and under Senate Rule 11, question the germaneness of this amendment.

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Senate at Ease

Senate called to order by the President.

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**THE PRESIDENT:** The point of order by the Senator from Penobscot, Senator Ruhlin, deals with germaneness of this particular amendment to the bill presented. The Chair would rule that the amendment is germane in accordance with Mason's Manual, which says, in paragraph three of section 402, "Amendments must be germane. To be germane the amendment is required only to relate to the same subject. It may entirely change the effect or be in conflict with the spirit of the original motion or measure, and still be germane to the subject." So the Chair would move that the amendment is germane. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator CAREY: Mr President, the subject matter in the bill deals with automobile registration and does not deal with the emissions control program whatsoever, except it sets a date for people to be able to relicense their automobiles without the

certification that has been required in the past. It was felt that since the law originally set the first of January of 1995, that many people were, in fact, violating the law, and that is why the bill was labled as such and dealt strictly with Title 29-A and not Title 38. So I would ask the Chair to reconsider its germaneness if at all possible. Thank you.

**THE PRESIDENT:** The Chair will stand by the original ruling. The Senator, however, has the opportunity to appeal that ruling. The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator RUHLIN: Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to say a few words about the dangers that I feel are inherent in this amendment that is presently before us. We have been selected by our citizens to represent them in a responsible, sensible, careful and studied way. They have asked us to make decisions that will better their condition of life, including the quality of the air, that will protect them from harmful suit, should that suit be private industry or the federal government. To repeal the air emissions, and just for the Record I want it clear that I have never advocated for testing, when I was in the House I spoke against the testing program, voted against it, and worked against it, that is not the point that we have to be involved with here today. We took a course of action, it was a course of action other than what I would have advised, but we did take that course of action and we did it legally, we did it legitimately. It was a policy established by this State, and what we did was we recognized that the Civil War was over and that the federal government could tell us what to do in some areas and that we would have to comply with the Clean Air Act and that we would have to do something about an emissions problem. I think we took good faith and moved forward and made an agreement with private industry. We decided to privitize it. Private industry made an investment in this state which they have a right, I feel, under a contract to recover. It's their money. They put it on with a contract with the sovereignty of the State of Maine. After all, are we people who fly by night? Is Augusta a fly by night Capitol? Of course it isn't. We used our sovereignty to enter into a solemn agreement with these people and they invested approximately \$15 million of their money to set up a testing program. I think, myself, that the program was lousy. I would like to see it long gone but the fact remains that we committed the State to a policy to take an action and money was committed. We are liable in a court of law, and I can think of no more irresponsible action then to be sued twice for the same act. Where we would be penalized by the federal government by losing \$100 million in transportation money to this State, where we would then be liable in court for anywhere from \$15 million to \$47 million. Even then we would be forced to go ahead and continue a form of emissions testing and do it in such a manner that it could severely constrict our opportunity for economic growth in this State. You should keep in mind that it costs \$5000 a ton to industrially remove BOCs from our air. It costs about \$500 a ton, or one tenth as much, to do it through the auto emissions route. So, if we do not do it through the auto emissions route, and I assume that the federal government will probably still be standing if we do repeal this, and

they will say to us, "You will not only lose your \$100 million, you will also go to court and be a two-for-one state," which means that we will have to use two units of cleaning the air, for any new industry that comes in, for every one unit they might dirty. That is what it means to be a two-for-one state. It's not like some prize you win at the circus, it's a little different than that. We will have those penalties put upon us and then still have to go ahead and go through an emissions program and put the citizens of this State through that same travail one more time.

What we wanted, and Mr. President, sometimes it is hard to stay germane to the amendment and speak to the bill at the same time, I hope to remain germane, what we wanted was to buy time. Not to delay the process. I don't want to delay the process but we need thirty days desperately. What I see, and the Governor asked me to serve on that informal task force, when I look at that problem what I really see is a mystery that is hiding behind a smoke screen or a wide fence. That fence is nationwide and it is impossible to come up with a recommendation that I feel would be worthy of bringing before this Body or any representative of this Body without having more time so we can find out number one, do we have a uniform national program? I do not believe we in fact have a uniform national program for cleaning the air, that's my suspicion. I need time to find that out. Do we have a proper definition of attainment and non-attainment? The federal definition is different than I am going to find in Websters, I know that. So there are many questions along that line that need to be answered and we need those thirty days. So rather than repeal this onerous air emissions test outright, let us use our senses. Let us use our common sense and be responsible. Let us be respectful to our duties and give ourselves that thirty days we really need to come up with a proper decision. At that time you are only going to have four choices, one of them very well may be repeal. If so, I assure you I will be standing right here and speaking for repeal. One of them may be for a longer delay. One of them may be for a modified test. And one of them, which I feel in my heart I would love to do, one of them would be to invite the federal government to the Supreme Court and have it out there. But we need those thirty days to come up with a game plan and that is what we are asking for. Thank you very much.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. "We need thirty days." You have had five months. This issue has been around and around. In my opinion the people have spoken. It really amuses me to think of all the rhetoric some of us went through when we were all trying to get re-elected. Some of us were sincere. Some of us were awful glad that we had voted against this issue because I guarantee that if I had voted for it four years ago I probably wouldn't be standing here talking to you. It is an issue that the people of our State are upset about. They are angry. They do not want this law. They have spoken to us, we have 60,000 signatures. In my opinion repealing this law is not being irresponsible. What we are doing is we

are saying to the DEP and EPA, and whoever else wants to listen, that we don't want to modify a bad law. We want to start fresh. We want to start with some new ideas. We want to rethink and reshape this whole Clean Air Act and what our responsibility is. So, I say to you, and I challenge every one of you in this Chamber, to vote against this repeal, because something tells me that you all told the Maine people something different in November. I guarantee you that you probably wouldn't be sitting here. I challenge you to take a leadership role on this issue. This is your chance to do something that the people of this State want and I challenge you to show some leadership on an issue so that we can go back to the people and say, "Yes, we finally did something that made sense. We didn't come up to Augusta and get buried in the bureaucratic maze that we find ourselves in everytime we step into this building." So, I ask you to support this amendment because it makes sense and it is what the people want and it is what we all campaigned on and what we wanted to be elected on. We should carry through with what we say. Thank you.

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

Senator **CAREY:** Thank you Mr. President. All I know is when I stood up here, and the Governor stood where the President is standing, I took an oath to obey the laws of the State and the country. Right now this is the Clean Air Act which is, in fact, the law of the land. Until it gets changed, and if any of you have been paying attention to exactly what has been going on, the EPA has finally decided that maybe they ought to listen to what the people have to say. They have backed four counties out here. They have reduced some of the restrictions that they were going to put on some of the other states in the country but we are still stuck with the law. I tell you that there may be problems with trying to amend the Clean Air Act because of some guy named Robert Byrd, from West Virginia who, if they re-open the Clean Air Act, will make sure that we get sulfide coal coming through this area. As far as the people of the State having spoken, we held fourteen hearings in our Committee when we went through the seven counties. We held afternoon meetings and evening meetings, so people could attend, and we always instructed the people that if they were not really happy with the way things were going, Roger Campagna of Saco was standing outside with a petition and to please go ahead and sign his petition. So we were extremely courteous to the people we were dealing with.

I may not be one of those who will be going up to Limestone for the magnet school but I have tried to figure out that 60,000 people is 5% of the people in the State of Maine. That is less than what the Green Party got and they certainly didn't get elected to any office. So you are talking about a minority when you are talking about 60,000 people. I would like to ask somebody a question. As we produce whatever we are going to produce here, we still have to face the referendum question that comes to us and we can't touch that. We can't make one change in that law. How do you vote on that law if, in fact, we have already repealed the program? And does, in fact, that referendum do even more damage to the system than what we are planning to do here? Our Committee

was disbanded by the leadership on the fifteenth of December. It is unfortunate that we were not allowed to live at least until the middle of March when this thing went back on line and we could have supervised to make sure that it went back on line the way it was supposed to. One of the things that our Committee was starting to discuss was maybe the enhanced program is not what we should have been forced into by our own DEP on a real trip that they were having to improve their image so that they could become world leaders in the enhanced system, the IM-240. They really snookered the Natural Resources Committee when they came before that Committee back in 1992.

I am deeply concerned that what may very well happen will be the result of the questions that I had asked the EPA in Boston, what if we repeal this program? They said within ten days they would come in and run the program, set the fees for the inspection, the DEP or State officials will have nothing to say about the running of the program and the first thing to go will be the 5,000 mile exemption for those people who barely use their car in the course of a year. The clincher was that they would contract with the very people that we find objectionable at this time, at least some people do. So, you are not going to gain anything. You are going to lose the \$100 million, that takes eighteen months by the way, but in the meantime maybe we can re-institute a tailpipe system. You are going to lose two-to-one on a match whenever industry wants to expand and they are going to throw one hundred tons of polluted air up there, then they will have to find two hundred tons to clean up. As it was, we were only going to be restricted to an additional fifteen tons for every hundred tons that were going to go into the air. I'm afraid you may very well be making a mistake. As far as campaigning and whether or not you promised that you would repeal this program or not, I never had to do that. Thank you.

**THE PRESIDENT:** For the Chair's benefit, did the Senator from Kennebec pose a question through the Chair?

**Senator CAREY:** Yes sir, if I might, thank you. I would like to know, if there are any legal minds in here, who can answer my question on the referendum that is due.

**THE PRESIDENT:** The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Waldo, Senator Longley.

**Senator LONGLEY:** Thank you Mr. President. I am open to being corrected. If the referendum is out there and the Legislature votes as the referendum is worded, I think repeal is what is up right now, then it doesn't go to referendum. I would like to add another legal note. Possibly I support repeal. But I don't see that as what is shaping my vote today. What is shaping my vote today is Car Test. We are in a contract with Car Test and, as a lawyer, if a client would come and be in a bad contract that they don't like, my first suggestion would be try to work it out and cut your costs as opposed to outright breaching the contract and going to court and paying the costs and damages and everything else. I see that today we get a chance to poll everyone at the

table and if we vote for repeal there is no reason in the world for Car Test to want to show up at the table when they can go to court and make lots more money in recovery. For that reason I am voting against repeal today, but that doesn't mean I don't favor repeal down the road. I just favor cutting costs, maximizing our chance to cut costs, and I see all parties moving to the table, including Car Test, as our best chance to keep costs down. Thank you.

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

**Senator LORD:** Thank you Mr. President, my learned colleagues. Today is the twenty-third. Next Wednesday is the first day of March. Unless we do something here in this house, and in the other end of the hall, we are going to have at least three counties go back on test. I'm not so sure but you might have four more, because all we have from the EPA is a statement. We have gotten nothing in writing, as of last night, that these other four counties are off the list. Now, I signed that petition and I testified before the group. I don't like it. I don't like this test. But for heaven's sake, this is just a test. We are asking for sixty days, the Governor's bill asks for sixty days to see if we can come up with some sort of a solution that will satisfy everybody. As I said earlier, we are going to have a task force, the new Commissioner of DEP is going to be the head of it. All the people involved, Car Test and the leaders who have signed the petition for total suspension are going to be there to see if we can't come up with something that we can live with. That is what we are asking for. It isn't going to cost anybody a cent for sixty days.

Last night I had a call from Howard Ellison, from Augusta. He worked very hard on this petition drive, as a matter of fact he has been on DEP's back all summer long on various things. I explained to him what we were doing. He asked what the cost would be. I said nothing. It's going to give us some time to try to come up with something. That is what we are asking for, that is what I believe we should do. If we don't do it, I don't know what is going to happen and you don't know what is going to happen. We don't know what the EPA will do, but I can tell you one thing, if they go through with these things that they could do to us, it isn't only going to hurt the large companies it's also going to hurt small companies. The State of Maine and the State of Vermont have got to come up with a plan in 1995 to reduce our air emissions by 15%. If we throw this all out we have lost that phase of the program that we could use to modify it. I will not vote for an IM-240 test the way it is now. I think it is wrong. The people of the state don't want it. We don't know how much the EPA is going to modify it. Maybe we will know in sixty days. Maybe we won't. I don't know. At least it is giving us some time to do something that we should be doing and I ask you for that time. Thank you.

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

**Senator CLEVELAND:** Thank you Mr. President, Men and Women of the Senate. The issue before us today is not whether or not we are for or against emissions

testing. My vote, as I cast it today, will not be a vote for emission testing. I think, rather, the vote we have today is how we exercise the responsibility that we have as elected officials, as opposed to what our responsibility is as a candidate. When we take the oath we must act in ways that we think are most prudent and best for all of the citizens of this State, regardless of the emotion of the issue. There will be plenty of other opportunities in this Senate and in this session, to make our vote known on whether we are for or against continuing the emissions testing. There are at least two other bills currently in the process that will be heard, and I am sure will be before this body, which specifically asks us to determine whether we wish to continue emissions testing or not. Not to mention, of course, the initiated referendum which we will also have the opportunity to vote into law immediately if we choose and therefore eliminate emissions testing. There are plenty of other opportunities that we will have to make that decision. Tonight is not the appropriate time to make that decision. Really what this vote is about is weighing the risks involved to the people of this State of the consequences of our actions. If we act too swiftly this evening I think we put them in great risk. What we need is some time to determine clearly what will be the EPA standards for the clean air requirements. That is unclear. Before we act we need to know clearly what those requirements will or will not be. We also need time to negotiate with the current contractor to see if we can come to an agreement that is to the best benefit of the citizens of this State. That is what the Governor has asked. The Governor who campaigned against the continuation of these emissions testing has asked for some time to negotiate the outcome. Unfortunately, the vote for the amendment tonight I think carries with it great risk. It increases our exposure to a law suit, the people of Maine may wind up paying somewhere between \$15 million and \$47 million, that's possible. We may lose \$100 million a year in transportation funds, that is a tremendous risk. As importantly, we take a tremendous risk of losing new business and the jobs they create for the people in this state. Those risks should not be taken lightly simply to make a statement. We will have plenty of opportunity in this session to make that statement at an appropriate time. This is not the appropriate time to do it. It may be politically popular. It may be politically expedient by some to propose these amendments for whatever purposes they may have. But the people of Maine have not voted on this, they have not gone to referendum. Some number have signed a petition, but that is not a vote. They will have a chance to cast their vote in November and we should give them that opportunity. It is unwise, at this time, to risk the loss of jobs and the exposure to hundred of millions of dollars in lost transportation funds, and a law suit which may cost us as much as \$47 million.

Let me make a couple of personal comments if I may. When I campaigned for re-election this was an issue in my district. If any of you have read the papers in regard to how the people in the Lewiston/Auburn area feel about this, you know that they have been very vocal, at least some of them have. The area where the Commission went perhaps had the most hostile audience to deal with. I was personally threatened. As far as I know that threat

to my life still stands. One of my constituents has said unequivocally, "If you do not repeal that law Senator Cleveland, you will die." Others have said that there are threats that the EPA will take certain actions if we act in one way or the other. I refuse to cast my vote on threats, either from a constituent or from the United States Government. I will cast my vote based on what I think is in the best interest of the people of this State this evening. I think the best interest is to continue to talk and to negotiate with willing parties to come to the best resolution that we can. We will have opportunities to take other action later in this session when we should be taking it. People asked me if I would vote to repeal the auto emissions testing when I was a candidate. I was very clear and honest with them. I told them that I would come and make my best judgement, that I thought that there were many fallacies and weaknesses in this program and that if the best result for the public was the elimination of this test then I would vote that way. That's what I will do if that is the best result. If the best result is something in between that, then I will take that position based on the best information that I have at the time that the vote is required to be taken. The citizens in my area, even though they very strongly voiced their position, chose to send me back here to represent them on a two-to-one vote against my opponent who took exactly the opposite position. Under no circumstances would he ever vote to continue this test. My constituents had a clear chance to make a decision and they made their decision and I am going to exercise that as responsibly as I can tonight. I hope that everyone of you will do that as well. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President. Good evening Ladies and Gentlemen of the Senate. Two years ago, when I was honored by the twenty sixth district, at that time, to sit in their seat here, I was unaware of the vote taken in the previous session to bring this emissions testing program to life. Indeed, it wasn't until the facilities opened and cars started being tested that I came to understand the full magnitude of what the past Legislature had done. Since this program has come to life I have received, by my constituents initiative, volumes of facts and documents and contracts relating to this issue. Because I was one of those campaigning who contacted the DEP and said "Tell me about this program." You wouldn't believe the wonderful story that I heard of how effective and how efficient this program was. That is the message that I took with me. As I spoke to constituents they would say to me, "Gee, are you sure you've got your facts straight?" "Yes, I have spoken to the DEP and this is what they told me." "Well, is your mind closed on this?" "No, I'm willing to listen to all points of view." "Well why is it, Senator Harriman, that we have to have \$24 cash, no checks or credit cards? Why is it, Senator Harriman, that I'm in Florida in the winter and that is when my car has to be re-registered, and I like to re-register it through the mail, but they won't let me do it. Why is it, Senator Harriman, that when I took my car in to be tested that they completed the wrong test on my car, costing me hundreds of dollars in repair bills at a local gas station?" Which I had



to, as I'm sure we all do on behalf of constituents, go to bat for this person to recover their money, which we were able to do. Why is it that, all of a sudden, four counties are dropped off of this car test? Why is it that if the measuring device, to determine whether you are in attainment or not, was calibrated by another one thousandth of one percent? The County of Cumberland would be in attainment. Why is it that we have the most sophisticated test known to the human being in the State of Maine? When the facts clearly prove that we were out of compliance for six hours one day in 1995. Who is disputing that the source of our problem here is airborne, coming from our neighbors, all of whom in one form or another have either suspended or refused to go forward with this testing program? I want clean air. Together we will find a way to make sure that your children, grandchildren, and mine breathe clean air. The IM-240 was promoted by the DEP, accepted by the Committee here on Natural Resources, not one of them today is standing up and defending this program. Quite the opposite. We have been snookered, we have been taken advantage of. That's what goes on in this hallway. Who wants to be on the leading edge of a bad idea? I think if we all faced reality, some mistakes have been made. To solve this problem, to me, is a two-prong approach. One, we have a contract with Car Test. A separate and distinct issue that, no matter what we do, if there are four counties that no longer have to do this testing, if I was representing Car Test, I would want compensation. If the IM-240 test is too sophisticated, not appropriate, or ineffective and we decide to amend it, I would assume that Car Test would want to negotiate some sort of compensation. In some of the information that one of my constituents brought to me, the Request for Proposal - the Contract for selection of Maine Motor Vehicle Emission Inspection Program, on page 29 in bold print it says, "Note, in the event the Maine Legislature repeals all or part of the program, the Department in the State of Maine shall bear no responsibility to compensate the contractor." I'm sure there is hours of room for negotiation into legally what that all means. I would suggest to you that it was clear at the onset that this issue may come to the forefront. The other part of the problem is our own government. The federal government miraculously, for some reason in the last few months, has decided to become user friendly on this issue. The EPA is now willing to negotiate. To me, if we don't stand for something we are going to fall for anything. I think we need to demonstrate the courage to stand up and say this program is not what Maine people want, it is not creating the solutions that Maine people were told it was going to, and let's face it and move on to a better solution. The solution that Maine people will embrace because all of Maine's people want a clean environment. This isn't the one that is going to get it done in their mind and I agree with them. Thank you.

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

Senator **HATHAWAY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Perhaps to some the issue is risk. I think the issue is also courage. I am a little disappointed in what I hear tonight, particularly with this being President's

week. I would like to remind everybody that certainly in this country and in this state we have a long tradition of people who are willing to come forth and change the law. Indeed, if we didn't we would still have slavery today. I think we face another slavery today. We are putting ourselves in the shackles of the EPA. I, for one, think that the people of the State of Maine can govern the State of Maine. Ross Perot likes to tell the story about walking through the woods and coming upon a snake. The snake rears its head and is ready to strike. The answer to that problem isn't to form a Committee, it's to cut the head off the snake. I think this snake has had enough committees. If we can't find out by now what we need to do, sixty days isn't going to help the situation any. So I just hope that you will vote for this repeal. Thank you.

Senator **CAREY** of Kennebec moved that Senate Amendment "A" (S-12) be **INDEFINITELY POSTPONED**.

On motion by Senator **HATHAWAY** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-12)

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:** Senators: **BUSTIN, CAREY, CARPENTER, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN**

**NAYS:** Senators: **AMERO, BEGLEY, BENOIT, BERUBE, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND**

**ABSENT:** Senators: **ABROMSON, CIANCHETTE, ESTY, PINGREE**

15 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-12), **FAILED**.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HATHAWAY** of York that the Senate **ADOPT** Senate Amendment "A" (S-12).

A vote of Yes will be in favor of **ADOPTION**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: AMERO, BEGLEY, BENOIT, BERUBE, CASSIDY, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LAWRENCE, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, CAREY, CARPENTER, CLEVELAND, FAIRCLOTH, GOLDTHWAIT, LONGLEY, LORD, McCORMICK, MICHAUD, MILLS, O'DEA, PARADIS, RAND, RUHLIN

ABSENT: Senators: ABROMSON, CIANCHETTE, ESTY, PINGREE

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator HATHAWAY of York to ADOPT Senate Amendment "A" (S-12), PREVAILED.

Which was PASSED TO BE ENGROSSED AS AMENDED, without reference to a Committee.

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator LONGLEY of Waldo, RECESSED until 7 o'clock this evening.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Modify the Motor Vehicle Emission Inspection Requirement for Vehicle Registration" (Emergency)

S.P. 242 L.D. 639 (S "A" S-12)

In Senate February 23, 1995, under suspension of the Rules, READ TWICE without reference to a Committee and PASSED TO BE ENGROSSED AS AMENDED BY S"A" (S-12).

Comes from the House under suspension of the Rules READ TWICE without reference to a committee and PASSED TO BE ENGROSSED in NON-CONCURRENCE.

(The Speaker ruled that S"A" (S-12) was not germane.)

The Senate RECEDED and CONCURRED.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator MILLS of Penobscot, ADJOURNED until Tuesday, February 28, 1995, at 9:30 o'clock in the morning.