

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

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

In Senate Chamber
Tuesday
February 28, 1995

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

Prayer by Pastor Louis Harper of the Weld Congregational Church in Weld.

PASTOR LOUIS HARPER: Let us come in the spirit of prayer. Dear God, Creator and Maintainer of all things, we come to you giving thanks for our State's government throughout its past one hundred and seventy five years. We seek your guidance today for our assembled Senators who will again, with your help, strive to do their best to create and revise the laws of the people of Maine. As they do their work, may they be ever mindful of your laws, however simple yet profound. May they look for your grace when needed. We ask all things in your name. Amen.

Pledge of Allegiance led by **SENATOR BERUBE** of Androscoggin.

Reading of the Journal of Thursday, February 23, 1995.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement Appeals"
H.P. 425 L.D. 582

In House, February 17, 1995, referred to the Committee on **TAXATION**.

In Senate, February 22, 1995, referred to the Committee on **STATE AND LOCAL GOVERNMENT**, in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED**.

The Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication: S.C. 75

117TH LEGISLATURE

February 7, 1995

Michael Orenduff, Chancellor
University of Maine System
107 Maine Avenue
Bangor, Maine 04401

Dear Chancellor Orenduff:

We are pleased to invite you to address a Joint Session of the 117th Maine Legislature on Thursday, March 2, 1995 at 10:30 a.m. concerning the State of the University and any other matters that you may care to bring to our attention.

We look forward to seeing you then. Best Wishes.

Sincerely,

S/Jeffrey H. Butland S/Dan A. Gwadosky
President of the Senate Speaker of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication: S.P. 258

UNIVERSITY OF MAINE SYSTEM
107 MAINE AVENUE
BANGOR, MAINE 04401-4380

February 14, 1995

The Honorable Jeffrey H. Butland
President of the Senate

The Honorable Dan A. Gwadosky
Speaker of the House
117th Legislature
State House
Augusta, ME 04333

The Following Communication: S.C. 76

**STATE OF MAINE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

Dear Senator Butland and Representative Gwadosky:

Thank you for your letter of February 7th inviting me to address a Joint Session of the 117th Maine Legislature on Thursday, March 2, 1995. I am pleased to accept your invitation and look forward to this opportunity to comment on the State of the University of Maine System.

February 23, 1995

The Honorable Jeffrey H. Butland
President of the Senate of Maine
117th Maine Legislature
State House
Augusta, Maine 04333

Sincerely,

S/J. Michael Orenduff
Chancellor

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 38 of the 117th Maine Legislature, the Joint Standing Committee on Criminal Justice has had under consideration the nomination of Joseph D. Lehman of Mechanicsburg, Pennsylvania, for appointment as the Commissioner of the Department of Corrections.

Which was READ and ORDERED PLACED ON FILE.

Sent down for concurrence.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

The Following Communication: S.C. 77

117th MAINE LEGISLATURE

February 27, 1995

Hon. Angus S. King
Governor of Maine
State House Station #1
Augusta, Maine 04333

Dear Governor King:

We invite you to join us on March 2, 1995 at 10:30 a.m. for a Joint Session of the Maine Legislature where Chancellor Michael Orenduff will give the State of the University Address.

We would be honored if you can attend. Please notify May Ross, Secretary of the Senate to make any necessary arrangements.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

YEAS: Sen. 3 Benoit of Franklin, Hall of Piscataquis, O'Dea of Penobscot

Rep. 10 Clark of Millinocket, Johnson of South Portland, Bunker of Kossuth Township, Thompson of Naples, Wheeler of Bridgewater, Clukey of Houlton, Gooley of Farmington, McAlevey of Waterboro, Peavey of Woolwich, Waterhouse of Bridgton

NAYS: 0

ABSENT: 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Joseph D. Lehman of Mechanicsburg, Pennsylvania, for appointment as the Commissioner of the Department of Corrections be confirmed.

Signed:

S/John W. Benoit
Senate Chair

S/Herbert E. Clark
House Chair

Which was READ and ORDERED PLACED ON FILE.

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on CRIMINAL JUSTICE has recommended the nomination of Joseph D. Lehman of Mechanicsburg, Pennsylvania, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on **CRIMINAL JUSTICE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 117th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: None

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BENOIT, BERUBE, BUSTIN, CAREY, CARPENTER, CASSIDY, CIANCHETTE, CLEVELAND, FAIRCLOTH, FERGUSON, GOLDTHWAIT, HALL, HANLEY, HARRIMAN, HATHAWAY, LAWRENCE, LONGLEY, LORD, McCORMICK, MICHAUD, O'DEA, PARADIS, PENDEXTER, RUHLIN, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

ABSENT: Senators: ESTY, KIEFFER, MILLS, PINGREE, RAND

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Joseph D. Lehman, for appointment as Commissioner of the Department of Corrections, was **CONFIRMED**.

The Secretary informed the Speaker of the House.

Off Record Remarks

The Following Communication: S.P. 262

117th MAINE LEGISLATURE

February 27, 1995

Senator Philip E. Harriman -
Representative G. Steven Rowe
Chairpersons
Joint Standing Committee on Business and Economic
Development
117th Legislature
Augusta, Maine 04333

Dear Senator Harriman and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated Thomas D. McBrierty of Falmouth as Commissioner of the Department of Economic and Community Development.

Pursuant to Title 5, MRSA Section 13057, this nomination will require review by the Joint Standing Committee on Business and Economic Development and confirmation by the Senate.

Sincerely,

S/Jeffrey H. Butland
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

Which was **READ** and referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

SENATE PAPERS

Bill "An Act Concerning Licensing of Clinical Counselors" (Emergency)
S.P. 248 L.D. 645

Presented by Senator **BUSTIN** of Kennebec
Cosponsored by Senators: **PARADIS** of Aroostook, **RAND** of Cumberland, Representatives: **AULT** of Wayne, **BOUFFARD** of Lewiston, **DAGGETT** of Augusta, **HATCH** of Skowhegan, **JOSEPH** of Waterville, **KILKELLY** of Wiscasset, **MITCHELL** of Vassalboro

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

Which was referred to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Expand Eligibility for Benefits under the Adoption Assistance Program" (Emergency)
S.P. 247 L.D. 644

Presented by Senator **MCCORMICK** of Kennebec
Cosponsored by Representative: **AULT** of Wayne

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

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

Sent down for concurrence.

Bill "An Act to Provide Better Information
Concerning Tort Reform"

S.P. 246 L.D. 643

Presented by Senator **LONGLEY** of Waldo (By
Request)

Bill "An Act Governing Privileged Communications
between Victims of Domestic Violence and Their
Advocates"

S.P. 261 L.D. 697

Presented by Senator **AMERO** of Cumberland
Cosponsored by Senators: **ABROMSON** of Cumberland,
LONGLEY of Waldo, Representatives: **DAGGETT** of
Augusta, **MITCHELL** of Vassalboro, **O'GARA** of
Westbrook, **THOMPSON** of Naples, **TYLER** of Windham,
WATERHOUSE of Bridgton

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

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

Sent down for concurrence.

Bill "An Act to Allow Seasonal Public Employees
to Be Eligible for Unemployment Compensation"

S.P. 255 L.D. 693

Presented by Senator **BUSTIN** of Kennebec
Cosponsored by Representatives: **BERRY** of
Livermore, **MORRISON** of Bangor, **SHIAH** of Bowdoinham

Bill "An Act to Authorize Municipalities to Pay
Employees Biweekly"

S.P. 259 L.D. 695

Presented by Senator **AMERO** of Cumberland
Cosponsored by Senators: **ABROMSON** of Cumberland,
FERGUSON, JR. of Oxford, **GOLDTHWAIT** of Hancock,
KIEFFER of Aroostook, **MILLS** of Somerset,
Representatives: **TYLER** of Windham, **WATERHOUSE** of
Bridgton

Bill "An Act to Amend the Maine State Retirement
System Laws to Authorize the Buy-back of Time Served
in the Peace Corps or VISTA Programs"

S.P. 260 L.D. 696

Presented by Senator **MICHAUD** of Penobscot

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

Which were referred to the Committee on **LABOR** and
ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Reinstate the Laws Governing Dam
Abandonment"

S.P. 249 L.D. 646

Presented by Senator **HANLEY** of Oxford
Cosponsored by Senators: **CARPENTER** of York,
PENDEXTER of Cumberland, Representatives: **DEXTER**
of Kingfield, **GOULD** of Greenville, **JACQUES** of
Waterville, **POULIN** of Oakland, **UNDERWOOD** of
Oxford, **WATERHOUSE** of Bridgton, **WINSOR** of Norway

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

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

Sent down for concurrence.

Bill "An Act to Amend the Laws Regarding Use and
Acquisition of State Property"

S.P. 250 L.D. 647

Presented by Senator **BUTLAND** of Cumberland
Cosponsored by Senators: **AMERO** of Cumberland,
CARPENTER of York, Representative: **ROBICHAUD** of
Caribou

Bill "An Act to Extend the Reporting Deadlines of
the Commission on Governmental Ethics and Election
Practices and the Interim Advisory Committee on
Alternative Dispute Resolution in the Public Sector"
(Emergency)

S.P. 254 L.D. 692

Presented by Senator **AMERO** of Cumberland
Cosponsored by Senators: **BUSTIN** of Kennebec,
KIEFFER of Aroostook, **LAWRENCE** of York
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 were referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Encourage Public Land Acquisition and Management by Changing the Allocation Formula for Real Estate Transfer Tax"

S.P. 244 L.D. 641

Presented by Senator **LONGLEY** of Waldo (By Request)

Bill "An Act to Reestablish the Tax Credit for Intrastate Airlines" (Emergency)

S.P. 245 L.D. 642

Presented by Senator **PARADIS** of Aroostook
Cosponsored by Senators: **BUSTIN** of Kennebec, **CAREY** of Kennebec, **CASSIDY** of Washington, **CIANCHETTE** of Somerset, **MICHAUD** of Penobscot, **PENDEXTER** of Cumberland, Representatives: **AHEARNE** of Madawaska, **BAILEY** of Township 27, **CLARK** of Millinocket, **CLUKEY** of Houlton, **DESMOND** of Mapleton, **DONNELLY** of Presque Isle, **DRISCOLL** of Calais, **KNEELAND** of Easton, **MARTIN** of Eagle Lake, **O'NEAL** of Limestone, **ROBICHAUD** of Caribou, **SIROIS** of Caribou, **WHEELER** of Bridgewater

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

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

Sent down for concurrence.

Bill "An Act to Broaden the Scope of the Farm Registration Laws to Include Farm Woodland Trucks"

S.P. 243 L.D. 640

Presented by Senator **BEGLEY** of Lincoln
Cosponsored by Senator: **PINGREE** of Knox,
Representatives: **RICE** of South Bristol, **SPEAR** of Nobleboro

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

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

Sent down for concurrence.

Bill "An Act to Clarify the Intent of the Electric Rate Reform Act"

S.P. 253 L.D. 691

Presented by Senator **KIEFFER** of Aroostook
Cosponsored by Senators: **CARPENTER** of York, **PARADIS** of Aroostook, Representatives: **AHEARNE** of Madawaska, **CLARK** of Millinocket, **DESMOND** of Mapleton, **DONNELLY** of Presque Isle, **JOY** of Crystal, **KNEELAND** of Easton, **MARTIN** of Eagle Lake, **MORRISON** of Bangor, **ROBICHAUD** of Caribou, **SIROIS** of Caribou, **WHEELER** of Bridgewater

Bill "An Act to Create the Franklin Utility District" (Emergency)

S.P. 256 L.D. 694

Presented by Senator **GOLDTHWAIT** of Hancock
Cosponsored by Senators: **CARPENTER** of York, **CLEVELAND** of Androscoggin, **HARRIMAN** of Cumberland, Representatives: **ADAMS** of Portland, **KONTOS** of Windham

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

Which were referred to the Committee on **UTILITIES AND ENERGY** and **ORDERED PRINTED**.

Sent down for concurrence.

**Pursuant to Statutes
REVISOR OF STATUTES**

Senator **MILLS** for the **REVISOR OF STATUTES**, pursuant to the Maine Revised Statutes, Title 1, section 94 asks leave to report that the accompanying Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (Emergency)

S.P. 251 L.D. 648

Be referred to the Committee on **JUDICIARY** for public hearing and printed pursuant to Joint Rule 20.

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

The Bill referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, pursuant to Joint Rule 20.

Sent down for concurrence.

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

Carolee and James Simeoni, of Alfred, who were nominated for the York County Firefighter's Association Firefighter of the Year Award for Public Service. They have dedicated themselves to the York County Fire Attack Schools and were instrumental in its formation and continuation. We extend our congratulations to them on their achievements;

SLS 36

Presented by Senator LORD of York
Cosponsored by: Representative McALEVEY of Waterboro, Representative NASS of Acton

On motion by Senator LORD of York, Tabled 1 Legislative Day, pending PASSAGE.

Joint Resolution

On motion by Senator AMERO of Cumberland. (Cosponsored by: Senator ABROMSON of Cumberland, Senator BUSTIN of Kennebec, Senator CAREY of Kennebec, Senator ESTY of Cumberland, Senator LAWRENCE of York, Senator LONGLEY of Waldo, Senator PARADIS of Aroostook, Representative CLARK of Millinocket, Representative DEXTER of Kingfield, Representative GWADOSKY of Fairfield, Representative JACQUES of Waterville, Representative JOSEPH of Waterville, Representative VIGUE of Winslow.) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35.)

S.P. 257

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO SUPPORT AMTRAK

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 President and Congress of the United States, as follows:

WHEREAS, Amtrak is energy-efficient and environmentally beneficial, consuming about 1/2 as much energy per passenger mile as airlines and causing less air pollution; and

WHEREAS, Amtrak provides mobility to citizens of many smaller communities poorly served by air and bus services, as well as to those senior citizens, people with disabilities, students and people with medical conditions who need trains as a travel option; and

WHEREAS, Amtrak is 9 times safer than driving per passenger mile and operates even in severe weather conditions; and

WHEREAS, Amtrak travel rose 48% from 1982 to 1993 and Amtrak dramatically improved coverage of its operating costs from revenues; and

WHEREAS, expansion of Amtrak service using existing rail rights-of-way would cost less and use less land than new highways and airports and would further increase the advantage of Amtrak's energy efficiency; and

WHEREAS, federal investment in Amtrak has fallen in the last decade while it has risen for airports and highways; and

WHEREAS, states may use highway trust fund money as an 80% federal match for a variety of nonhighway programs but are prohibited from using the money for Amtrak projects; and

WHEREAS, Amtrak pays a fuel tax that airlines do not pay; and

WHEREAS, Amtrak workers and vendors pay more in taxes than the Federal Government invests in Amtrak; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge the President and Congress of the United States not to reduce federal funding of Amtrak; to exempt Amtrak from paying fuel taxes that airlines do not pay; to allow the states flexibility in using federal highway trust fund money on Amtrak projects; and to require that federal officials include a strong Amtrak system in any plans for a national transportation system; 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, 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.

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Restore Funding to the Department of Conservation that was Deappropriated Due to Loon Plate Revenue"

S.P. 120 L.D. 295

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

Signed:

Senator:

HANLEY of Oxford
BERUBE of Androscoggin

Representatives:

SIMONEAU of Thomaston
JOSEPH of Waterville
MORRISON of Bangor
AIKMAN of Poland
DONNELLY of Presque Isle
TOWNSEND of Portland
DIPIETRO of So. Portland
POULIOT of Lewston
KERR of Old Orchard Beach
OTT of York

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

Signed:

Senator:

BEGLEY of Lincoln

Which Reports were **READ.**

Senator HANLEY of Oxford moved that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Thank you Mr. President, Men and Women of the Senate. I rise this morning just to share with the Committee why, as it is my understanding, the Senator from Lincoln has voted against this. It is my understanding that he will be making a statement to the chamber in that respect. For those who are new to this process, any bill that has an appropriation on it, that is not included with the budget, must be placed on the Special Appropriations Table, and then it will be dealt with at the end of the session at such point in time as the budget has been passed. Any remaining revenues can be used to fund those items that have been placed on the Special Appropriations Table. As most of you are aware, it has been in the Governor's budget to restore the funding to the Department of Conservation from the revenues raised from the loon plates. If, in fact, in the final analysis, the budget that is sent up from the Appropriations Committee and passed by both chambers of the legislature, includes that provision from the Governor, this item, which will be placed on the Special Appropriations Table, will basically just be discarded. It was the wish of the majority of the members of the Committee to ensure that if, in fact, it doesn't make it through the budget process that at least it is there on the Special Appropriations Table for us to deal with at a later time. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator BEGLEY: Thank you Mr. President. The previous speaker has explained in some way the reason why you find my name as an "Ought Not to Pass". In discussions with the Appropriations Committee, the question was asked, "Is this in the Governor's budget?" The answer was yes. My comment at that time was, and is today, why have the bill because, certainly, we are going to work on it in the Governor's budget and the bill is not needed. I am somewhat dismayed at times, and I will talk about the Committee that I serve on, because they criticize legislators at times by saying, "Well, we'll just pass it on to the Appropriations Committee and let them handle it later on." I don't believe in that, if I can avoid it. So, my vote was primarily to simply say that this bill is not needed. We will vote on it in the budget. I am in favor of the money going back to the Department of Conservation and I hope that it passes in the budget. I just do not like the style of putting it on the Appropriations Table as an insurance item. I do not even call for a Division. Thank you.

On motion by Senator HANLEY of Oxford, the Majority **UGHT TO PASS** Report was **ACCEPTED.**

The Bill **READ ONCE.**

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

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 continues with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Later Today Assigned (February 23, 1995) matter:

COMMUNICATION - relative to appointments made by the President of the Senate.

S.C. 73

Tabled - February 23, 1995, by Senator LAWRENCE of York.

Pending - **PLACEMENT ON FILE.**

Which was **ORDERED PLACED ON FILE.**

Senate at Ease

Senate called to order by the President.

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

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

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until the sound of the bell.

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

House Papers

Bill "An Act to Create the Department of Forestry"
H.P. 492 L.D. 673

Reference to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** 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**, in concurrence.

Bill "An Act to Accelerate the Amortization of the Maine State Retirement System"
H.P. 469 L.D. 650

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Help Increase Fish Production at the State Hatcheries"
H.P. 490 L.D. 671

Bill "An Act to Provide Fully Paid Health Insurance Benefits to Retired Teachers"
H.P. 499 L.D. 680

Bill "An Act to Reduce the Legislative Budget"
H.P. 500 L.D. 681

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Provide Funding for the Public Access to Maine Waters Fund"
H.P. 507 L.D. 688

Resolve, to Establish the Commission to Implement Performance-based Budgeting (Emergency)
H.P. 513 L.D. 701

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

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

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

Bill "An Act Authorizing a Bond Issue in the Amount of \$10,000,000 to Capitalize the Competitive Workers' Compensation Fund"
H.P. 488 L.D. 669

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

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

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

Bill "An Act Regarding Unredeemed Deposits on Beverage Containers"
H.P. 506 L.D. 687

Bill "An Act Concerning Fraudulent Redemptions"
H.P. 512 L.D. 700

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

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

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

(See Action Later Today)

Bill "An Act to Require Disclosure of the Criminal History of a Juvenile That Moves into a Public Housing Project"

H.P. 494 L.D. 675

Bill "An Act to Require Employers to Pay the Cost of Recertification Training for Law Enforcement and Corrections Officers"

H.P. 501 L.D. 682

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

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

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

Bill "An Act to Provide Family Security through Quality, Affordable Health Care"

H.P. 509 L.D. 690

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 Concerning Real Estate Trusts"

H.P. 477 L.D. 658

Bill "An Act to Extend the Charitable Immunity Laws"

H.P. 482 L.D. 663

Bill "An Act to Improve the Civil Order of Arrest Procedure"

H.P. 487 L.D. 668

Bill "An Act to Extend the Medical Liability Demonstration Project Deadline by 3 Years"

H.P. 489 L.D. 670

Bill "An Act to Clarify the Status of Sewer Districts and Refuse Disposal Districts as Special Purpose Districts under the Maine Tort Claims Act"

H.P. 502 L.D. 683

Bill "An Act to Amend the Maine Freedom of Access Laws"

H.P. 514 L.D. 702

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.

Bill "An Act to Increase the Employability of Homeless Persons in This State"

H.P. 496 L.D. 677

Bill "An Act to Allow Employees to Observe Holidays"

H.P. 497 L.D. 678

Bill "An Act to Prohibit the Employment of Professional Strikebreakers"

H.P. 505 L.D. 686

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

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

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

Bill "An Act Pertaining to the Signing of Petitions"

H.P. 471 L.D. 652

Bill "An Act to Allow Nonresidents to Transport into the State Liquor Purchased in New Hampshire"

H.P. 484 L.D. 665

Bill "An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws"
H.P. 491 L.D. 672

Bill "An Act to Change the Deadline for Submitting Nomination Petitions for Independent Presidential Candidates"
H.P. 495 L.D. 676

Bill "An Act to Amend the Laws Pertaining to Lobbyists"
H.P. 503 L.D. 684

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.

Bill "An Act to Allow Charitable Solicitation by Law Enforcement Officers, Agencies and Associations"
H.P. 478 L.D. 659

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

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

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

Bill "An Act to Amend the Licensing Laws for Sea Urchin Harvesting"
H.P. 473 L.D. 654

Bill "An Act to Prohibit Dragging in a Portion of the St. Croix River"
H.P. 480 L.D. 661

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.

Bill "An Act to Grandfather Certain Dwellings within Mandatory Shoreland Zoning"
H.P. 470 L.D. 651

Bill "An Act to Reduce Paperwork and Promote On-site Elementary Neutralization of Low-hazard Wastes"
H.P. 475 L.D. 656

Bill "An Act to Create a Buffer Strip Requirement for the Location of Gravel Pits"
H.P. 493 L.D. 674

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.

Bill "An Act Concerning Municipal Rent Control"
H.P. 474 L.D. 655

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

Comes from the House, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

Bill "An Act to Amend the Municipal Subdivision Laws Regarding Application Requirements"
H.P. 481 L.D. 662

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

Comes from the House, referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

On motion by Senator **LORD** of York, referred to the Committee on **NATURAL RESOURCES** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Bill "An Act to Amend the Excise Tax Charged on Commercial Vehicles"

H.P. 472 L.D. 653

Bill "An Act to Enhance Business along the Maine and New Hampshire Border"

H.P. 476 L.D. 657

Bill "An Act to Amend the Law Governing Real Estate Transfer Taxes Applicable to the Maine Turnpike Authority"

H.P. 479 L.D. 660

Bill "An Act to Permit the Equitable Taxation of Leased Equipment"

H.P. 486 L.D. 667

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.

Bill "An Act to Facilitate Efficiency of Inspections of Commercial Motor Vehicles"

H.P. 504 L.D. 685

Bill "An Act to Amend the Law Regulating 53-foot Semitrailers"

H.P. 508 L.D. 689

Bill "An Act to Direct Additional Funds to the Department of Conservation by Amending the Loon Plate Laws"

H.P. 510 L.D. 698

Bill "An Act to Amend the Weight Requirement for a Motor Vehicle Traveling on Certain Roads"

H.P. 511 L.D. 699

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.

Bill "An Act to Prohibit an Electric Utility from Estimating a Monthly Bill at a Rate Higher Than the Prior Month's Bill" (Emergency)

H.P. 468 L.D. 649

Bill "An Act to Streamline Procedures before the Public Utilities Commission"

H.P. 485 L.D. 666

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.

On motion by Senator **CAREY** of Kennebec, the Senate **RECONSIDERED** its action whereby it **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**:

Bill "An Act Regarding Unredeemed Deposits on Beverage Containers"

H.P. 506 L.D. 687

(In House, February 28, 1995, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.)

(In Senate, February 28, 1995, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.)

On further motion by same Senator, referred to the Committee on **TAXATION** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

On motion by Senator **CAREY** of Kennebec, the Senate **RECONSIDERED** its action whereby it **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**:

Bill "An Act Concerning Fraudulent Redemptions"

H.P. 512 L.D. 700

(In House, February 28, 1995, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.)

(In Senate, February 28, 1995, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT**, in concurrence.)

On further motion by same Senator, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

ORDERS

Joint Resolution

On motion by Senator HATHAWAY of York. Cosponsored by: Senator ABROMSON of Cumberland, Senator AMERO of Cumberland, Senator BUTLAND of Cumberland, Senator HARRIMAN of Cumberland, Senator LAWRENCE of York, Senator LORD of York, Senator PENDEXTER of Cumberland, Representative CARLETON of Wells, Representative GERRY of Auburn, Representative GOULD of Greenville, Representative GREENLAW of Standish, Representative JOYCE of Biddeford, Representative JOYNER of Hollis, Representative LaFOUNTAIN of Biddeford, Representative LIBBY of Kennebunk, Representative MARSHALL of Eliot, Representative REED of Falmouth. (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 35.)

S.P. 263

**JOINT RESOLUTION MEMORIALIZING
THE PRESIDENT OF THE UNITED STATES
AND THE UNITED STATES CONGRESS
TO EXEMPT MAINE FROM THE REQUIREMENT
THAT CERTAIN STATES ACHIEVE A 15% REDUCTION
OF EMISSIONS**

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 President and the Congress of the United States, as follows:

WHEREAS, the federal Clean Air Act requires that each state in which moderate ozone nonattainment areas are located submit a revision to the state's implementation plan to provide for a 15% reduction of volatile organic compound emissions by November 15, 1996; and

WHEREAS, this requirement applies to the State of Maine; and

WHEREAS, a significant portion of the volatile organic compound emissions present in the State have been transported from other states; and

WHEREAS, the programs necessary to achieve the required reduction in emissions will result in an immense economic burden on the citizens of the State of Maine; now, therefore, be it

RESOLVED: That, We, your Memorialists, respectfully urge and request the United States Congress to enact legislation that eliminates the requirement that Maine achieve a 15% reduction of volatile organic compound emissions; 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, 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.

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

Senator HATHAWAY: Thank you Mr. President, Ladies and Gentlemen of the Senate. This Joint Resolution, I think, allows us to focus our attention onto what the real problem is, as we have discussed previously and believe we will discuss further today, as far as our emissions testing law applies to the State of Maine. As we have talked about before, anywhere from sixty to ninety percent of our ozone pollution problem is transported across state lines to the State of Maine. We are, of course, being asked to present one hundred percent of this solution to this problem which we have very little, in my opinion, to do with, as has been supported by the data from the EPA. This isn't just an attempt to have us all unified. We have talked with all the members in the State House, and in industry, who we could in the last few days, to try to unify ourselves and to really focus an attack on what we find is the real problem on the 15% reduction restriction that was placed upon us, which we think is the basis of our emissions problem that we are facing. I would ask you to support this effort so that we could all join together and ask Congress to exempt our State from this 15% reduction restriction. Thank you.

Which was ADOPTED.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution: H.P. 426

**JOINT RESOLUTION MEMORIALIZING THE
CONGRESS OF THE UNITED STATES ON THE FUTURE OF THE
UNITED STATES NAVAL AIR STATION AT BRUNSWICK, 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 naval air station at Brunswick, Maine during World War II and continuously since 1951; and

WHEREAS, the United States Naval Air Station at Brunswick has performed in an exemplary manner throughout its more than 4 decades of history; and

WHEREAS, the United States Naval Air Station at Brunswick is one of the most up-to-date facilities available in the United States for long-range maritime patrol; and

WHEREAS, the United States Naval Air Station at Brunswick is the only remaining operational naval air station in the northeast quadrant of the United States and the only military airfield in northern New England; and

WHEREAS, on the entire east coast, only the United States Naval Air Station at Brunswick and Key West have been identified as having "strategic military value"; and

WHEREAS, the United States Naval Air Station at Brunswick offers unencumbered air space, no encroachment problems and expansion capability to handle all 7 of the projected Atlantic Fleet VP squadrons with no additional military construction required; and

WHEREAS, the State of Maine is firmly committed to actively supporting the continuation of the United States Naval Air Station at Brunswick; 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 Air Station at Brunswick, 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 United States Naval Air Station at Brunswick remains an integral part of our nation's defense; 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.

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

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

Which was **READ** and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Strengthen the Laws Currently Governing the Failure to Preserve the Life of a Live Born Person"

H.P. 498 L.D. 679

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

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

On motion by Senator **PENDEXTER** of Cumberland, Tabled until Later in Today's Session, pending **REFERENCE**.

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

ENACTORS

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

Emergency

An Act to Modify the Motor Vehicle Emission Inspection Requirement for Vehicle Registration
S.P. 242 L.D. 639

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. I will be supporting the pending motion, Mr. President, although last week we sent a clear and unmistakable message to those involved in the issue of automobile emissions testing...a message which expressed our enormous frustration, and that of the people of

Maine, with the alternate demands for a cleaner environment and insistence that Maine be able to make decisions consonant with Maine's ability to address its problems in a manner which Maine people can afford.

Almost five years ago, the single most sweeping and expensive environmental legislation in the nation's history was passed by the Congress and signed into law by the President. After nearly seven years of debate and compromise, the 1990 amendments to the Federal Clean Air Act became law. None of us at that time, and most of us to this day, including this Senator, truly appreciate how that law affects our lives and the lives of those we represent and are expected to serve. One thing is clear, other than the bottle bill that passed twenty years ago, this is among the only environmental laws which touch the average homeowner. Equally clear is that the average homeowner does not appear to like it. I freely admit to being frustrated by the claims and counterclaims of those from Washington and Augusta to believe this law to be at once in our best interests and, if we fail to abide by its dictates, suffer the consequences painfully.

I am frustrated to learn, from the Boston Globe first, that the regional EPA administrator in Boston says that four of Maine's seven allegedly non-attainment counties are actually now in attainment. I am frustrated that Maine's environmental regulators didn't disclose this information to us, especially since they had this information for the past few months at least. I am frustrated that our own environmental regulators didn't tell us. I am even more frustrated by the fact that if four of our counties may now be free of auto emission testing - the EPA didn't tell us that we, in fact, may be free of much more in those same four counties. I am frustrated by the fact that large industry groups lobbied hard last week to get us to keep emissions testing, because they need the credits emissions testing provides. When, in fact, the only reason they need credits for growth and expansion is because Maine is in the Ozone Transport Region that the federal law created. If Maine leaves the Region, there is no need for credits for growth and expansion. If no credits are needed perhaps there is no need for auto emissions testing to generate credits. I am frustrated to read this letter from Senator George Mitchell, and five of his colleagues, to the Chairman of the Ozone Transport Commission in 1992. This letter points out that the Ozone Transport Region was established so that large upwind states, such as Pennsylvania and New York, states whose emissions are blown into Maine and help create our non-attainment status, can correct their emissions so that downwind states, such as Maine, can be relieved of their non-attainment problems. Senator Mitchell's contention, in this letter, is that downwind states may have little or no ability to correct their non-attainment problems because of these larger upwind states. Senator Mitchell's letter shows that the Congress, in 1990, intended states like Maine, which are clearly affected by pollution transported here from away, should not be disadvantaged by that pollution, nor should it be presumed to go first in control measures. In fact, an argument can be made that Maine should go last, given its position of geography relative to our larger, upwind neighbors.

I am frustrated that for the past three years environmental regulators have pleaded with us to remain in the Ozone Transport Region so that our presence would help lead other states to "do the right thing." Let's take a look at the record of how well that theory has worked. Massachusetts has refused to move forward with its auto emissions testing program for fear of public backlash. Vermont is in controversy with the EPA because it doesn't want an auto emissions testing program. Pennsylvania has taken 28 of its counties out of the reformulated gasoline program, and suspended controls on other sources. New York has taken at least 8 of its counties out of the reformulated gasoline program. Virginia has refused to initiate enhanced auto emissions testing in the Greater Capital Air Quality Region of northern Virginia. State after state, in program after program, seem to be running away from the 1990 Clean Air Act. In short, Maine's presence at the Ozone Transport Region table has accomplished little or nothing, other than to show other states that Maine is always willing to go first - regardless of what other states do.

I am also frustrated by all the Memoranda of Understanding our regulators signed with other states, committing Maine to undertake control measures. Memoranda which we never had a chance to see, hold hearings on, or gain public input to. I am frustrated by the federal regulators who saw no flexibility before the November elections, and who now see miraculous ways to avoid sanctions and other threats they promised to invoke just a few short months ago. It was only a few years ago that we were told we had to do these things, now the regulators are telling us there is flexibility. Now the regulators are telling us we don't need controls in some counties. Now we find out that some states are rejecting EPA threats and controls. Now we find out that, perhaps, we have been led down the garden path and, frankly, embarrassed by what we have found.

Imagine, if you would, what would have happened if we had not suspended emissions testing last year and subjected our citizens to the testing program, only to learn a few months later that the EPA believes the program unnecessary due to four counties actually being in attainment after all? The time has long since passed when we, as a Legislature, take a long, hard look at issues such as Maine's being in the Ozone Transport Region; such as Maine's non-attainment status and the extent to which it is due to transported pollution over which we have little or no influence; such as the redesignation of all of Maine's non-attainment counties to attainment where the data supports that redesignation; such as ensuring that the maximum possible credit be taken for all control measures the DEP has already placed on the economy of this state; such as telling the EPA that until we have finished a comprehensive review to our satisfaction, Maine moves no further in any direction, and places no further controls on any citizen or business in this state. I am pleased at the responsiveness and the cooperation of our new Governor. After all, Governor King campaigned on many of these issues. I believe he is working hard to fulfill those campaign promises. We, too, should join him, to play a role to ensure that these things happen. To that end, I want to compliment the good

Senator from York, Senator Lord, who is holding a week-long review of the Clean Air Act in his committee in March so that we may see the larger picture of where Maine stands, and help find out where Maine should go. Thank you.

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

Senator **RUHLIN:** Thank you Mr. President, honorable Senators. I share the passions and frustrations of the good Senator from Cumberland. I do not think the enactment of this emergency legislation tonight, and I feel we are about to do that, will solve those frustrations. I do look at this enactment, however, as being the opportunity to take a step forward in the ultimate resolution of this problem, and to do so in a responsible manner. To move down a pathway that will keep us within the confines of not breaking federal law. Hopefully we will modify federal law as it affects Maine. We will fulfill our contractual agreements as a State, or at least satisfy those. Most of all, I hope that this will give us the time to address this mystery that is wrapped within a smoke-screen that is called the air emissions law. I think, given that time, we can come up with a plan of action that will best serve the people of this state and its government. You know, I heard the good Senator refer to the "Ozone Transport Region" or "OTR". I have always, since I ran into it, I am going to have to share a little secret with you, I always refer to it as the "Regional Ozone Transport" so I can use the initials "ROT", because I think they are so much more fitting. Let that be and hopefully we will come back with a new set of initials in thirty to sixty days from now.

There have been great problems. I look at those problems as being an opportunity for solutions. Solutions that will position us to move forward in a responsible manner and protect our citizens, both their air quality and protect them from a legal aspect. We should not make, I do not think, nor conversely, break laws when we are in a sense of frustration. We should use the time allotted to us to salve those frustrations and come up with an intelligent, well-defined decision and move forward on this issue. I hope we will, therefore, move forward with the emergency enactment of this legislation. Thank you.

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

Senator **PENDEXTER:** Thank you Mr. President, men and women of the Senate. I continue to remain rather troubled by this whole issue. In finding ourselves on the eve of March first, there is not a whole lot of options left. I think it is important to state a few things on the Record. I started wondering why, if in October, this extension was possible without legislative action, some of us started asking the question, "Why do we have to vote on it February 28 if, in October, legally it could be done without legislative action?" The answer is because in October, all parties included in the contract came willingly to the table and agreed on how the extension would work. Car Test agreed that they would not hold us liable for whatever damages they might incur while the extension was on, as long as we

extended the contract down the road. March first Car Test is not a willing partner of this extension. The clock starts ticking tomorrow and they are assessing damages to the State of Maine. The story is different now. In my opinion, and this is my opinion only, I am not a lawyer, but I would say to you the legal option would be to repeal this rather than extend it. Because in repealing, what we are saying is, and apparently the way the contract was written is very ambiguous, as to what damages Car Test would be able to assess against the state. But the RFP certainly states, very clearly, that perhaps we have a pretty good legal standing in court as to what damages Car Test could assess to the State of Maine. So, I would argue with you that legally the responsible thing to do is to repeal. However, the reality is that we don't have the votes to do that. So, we will go on and pursue another sixty days. To be really honest, what is this going to get us? As I perceive it, probably the only thing we will get out of it is we might get out of the enhanced testing. But we are not getting out of anything else. The greatest fear I have is that fewer people will become responsible in participating in this program, which obviously reflects the constituents I represent in York and Cumberland Counties and certain other coastal communities. So, I am very worried that as we continue to expand for sixty days this isn't going to get any better. Perhaps, yes, we won't have enhanced testing, but I guarantee you we will have something. My fear is that fewer people will bear the burden for the rest of the state and I don't think that's fair.

The EPA continues to swing around its big stick. Yet, it doesn't even have its act in order either. I would challenge that if we took them to court, perhaps we might even win that also because they don't have their rules and regulations written. The story changes every day. How are we, as a State, supposed to know what we are responsible for when we don't even know what they are going to tell us from one day to the next? Yes, we can be afraid of the big stick and we can say, "We must be responsible because this is the law." I think we need to show some leadership and say, "You know, if you really don't know what you are doing, then why don't we all sit back and start re-thinking this thing through." I feel if we repeal I'm not so sure that the big stick would hit. So, I will support extension because I really have no other choice. The last thing we ever want to do is to put our citizens in to having to start having their vehicles tested tomorrow. I feel it is necessary to put these issues on the Record, because I guarantee you in sixty days we will be having this same discussion. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Members of the Senate. As you well know, I chaired the Committee, along with Representative Jacques from the other body, which worked through the entire summer on the Auto Emission Implementation Plan. We have to share the frustration that has been shown by the good Senator from Cumberland, Senator Harriman, in that we worked at a time when we could have easily been told that the State was in compliance. We were disbanded in the middle of December, and still had not been

told by our own DEP that we were in compliance. They, supposedly, were notified, according to newspapers and press clippings and releases from the EPA, that the State was notified in mid-October that we were in compliance. So imagine the frustration that the members of that committee might have. Something maybe a little more than what your own frustrations are. I sponsored this bill for the Governor, as did Senator Lord, the gentleman from York County, and a couple of others from the other body. We did it in all earnest, we felt that we had to sponsor this so that the people, in fact, would not have to go back on the first of March to inspect their cars. I think enactment of this measure today is the very best course of action that we can take. I want to remind you, as you will very well know, that repeal is for another day. Thank you.

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

Senator LORD: Thank you Mr. President. I won't say too much, but I can assure you of this. My first will be altogether different than it is today. My co-Chair and myself have already scheduled a hearing on L.D. 48, Representative Luther's bill in the other body. We also hope that by that time the bill that pertains to the petition will be out and we will be having a full-fledged hearing. We are trying to get the Elks Club because I don't believe we can get them all into Room 113. I can assure you that you will have plenty of chance to go ahead and discuss this. We will have a full hearing, it will be well talked about on the floor of the House and also, I imagine, on the floor of the Senate. At that time you are going to have a few days in which you really can do something. I'm not taking the blame for anybody, and I'm not giving the blame to anybody. We are in a mess. You know it. I know it. Everybody else knows it. I feel this is doing the most responsible thing right now, to give this task force the chance to come up with something. Maybe they can and maybe they can't, but I think you should give them the chance and this is the way to do it. 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. "Listen my children and you shall hear of the midnight ride of Paul Revere." I was reading that poem yesterday, being the birthday of Henry Wadsworth Longfellow, a great Maine poet, and I thought as to how it related to the issue before us today. I do believe that the people of Maine today should be alarmed, as Longfellow later went on to point out in that poem. I think the people should be alarmed because we are being asked to provide a 100% solution to a 10% problem. I think we should be alarmed because campaign promises that were so easy to make in October, are so difficult to keep in March, particularly when facts have not changed on the issue. I think we should be alarmed, also, that the extension of this suspension only postpones the pain for the people of the State of Maine. The study of the contract with Car Test, I think, clearly points out that repeal today is in our best interest. Because if we were to repeal, we would not, I

believe, under the terms of the contract, be in default. In fact, we would not be under any liability for any damages. However, by modifying this plan in the next sixty days we will, as has been said tonight, be facing liability, and that liability does indeed strike at midnight tonight. As you know, I am very concerned about the 15% reduction restriction that has been placed on us. It is, and I believe will continue to be, a problem. I am in no way trying to force this issue to be the responsibility of industry in this State. However, I will continue to fight to make sure that this reduction restriction does not become the sole burden of the people of York County, nor of the people who live just along the coast if there were to be a coastal strip plan come forth to us. Nor do I believe it should be the responsibility of all of the people of the State of Maine to carry the burden by using this new reformulated gas, which, in my opinion, will cost this State between \$200 million and \$250 million to the people of the State of Maine to save perhaps a possible sanction of \$70 million. However, I do want to thank you for two assurances that I have gotten today. One supporting the Resolution to direct our focus, I think, to where the problem really lies, and I think that is Congress. I want to thank the good Senator from York, Senator Lord, for assuring us that he will, by April 19, Patriot's Day, have a public hearing on the referendum petition and Representative Luther's bill. He has assured us that that bill will come before us by May. So, with these assurances, I will be supporting this bill tonight because I cannot, in good conscience, allow the program to re-start for the people of York County tomorrow. As I have stated, please do not make any mistake that I am still dedicated to making sure that we do not have needless spending on the people of the State of Maine, to try to solve a problem that we, ourselves, cannot solve. Thank you.

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in the negative, and 32 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.

Senator HANLEY of Oxford was granted unanimous consent to address the Senate off the Record.

ORDERS OF THE DAY

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

Bill "An Act to Strengthen the Laws Currently Governing the Failure to Preserve the Life of a Live Born Person"

H.P. 498 L.D. 679

Reference to the Committee on **CRIMINAL JUSTICE** suggested and **ORDERED PRINTED**.

Tabled - earlier in the day by Senator **PENDEXTER** of Cumberland.

Pending - **REFERENCE**.

(In House, February 28, 1995, **REFERRED** to the Committee on **JUDICIARY** and **ORDERED PRINTED**.)

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

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

Senator **HARRIMAN** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **HARRIMAN**: Thank you Mr. President. Good evening Ladies and Gentlemen of the Senate. I rise to thank the good Senator from Oxford, Senator Hanley, for the cooperation that was extended to us from the Appropriations Committee Table. I want to thank him for that but I would also like to pose a question through the President, if I could. If we could have an idea, roughly, of what the fiscal note might have been on the bill that we just passed? Thank you.

Senator **HANLEY** of Oxford was granted unanimous consent to address the Senate on the Record.

Senator **HANLEY**: Thank you Mr. President, Men and Women of the Senate. I would be more than happy to answer the good Senator from Cumberland's question. That question was posed by each and every member of the Appropriations Committee, to our staff, to see whether or not they had arrived at a figure. They had absolutely no idea of exactly what that figure may be. Some of the figures ranged anywhere from \$14 million up to \$60 million. But they would not give us a definitive amount. So, basically it is left up in the air at this point in time.

On motion by Senator **RUHLIN** of Penobscot, **ADJOURNED** until Thursday, March 2, 1995 at 9:30 o'clock in the morning.