

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD  
OF THE  
*One Hundred and Twelfth*  
*Legislature*  
OF THE  
STATE OF MAINE

VOLUME I  
SECOND REGULAR SESSION  
January 8 - April 2, 1986

The House was called to order by the Speaker.  
Prayer by Father Joseph Holland, Augusta Mental Health Institute.  
The Journal of March 17, 1986 was read and approved.  
Quorum call was held.

NICHOLSON of South Portland  
WEYMOUTH of West Gardiner  
BAKER of Portland  
RICHARD of Madison  
CLARK of Millinocket  
PARADIS of Old Town  
WILLEY of Hampden

#### PAPERS FROM THE SENATE

Bill "An Act Limiting the Agricultural Cooperative Producer-dealer Exemption from the Maine Milk Pool" (S.P. 878) (L.D. 2215)

Came from the Senate, referred to the Committee on Agriculture and Ordered Printed.

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Protect the Public Health and Safety of Residents in Boarding Care Facilities" (S.P. 875) (L.D. 2207)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

#### Ought to Pass in New Draft/New Title

Report of the Committee on State Government on RESOLVE, Concerning the Ownership of Little Jewell Island (S.P. 586) (L.D. 1539) reporting "Ought to Pass" in New Draft under New Title RESOLVE, Authorizing the Lease of Little Jewell Island (S.P. 877) (L.D. 2206).

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

#### Divided Report

#### LATER TODAY ASSIGNED

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-417) on Bill "An Act to Clarify the Rate Design Stability Responsibilities of the Public Utilities Commission" (Emergency) (S.P. 717) (L.D. 1840)

Signed:

Senators: ANDREWS of Cumberland  
BALDACCI of Penobscot

Representatives: VOSE of Eastport

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: WEBSTER of Franklin

Representatives: WEBSTER of Cape Elizabeth  
McHENRY of Madawaska

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-417)

Reports were read.

On motion of Representative Vose of Eastport, tabled pending acceptance of either report and later today assigned.

#### Divided Report

Six Members of the Committee on Transportation on Bill "An Act to Promote Public Health through Required Use of Seat Belts" (S.P. 777) (L.D. 1951) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (S-415)

Signed:

Senators: DOW of Kennebec  
ERWIN of Oxford

Representatives: MILLS of Bethel  
THERIAULT of Fort Kent  
CALLAHAN of Mechanic Falls  
SOUCY of Kittery

Five Members of the same Committee on same Bill report in Report "B" that the same "Ought Not to Pass"

Signed:

Senator: SHUTE of Waldo

Representatives: STROUT of Corinth  
CAHILL of Woolwich  
MOHOLLAND of Princeton  
POULIOT of Lewiston

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-416)

Signed:

Representatives: MACOMBER of South Portland

McPHERSON of Eliot

Came from the Senate with Report "B" "Ought Not to Pass" read and accepted.

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker and Members of the House: I move Report "A" as amended by Committee Amendment "A".

This report is the referendum report. I want to familiarize you with the content of the bill in addition to the question that will be on the ballot. The question agreed to by the supporters of Report "A" says, "Do you favor an act to promote public health through the required use of seat belts?" The issue that will be before the people is exactly as specified in the amended L.O. 1951.

I wish, at this time, to cover the essential element of this bill. To begin with, it says that the required use of seat belts will be in all vehicles manufactured after January 1, 1966. Those were the vehicles that were equipped with seat belts at the factory.

In addition to that, the bill specifies that the driver will be responsible for the buckling up of all passengers that are 16 or under. Over 16 would be their own responsibility.

There would be some exceptions to this requirement. For example, when there is a patient in an ambulance and somebody is working on that patient, that particular individual would not be required to buckle up. Others would be like rural mail carriers that would have to buckle up and unbuckle at every mailbox would not be required to buckle up. In addition to that, we make exceptions for those individuals that would make frequent stops like somebody distributing something from house to house or picking up something from house to house.

Another major feature of the bill is that the enforcement of this requirement would be as a secondary requirement. In other words, an officer could not stop you strictly for the purpose of summoning you to court for not buckling up. It has to be in conjunction with another offense that has occurred.

The penalty for the violations are for the first offense, \$15; the second subsequent offense will be \$50.

This is a rather hot issue, I am sure that all of you are aware of that. It is so hot that it has been my experience in my district that it almost ranks with religion and politics as to the potential of it being quite flammable. It comes from both sides. It comes from those that support the measure and those that oppose the measure. Those that oppose the measure cannot believe that a legislative body such as this would have the audacity to ask them to wear a seat belt.

On the other side of this, when you talk to those people that wish for us to pass this measure, they cannot believe that we are so insensitive to this requirement, they just can't believe it, that we would not pass this, make it mandatory, so that we could save 50 lives or so.

It is in the posture that causes a lot of blood pressures to rise. I have listened to a few tirades,

like you have I am sure, on the issue and I am sure we could continue to do that.

I would like to point out at this time that most of the committee members really believe that seat belt usage does save lives. This is not the issue. The real issue is that the time has come for us in the legislature to stop mandating such requirements. This is why some of us in the committee felt that the people are very, very interested in this issue. I am sure that the day of the election, if this is on the ballot, that the people would come from the mountains, woods and from the fields, just to make sure that they either kill or pass this measure. I don't think that we would be so far off if we should send this measure to referendum.

I have a few reasons why you might want to support this measure. First, I am going to talk to those individuals who oppose the seat belt. I understand there are a few of those in here. I have been in the legislature now for six years, and in those six years, I have had to listen to a seat belt bill at least four times that I can remember. This thing is sort of perennial, it just keeps bouncing back and every year we have to deal with it. I feel that if this issue would be sent to referendum that it would either be passed and, if it is passed, then that is what the people want, and so be it, that is the way it should be. If it is not passed, then I would say that we probably would not have to hear this bill for another ten years or so. By that time, just about everyone would be convinced anyway that seat belts should be used and we won't need legislation to do it. So, you win in all cases, if you would support this particular measure.

Most of us have mentioned seat belts on our questionnaires and I know mine came back about two to one against it. There are others that have higher figures and there are others that are closer to 50/50. This tells us that there are some people out there that want the seat belt and there are those that don't. That is quite basic, I understand. We are constantly told that our polls are inaccurate, they are unscientific and we should not depend on them. Well, if that is the case, maybe this would prove once and for all if our polls are accurate or not. This would be a good way to find out.

Another point that I think you should consider is that in some of the states that have mandatory seat belts currently, there is a referendum issue before their legislature to send it back to referendum. It is an initiated referendum and I think that if we should do it right now we would avoid that from happening because we would begin with the referendum rather than end with it like some of these states are doing, so it would be beneficial for that.

Let's talk a little bit about the arguments of those who are supporting mandatory seat belts and we do have some of those here. Yes, I found some this morning. No one is a more avid supporter, also a dedicated supporter of seat belts, than our good Governor Brennan. He has really tried to convince this legislature that we should go that way. But the Governor is also a very good politician, he is also very astute and has made a determination that there is no way that the raw and pure bill could ever make it through this legislature. Consequently, he is supporting the referendum version. Now, he apparently believes enough in his poll to go ahead with this thing because if you remember his poll was something like 62 percent in favor of the seat belt.

In closing, I want to say, what chance will you really be taking? Would you be doing what your people want you to like I said previously? If it goes to referendum, if it passes, then that is what the people wanted and that is the way it should be. If it fails, then we won't see it again for another ten years or so.

I urge you to support Report "A".

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: In the absence of my good friend, the Representative from Canaan, Representative McGowan, I move that this bill and all accompanying papers be indefinitely postponed and ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I find myself in a rather peculiar position today having voted against the seat belt law ever since I have been down here. I was asked to cosponsor this bill and I really thought it over before I did because I don't want to cosponsor anything I don't believe in.

I went home and discussed it with my wife and she reminded me that some 14 years ago on Christmas Eve my daughter and her husband were riding in their vehicle in Collage Park, Maryland. She was pregnant at the time. A car driven by a drunk driver broadsided them, they were wearing seat belts and her doctor told her that if it had not been for the seat belt that perhaps she and her husband, and Shirley, my granddaughter, would have died. I had forgotten about that, quite frankly. She also wrote me a letter reminding me of it and said, "you know Dad, that doesn't mean your first grandchild but that means the other two."

I realize that what we are saying or attempting to say, at least in the original bill I sponsored, that we wanted to mandate or require (I like the word require a little bit better, mandate seems to be a threatening thing)."

I also sent out a questionnaire, be it scientific or not, my questionnaire came back 39 in favor, 50 against and 11 percent undecided, I am going on percentages.

I have read some of the things in the paper that I think really express what some of my feelings are. For example, "using the seat belt is no one's business but mine. No one should be forced to use a seat belt, no one except the following: (1) those who have loved ones who will suffer if that person is seriously injured or killed; (2) those who don't have enough money of their own to pay all doctor, hospital or funeral expenses or medical care, if disabled for life; (3) those who don't have enough money to care for their dependents even if that person may never be able to work again. Most of us are in the above groups; if we are, use of seat belts is everyone's business."

Another letter, a short one, "Living proof. Many thanks to all the great people who stopped on I-95 near Pittsfield recently, after my car slid off the road. I didn't get a scratch. My car door has a small dent but I was wearing my seat belt, praise the Lord. Thanks to the blond state trooper and the wrecker driver who pulled me out in two minutes flat. Buckle up you beautiful people, God and his

angels are out there protecting us. Nadene Webster from Millinocket."

Another one, "Suit yourself. The proposed seat belt law isn't unreasonable. In fact, I find wearing seat belts on trips reduces fatigue. This being a free country however, I suggest that those individuals who want to live dangerously should be allowed to do so, after they have signed a statement waiving all tax supported benefits such as accident rehabilitation services, suit yourself. Katherine Bell from Houlton."

There are many of those and there are also those that have written and said you are crazy, what are you trying to do to us? You are trying to tell us you have to wear seat belts. Well, there are a lot of things that we are mandated to do or required to do. We are required to stop at a stop sign, we are required to go no more than 55 miles an hour, that is for the protection of somebody else. How about if you are riding along in a car and all of a sudden, because of a chuck hole or something like that, you are jounced and you slide over to the right side of the driver's seat and you lose control of the car? If you had your seat belt on, you would be in place, you still might have control. You could very easily bump into somebody else. That is another thing in favor of wearing the seat belt.

I was in favor of going ahead right now and voting it out but I see there has been a lot of letters and a lot of phone calls being made by the anti's. Any of you that have ever been on any issue whatsoever will find out that those who are opposed to something are the most vocal. You have seen it many, many times and that is exactly what the story is. So, on the basis of the poll that I took, I feel that I can now support the Committee Report going out to referendum even though I would have preferred it the other way. I don't see anything wrong with letting the people decide an issue once and for all. After all, this thing has been around since I have been down here, which has been eight years, and there are others that have been here longer and it is still around and it will come back and back and back. I think the issue should be settled once and for all. Send it out to the people. Let them vote on it. We have done it before with the bottle law, for example. So, I see no reason why we can't vote for this today and let the people, our constituents, decide on what they want to do. We just might be surprised, we might have a silent majority out there willing to go the route and willing to wear the seat belts.

I hope you vote against the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to begin today by reiterating, so to speak, that I am a proponent of seat belts. I wear my seat belt and I believe very strongly that seat belts save lives and reduce personal injury. I am opposed, however, to mandating seat belts. I believe the best way is education. You will hear the proponents of this legislation or perhaps you already have heard them say that education doesn't work. I maintain that it does. Prior to 1983, voluntary seat belt compliance in Maine was 9 to 11 percent. In 1983, it went to 13 percent and in 1984 to 17 percent, and last year 1985, voluntary compliance in Maine was 23.9

percent. Education, ladies and gentlemen, does work, but maybe mandation is easier.

You have heard also about medical costs putting a burden on all Maine citizens. If you carry the thought further, you would realize that we also carry the burden for smokers, drinkers and those who choose not to maintain their weight. I hope this legislature is not considering making a law that it would be illegal to be ten pounds over weight because we are all in big trouble if it does.

If we make alcohol illegal today, I think we will probably save lives tomorrow.

To continue on the cost issue, what about the cost of the legislation? The Governor in his State of the State Address, and for that matter, the fiscal note, if you care to look at this bill says, there will be zero cost. Who is going to enforce this law? Who is going to adjudicate this law and where is it going to be adjudicated and how much money has taxpayer money (I might add) already been spent on this legislation?

I maintain these costs are going to be quite significant and I think it is unfair for the proponents and the Governor to mislead the Maine public.

What about insurance costs? I have asked, will our insurance rates be dramatically decreased with the enactment of this bill? The answer remains to be seen. In Massachusetts, for example, they expect about a three percent reduction in automobile insurance, but that reduction is based on a 70 percent compliance rate. The compliance rate in Massachusetts is only 41 percent, 41 percent with the law, that means 59 percent of the people in Massachusetts are driving illegally. So, while the insurance argument is interesting, we will see only a very small, if any, reduction in insurance rates.

Now, comparative negligence is an issue I have brought up time and time again and I can't seem to get any of the proponents to make any comment about this. Under the comparative negligence statute in Maine, if you were in an accident, totally not your fault, and if you didn't have your seat belt on and maybe you just forgot -- let's face it, we are all human and sometimes we do just forget -- you, a victim of that accident could be considered negligent and therefore, damages to you could be reduced. I think this would make a real argument and a great defense for some insurance company.

What about polls? We have all heard about polls. I think the best poll is the voluntary compliance rate, 24 percent wear it, 76 percent don't and I think that is the best poll you are going to find.

I heard yesterday that proponents' arguments were lofty and philosophical. If advocating education and supporting the majority of the people is lofty and philosophical, then I concede that I am all that.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Men and Women of the House: Under Joint Rule 37, is this bill properly before this body?

The SPEAKER: The Chair would answer in the affirmative since this matter is a Governor's bill.

The Chair recognizes the same Representative.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I kind of wonder if this bill is a bill to raise some money from our senior

citizens who do not wear their belts. I believe it is. I think it has been covered before that we have people who smoke and that creates a big finance to the state and also those that drink.

I am not going to prolong what I have to say but I wonder if the Governor buckles up or not -- but I wish he would buckle down and spend the money and resources to address the problems of the potato farmer in Aroostook County and of the state and maybe the University of Maine, and I am sure there are a lot of other important issues. I hope you will vote with Representative Jacques motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women of the House: I would like to respond, first of all, to the member from Woolwich, Representative Cahill. Representative Cahill pointed out that smoking and drinking would be the next thing to be mandated. I think that you can say there is a difference between being overweight -- that is a very difficult thing to control, very often a person has problems with their glands and overeating becomes an addiction. It is the same with smoking and drinking. Alcoholism is a sickness. However, it doesn't take very much to be able to buckle up a seat belt. That is very easy to control, so there is the difference right there. No one is going to be foolish enough to start passing laws mandating overeating or anything like that.

The second point I would like to make is the subject of mandation. Throughout this entire debate, we've been hearing nothing but "the government shouldn't tell us what to do, don't be a dictator in Augusta." I should mention that dictators generally are very hard to get rid of, we're very easy to rid of, people have a chance every two years. But on the subject of mandation, I should point out that we do mandate a number of laws concerning public safety. I should like to point out that we do have a law requiring the wearing of orange when you're out hunting. Now here is a situation when you take your life in your own hands if you decide not to obey the law. Someone could say the reason that is there is, we wouldn't want a hunter who shoots somebody by accident to have that on his conscience; therefore, we decide to mandate that law. Isn't that the same thing when it comes to automobile accidents? Couldn't you say, we wouldn't to have somebody's death on a driver's conscience if they rammed into a car and caused somebody to go through the windshield? I'm just trying to get you to see the possibility of thinking beyond the simple fact that we don't like to mandate laws.

We are all aware of the fact that our northern neighbors have mandatory seat belt laws. According to an article here in a New Brunswick paper, where the law has been in operation it said, that in the last three years, it saved the lives of nearly 200 New Brunswickers, cutting the fatality rate by more than thirty percent. In addition to that, the number of cases for plastic surgery was down, and I should mention here, that the accident rate remained constant. We have also noted here there were fewer cases of broken necks, head, face and limb injuries in highway accidents. I point this out because here is an example of a province under a democratic government, no dictatorship there, that has enacted this law and it has had some positive results. If we were to enact a law for mandatory seat belts, the

public has two recourses if they don't like what we do -- they can either get rid of us or they could put out an initiated referendum to repeal the law. And if public sentiment remained the way it would, it would be repealed.

I came into this body this morning with the intention of backing the original proposal with the belief that if we were to pass the bill, give it a chance, and if the public didn't like it, they could probably get rid of it through repeal of a public referendum; all the democratic safeguards are there. I guess it really disturbs me that the issues of democracy and dictatorship have been raised in the issue of a seat belt. There are far greater threats to our freedom than simply somebody telling you you have to buckle up or wear orange when you go hunting in the woods. Yet, the issue has been raised as if it is the greatest threat to freedom since the Third Reich. I had to say something about it because I have never been more disturbed, about what I feel to be such distortion. So as I stated before, I came in with the original intention of supporting the bill and I felt we should do that and take the responsibility for our actions; after all, that is why we get elected. However, since the position at this point seems to be to send it to referendum and Representative Theriault has suggested this is the position he wishes to take, I will, in the spirit of compromise, urge you to support his motion and perhaps we will please more people that way.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Ayer.

Representative AYER: Mr. Speaker, Men and Women of the House: Sometimes, when we cast our votes here in this body that we have to cast our votes for what is right rather than what is popular. I think this is one of the issues that we have to look at today. Certainly the question of individual freedom that we frequently here in conjunction with this legislation is an issue. Something else is an issue here as well and that's the health and welfare and protection of people who don't have the opportunity to stand up and have their vote be counted.

Last November, I was fortunate to become a grandfather. If, eight or ten years down the road, my grandson were involved in an automobile accident, injured, or worse yet, killed because he didn't have his seat belt on, I am afraid that my standing up here for individual freedom would be rather hollow to me at that time. I would like to see seat belts mandated. Obviously, we are not going to be able to go that route at this time. I think that the best we can look for is to put this issue out to referendum. I would encourage you to vote to do just that.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I rise on this issue as a sponsor of the legislation and speak from that standpoint. Yesterday, we debated a bill, I can't even remember the subject -- I believe it was the

jury bill and some members debated it with great vehemence. I believe at one point, one member of this body spoke of this bill as being so significant it was a matter of life and death. That member was talking about the loss of a physician to a person who might be in need of health care but it reminded me at that time that, so often, we use the argument of life and death issues coming before this body as justification for taking our various positions on these issues. We use that life and death argument pretty regularly but I can't remember any time when we had to deal with the reality of a life and death issue. Folks, this is it.

As you know, I have been a person who changed on this issue over the past twelve months. Last year, I voted against mandatory seat belts and I based my argument on the arguments that I have heard quite a bit lately in the halls, that it is an infringement on individual freedom and that it is mandating something that the public doesn't want. I have kicked myself since I voted that way last year because I look at the facts, I look at the statistics and my vote of last year cannot be justified in light of those statistics. I got a copy of the breakdown of the people who, according to the Department of Public Safety, would be alive today had they been wearing a seat belt at the time of their accident. This list dealt with 67 individuals, who in 1985, lost their lives in automobile accidents as a result of actions on their part and the result of actions on the part of others. Needless to say, they lost their lives and they are no longer with us. I looked at this list and there were four people from my town of Bangor on that list and in addition to that, there were three others who died in Bangor. I remember I saw that some of the ages were people who were under eighteen and I remembered that accident, I remembered the families, and I thought, is it going to take a personal or direct relationship with somebody or a family who loses their lives to get this legislature to act? I hope that will never be the case but unfortunately, I have come to the conclusion that it might very well be the case. To paraphrase Ernest and Julio Gallo, "We will pass no bill before it's time" and I think this is an instance where this legislature just is not ready to deal with the issue directly and that is unfortunate. For that reason, I have reluctantly come to the conclusion the best avenue for us to take is not pursuing the report signed out by Representative Macomber and Representative McPherson but to go along with the Majority Report and send it out to the people for a public referendum.

Originally, I have told many of you I thought the idea of sending this out to referendum was a copout. Something that Representative Cahill said to me today made me realize the value of actually going in this direction. I think that we have the ability to make this decision on our own, no question about it. I also believe that this is a decision that should be made in this House and the other body and that we shouldn't have to send it to the people. But look at the value of doing that, regardless of what side of the issue you are on.

Representative Cahill said that she thinks it's important to educate the public and that she supports the "Ought Not to Pass" Report because we should focus our attentions on education. Well if we do put this out to referendum one thing is clear, that between now and November, the public is going to be

discussing this issue, people will be arguing for it and people will be arguing against it. The public awareness is going to be raised, and no matter what happens, more people are going to understand the value of seat belts then understand it now.

Compliance will never be 100 percent, regardless of whether or not the voters in November pass this, regardless of whether or not we give them the opportunity to do so, but more people are going to comply with the law if we pass it, more people are going to comply with common sense if we don't -- if we allow this discussion to take place. It is time to take it out of the legislative arena and put it in the hands of the public, if for no other reason than to save the lives that will be saved between now and the date the legislature eventually and inevitably gets around to passing it.

It simply makes sense to me if we can save dozens of lives by sending this out to referendum, if we can save thousands of unnecessary injuries, if we can save millions of dollars, taxpayers dollars, private dollars, all used to provide taxpayer-support for those who die or are injured, and through insurance premiums, then it is the right way to go. I think that on an issue like this we can't go wrong by sending out it to referendum -- we really can't. Some people are concerned about the political consequences. I don't think any member of this body is going to vote with that in mind, there is no question people have suggested that.

I look at this issue and I say, if I can go to my voters and say I passed a law that eventually allowed us to save dozens of lives, thousands of unnecessary injuries and millions of dollars from your pockets, they're not only going to reelect me, they will probably canonize me. I think there is nothing better we can do for the public than to give them the opportunity to deal with this issue, to resolve it once and for all, and I think that the campaign that will take place on both sides of the issue, if for no other reason, is going to educate the public to a higher level where they can make a more rational decision about seat belt usage.

I ask you to oppose the motion before us so that we can deal with the proposal of the majority of this committee proposed by Chairman Theriault and move ahead and hopefully send this to the voters.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: You may not be aware of it in terms of the power of the Speaker, but the two seats in either corner, both the Majority and Minority do have seat belts on them and the Speaker, through looks and through phone calls, had indicated that my seat belt was on until he found out what side of the issue I was on. He gladly unbuckled my belt so that I could get up to speak.

I am pleased to follow my friend from Bangor in terms of speaking in support of sending this out to referendum. It was very interesting in the rotunda today that the adrenalin juices were flowing -- I don't know if there was something like extra caffeine in the coffee this morning, but we're dealing with a bill of life. I am very pleased as a member of this body to look through this chamber and almost every member of this body is in his or her seat or behind the glass. I think there is the realization that we are dealing with life and death and this is not a frivolous issue and we all are concerned.

I am very pleased to see that it is very clear on the Record that everyone in this chamber, unless somebody has contrary evidence, that seat belts save lives. If someone has evidence or information to the contrary, I wish they would put that on the Record before the vote.

As I indicated as a co-sponsor of this bill before the Transportation Committee, like the Representative from Bangor, I had voted against it in the first session. There are a variety of reasons why I made a personal decision to support this bill.

We all do a lot of traveling back and forth to Augusta and I had an accident in December coming up. When you become a survivor of an accident, given the thickness of the ice or the speed of the vehicle, just luck or God that you survived and you realize that maybe you will have a second chance, your philosophy can begin to change. It is ironic that, as I saw a vehicle cross a median, flip and get into my travel lane, I won't repeat the words that went through my mind, I didn't know they were in my vocabulary, but they came out, and instead of that old saying about seeing the past flash before you, the future flashed before me in terms of my seven year old son and my fourteen year old daughter. My thoughts were with them as I went into that accident. I took the vehicle into a guardrail, and I'll be very honest, I didn't have a seat belt on, at that point I only wore a seat belt about fifty percent of the time and I didn't have it on. The vehicle hit the guardrail four times and each time it hit a corner of the truck, which meant that I was thrown against the door and the side window, rather than onto the wheel and into the windshield. So, by luck, rather than hitting straight on or the back of the vehicle as I spun around hitting, going around the overturned vehicle, by hitting the corners I survived, despite not having the belt on. I know that if I had been two seconds closer, I would have gone into the exposed roof of the vehicle that was out in my travel lane. I would have killed two people at 55 miles an hour, and without a belt on, probably would have been killed as well.

I have tried to look at the statistics as the Representative from Bangor has in terms of those people, those 50 Maine citizens and visitors from away, who died on our streets and highways.

As many of you know, I am a former teacher. It seemed like a regular part of my schedule when I was teaching and in those few years after I left teaching, I was going to wakes and burying young people -- of seeing friends from Kennebunk and Kennebunkport and Wells, die, and going to their funerals. That has become very much a part of all of our lives, because most of those 50 people are Mainers. I think it would benefit you to go through that list, those casualties, those statistics, those relatives, those friends, those constituents, who die on our highways. Those 50 statistics are very real, are very personal, and like the Representative from Bangor, in terms of former students who died this last year, especially one in December in Kennebunk, I asked myself, if I had voted for it in the first session, could that bill have been passed and would that young man be alive today? My conscience is very troubled in terms of my vote.

At the hearing, I had indicated, what would be proper for those who return back to this body a year from now and to be able to look behind the glass or look up in the gallery and see the 50 people who



survived, if we could have a survivors party because we don't seem capable of taking the 50 dead and look at the ages, the children, the young couples, and translating that into real people but looking at the survivors and celebrating life because that is what this bill is about.

The proposal before us now is a referendum and during the last few weeks, many of you from both parties have talked to me in terms of your questionnaires, in terms of your letters, phone calls that you have received in opposition to the original bill or in support of it. The referendum proposal is an extension of that, even to a broader percentage of your constituents and mine.

I agree with Representative Cahill that, because of education, the percentage of usage is increasing. One of those reasons is because we debated that bill for an extended period of time during the first session and everyday that appeared in print, in editorials, and people talked with their constituents and that percentage began to climb.

By sending it to referendum between today and when the other body could act on -- the debate for those who are for and those who are against, or those who are on the fence, that win or lose in November, that percentage is going to climb. If it is defeated in November, as many of you feel, maybe instead of 50 dead, we might be looking at 35, we might be looking at 40, but that debate is the best type of education in terms of saving lives here in Maine. Let the people make their personal decision. Personal liberties and our freedom are the most valuable thing we have here in the State of Maine. You have to make a decision balancing those liberties with the opportunity to save lives. The Maine people looking at a November referendum would have to make that same decision and it is a very difficult decision. I have made my personal decision and it may have a political cost to it. Every decision we make here has a potential political cost, but if that cost is negative, I can live with that because I know I voted to save lives. If you are going to lose on an issue in an election, the issue of life and death is a very good issue. I want to stop burying our young people, I want to stop burying my constituents and yours. I want to end the tragedy of visitors from away ending up in our emergency rooms and in our morgues. Those that are dead are the past.

I think you have before you an opportunity to send out to your citizens, your constituents, a vote for the dead of the future, who could be my two children, your two or three children, your spouses, your relatives, your constituents.

So looking in terms of what could be in terms of lives that could be lost, I urge you to defeat the motion and send this out to referendum.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Men and Women of the House: I would ask you this morning, how would you vote if you were to see the list that Mr. Godfrey from the Bureau of Safety has out there, if it was a list of those that were going to be killed next year, and on that list was your friend, neighbor, or loved one?

I happen to be one of those whose family has grown up now and three times I have had that police officer or trooper drive in my dooryard and say, everybody is all right, but. The last incident was with my son Jamie. A lot of you people, who have

been here for a few terms, remember him serving as a Page from time to time. Two years ago, he was involved in a fairly minor accident but Jamie was the one that got thrown against the dashboard and broke his jaw. For six weeks, it was soup and liquids. I had supper with him Sunday night on my way back down here -- he is a student at USM Gorham and we got talking seat belts and his accident came up and he said, "You know dad, I had an appointment with an orthodontist just a week ago and I guess they are going to have to break my jaw again and reset it. It still isn't right."

I am one of those, as the Representative from Bangor stated, that had constituents on the list. I had two that were killed in the last twelve months -- two from Eliot. Had they been wearing belts, they would be here today.

Before you vote, give it some thought -- who is going to be on that list next year?

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I can't believe what happened this morning. I was going to speak, probably still will, about something that greatly restricts peoples freedom.

I can't believe that a city slicker from New York, who moved to Portland, reminded me of my past when I used to hunt. I come from Topsham and hunted in Bowdoinham. We didn't have to wear anything special except the people who hunted with us would laugh at us if we didn't wear something that was red and black checkered. I hadn't thought about blaze orange coming in. It came in when I had left hunting and gone into the Navy and then to school. Maybe sometime before this debate is over, we could here from some of those who were involved when blaze orange was put in, whether it was put in by the legislature or whether it was put in by rule making. But I remember when I hunted and killed a lot more deer in those days. I didn't kill that many -- one. We used to kill a lot more people if my memory is correct. The kill use to be 39,000 or 40,000 deer. I remember, if I am not wrong, (my day was in the '40s and '50s), we killed 18 or 20 people. It seems to me that is correct. Maybe someone will talk about that, but anyway blaze orange came in. Is it true that we went without a death last year or maybe 1 or 2? I thank that man from New York who reminded me of my past and that restriction that was put on people. If they wanted to hunt, they had to wear a special kind of clothes, clothing that was not red and black checked. I would like to hear if that saved lives.

I want to talk about another subject. Representative Theriault said that we were going to be voting on something dealing with public health.

My business is mental health and I would like to talk about restrictions that are put on people in the area of emotional health. Everyday in this state, probably on the average of several times a day, we not only tell people to strap up or buckle up, we lock people up. We take away their freedom because they are in danger of killing themselves, suicide. We could say that suicide is a personal issue, if someone wants to kill himself, then why not let them do it? They are not hurting anyone else, just themselves, but that is not true. In my work, we deal with people who kill themselves or have those kind of thoughts or make those kinds of attempts. We

deal with it very seriously. I've seen it happen and it affects the people around the victim so seriously, that if I could package that somehow, I could prevent suicide. If I could package how harmful it is to people around them, not just close people, not just relatives, but just people who have known them. That kind of death emanates out and emotionally upsets many, many people. That's just one of the reasons we lock people up when they are in serious danger of killing themselves. We don't lock up everybody who has suicidal thoughts, just as we are not going to go around and make sure everybody has their seat belt on. Psychiatrists, judges, other people in mental health sign papers daily that lock people up. The death of those people just tears and twists other people in their lives. I deal with the emanation of it all the time.

When people say to me, why did you vote for the seat belt requirement again -- because I voted for it before -- I am going to say that I want to make sure as much as I can, that everybody who is driving around, if I have an accident with them, if my wife has an accident with them, whether it is my fault or their fault, that there is everything possible to keep that person from being killed, because I don't want that emotional twisting of my life or my wife's life, over killing someone else. Whether it is my fault or not, it is going to hurt me. It is going to hurt other people. So that is one area that I think should be considered. It is worth taking away the personal freedom of not buckling up in order to save me and others the emotional grief of seriously injuring or killing other people.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House: The Representative from Woolwich brought up a point about contributory negligence and I would just like to clear that up for anybody that might be wondering about that. Under 29 MRSA, Subsection 1368, it provides that evidence of nonuse of a seat belt is not, I repeat, is not, admissible into evidence; therefore, cannot be used to establish contributory negligence in a case of a car accident.

I would also like to speak quickly on some of the other arguments that have been brought up. One of the arguments that you hear a lot with this bill is that we don't mandate with alcohol or we don't mandate with cigarettes. I was in this body when we debated the 21 year old drinking age and I find it very hard when somebody tells me we don't mandate any policies on alcohol. We have already decided that anyone below 21 years of age cannot drink alcohol. We mandate it, we mandate the people that are adults, 18, 19, 20 years old are not able to drink alcohol. So, I don't see how anybody can get up here and tell me that we don't mandate on the policy of alcohol or that we don't mandate on the policy of cigarettes, we also mandate with that. We tell people what age they have to be before they can even make their own decision on whether or not they can smoke.

It seems that we keep debating whether or not we are going to have people mandating the wearing of seat belts. I would like to quote from the figures that I received from the Reagan Administration, through Secretary Dole's Office on the rules that have already been put in as to what will happen with the amount of self-restraining instruments that will

be put into cars by the 1990's. This is already in effect and has already started. 1987 models--10 percent of those models that are built, that is this year's cars, will have self-restraining instruments, that means either airbags or self-restraining seat belts. Over 99 percent of those vehicles that have gone in, out of that 10 percent are self-restraining seat belts, the reason being that they are a lot less expensive for the car companies to put in.

1988 models -- 25 percent of those vehicles sold in the U.S., whether it is Japanese or any other car, will have to have self-restraining instruments.

By 1989, 40 percent will have to have self-restraining instruments.

By 1990, two-thirds of all the vehicles sold in the United States will have to have self-restraining seat belts or airbags.

Again, I state most car factories are going with self-restraining seat belts. I think it is important because I don't think a lot of people realize this, I don't think it has gotten out very well.

I think with a referendum the people would realize there already has been a federal mandate put on. I think it is important to realize it is the Reagan Administration that has gone forward with this. Now whether or not you believe in President Reagan's policies or not, I think everyone here believes in the idea that he honestly believes that government should not be on the backs of people. I think, even in this case, they have made a decision that it is so important to have some type of seat belt protection in a car that even people that have gone with that decision in the past have said that we should mandate in some area with self-restraining instruments in a car.

I would also like to bring out the fact that I have heard interesting arguments on why we shouldn't send this out to referendum. It is an argument that I have supported many times in the past and that is, we were sent down here to make a decision ourselves and why are we sending this out to the people? One of the arguments that I hear for that (when I ask somebody) they will say, we should be voting for what is right, here and taking care of it right here. So I will say, are you going to vote for seat belts? They will say, no. I'll say, why? They will say, because my poll back home told me that I shouldn't vote for this. I find it kind of interesting that they think we should come down here and do what is right but then they tell me at the same time that a poll back home told them that they shouldn't be voting for it. I find that kind of interesting.

To wrap it all up, the fact of what is being done on the federal level should be known by people and we can do that through education by having this put out to referendum. Also the fact has been brought up that whether you believe in mandating seat belts or not, just having the issue on the ballots, is going to cause education to work. It has been shown today that it does work by figures that were given and causes people to be buckling up on their own whether the bill fails with the people or not.

I think, for those reasons, it is very important that today we send this out to referendum.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: How can you follow a more eloquent speech other than to say I agree with

Representative Mills.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I would just like to allay everyone's fears that I probably do not have as much love for my constituency as the previous speakers do, because that is not the case. I am not a grandfather, I am not a father, but I do have some nieces and nephews and I do love them very much. I also have some little children that belong to different members of this House and I love them too. So, we can put that question aside of whether you love your constituency or not.

My objection to this bill before us is that, once again, we are going to do something whether our people like it or not. I don't particularly care how each and every one of you happen to vote on this bill, it makes absolutely no difference to me and I am very sincere when I say that but I do know that I was elected by the people to come down here and represent them. When my Governor got on television, and the news carried it on all the stations, and spoke on the bill for the first time since he has been Governor and said that he really wasn't too concerned about how the people of this state felt, he thought it was for their own good, we should pass this bill, my phone started ringing. When I went to the coffee shop, my ears started ringing. It became very clear to me that the people in my district anyway -- I can't speak for your districts, you have to do that -- were very upset, not only with that statement, but with that philosophy. They told me that they were very much opposed to the mandation of wearing seat belts. Not just a few, a lot. Not just once in a while, but often.

Now, you can say to yourself, I am doing this for your own good. Well, I used to hear that from my Dad. He used to burn the toast in the morning when I was four years old and I said "Dad, I don't like burnt toast." He said, "Eat it, its good for you, it will put hair on your chest." At four years old, what did I care?

We get to the referendum question here. Representative Mills brought up the argument that I am going to bring up. I think it is a very valid argument. Let me tell you, if this law is such a matter of life and death, we should not even be considering a referendum question. The people who signed this bill "Ought to Pass" ought to be fighting for that, tooth and nail -- never mind the referendum, because the referendum -- and those that have been here before have seen it -- it is the last ditch attempt, when you think everything else is going down the tubes, you try to go with the referendum and the old 'answer all' is, we are going to let the people speak. We are going to let them have their chance to speak. Well, they had their chance to speak, they elected you, each and everyone of you in November, and they asked you to come down here and represent them. When they get in touch with you and let you know how they feel on a subject, that is the way I am going to go. My personal philosophy, my personal belief, does not matter. I represent 7,870 people in the City of Waterville, my feelings do not matter, especially when I hear from as many as I did on this particular question. That is why I made the motion I did, not because I don't love my constituents. A man or a woman would have to be a

fool to say that seat belts don't save lives. How many, we don't know.

On the way home from here one day last week, a tractor trailer rolled over just outside the Waterville-Sidney line, the driver was in behind the wheel, that side of the cab was completely squashed, he never had a chance. Whether he had a seat belt on or not, I don't know but if he did, he would have never had a chance because he couldn't slide. The other side of the cab was completely untouched, just as nice as the day it came out of the shop. You ask yourself the question, did he have a seat belt? I don't know. If he had one, chances are he was going to be as dead as a mackerel. If he didn't have one, maybe he would have bounced on the other side. I don't know that either.

My only objection to this is that my people did get a hold of me. If I am not going to do what they asked me to do, then what am I doing here? What are you doing here?

I urge everybody in my district to wear their seat belt because I think it is the smart thing to do. I went along with former Representative Mitchell and Representative Reeves' bill on four year olds and under because I think it is important. It is pretty hard for a four year old to make a decision that is going to have any merit to it because he just doesn't know.

I want to tell you that my nephew, who is seven years old, gets in a vehicle with me and the first thing he says is, "Uncle Paul, put your seat belt on." I do it because I am embarrassed not to in front of that seven year old kid. I hate seat belts, I don't like them around me, I don't like being restricted, but I do it.

Representative Theriault is exactly right, maybe four or five years from now, we are not going to need a law because people are going to be aware of this and they will do it but they will do it because they want to do it. I think people do things much better when they are doing it because they want to do it and not because the big hand of government is over their head saying that we are going to make you do it.

Finally, I sincerely hope that the law enforcement officials in this state have much more important things to do than to stop you and make sure you are wearing your seat belt. In the other states that have it, my understanding is, the law enforcement officials aren't spending very much time doing this and there is probably a good reason for that. That is why I made the motion, not because I don't love my constituents, not because I don't want to go to any more funerals, not because I don't love the people I represent, but because the people I represent told me to do something and I do take that very seriously. I think the referendum is just a very poor way of saying, we do not want to deal with it. If we are going to pass it, pass it on its face value; if we are not, reject it on its face value.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I almost forgot what I was going to say. I, too, have had a personal experience involving seat belts. I would be remiss if I didn't get up and speak to this body.

At this time last year, when we debated the seat belt, I brought it to the attention of the House that at the time I was speaking, my automobile was down at one of the garages, it had been recalled back from

the company for having faulty seat belts on the driver and passenger seats in the front. What had happened was there was a sharp edge on the retractor for the front seat belts and they had accidents where it would sever the seat belt. So, I took it down to the garage and I had it corrected. I figured that was it, it was just one of those oversights. This was in May of 1985. In September of 1985, I received another notice from the company, "Dear Owner: This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act. The National Highway Traffic & Safety Administration has recommended that Ford conduct a safety recall of certain 1982 and 1983 models Escort and Lynx vehicles to improve the operation of two rear seat belt retractors. Our records show that you own one of these vehicles. Ford believes that the use of seat belts by all occupants of passenger cars provides the best protection available in cars today to help reduce the number of serious injuries involved in automobile accidents. Consequently, Ford has received information that twists in the rear seat belt webbing could sometimes be drawn into and jam the rear seat belt retractors has started to develop the enclosed clip to prevent this from occurring."

Now, I bought this vehicle in the Spring of 1983. At the time, I was employed by the Department of Transportation and it was unofficial policy that we all wear seat belts and I complied with that policy. I wore my seat belt from the time that I bought the car until I received the first recall notice. They told me my seat belts were all right. They fixed it again. I know this is a personal experience with me and I shouldn't allow that to sway my complete judgment. I feel that the best way then is for me to tell the people back home, I think you should decide this.

It was brought up this morning that if anybody has any other evidence that all is not well with seat belts — here it is ladies and gentlemen, I have in front of you — twice, my car was called back within a year for having faulty seat belts.

I can't come out and say, vote for seat belts and tell my people seat belts are the best protection there is because they know this happened. So I will go along with the Representative from Fort Kent, Representative Theriault, I think it should go back to the people for referendum and that is the way I shall vote.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to remind you that the motion is to kill the bill and I hope you all vote against it.

It has interested me as we have been having this debate in the United States about seat belts, about this particular aspect of automobile safety, that a similar debate is going on overseas, particularly over in Europe. It is a different type of debate because over there the question, particularly in Germany, is not whether they should have a mandatory law on seat belts, just about every country in Europe has that, the question over there is, whether they should have speed limits. In the debate over there, the argument is that speed limits are an intolerable, particularly on the major highways, intrusion on personal liberty. So that just shows that some of the way we approach this is in our perception of a

particular issue.

The gentlelady from Woolwich is worried that if we were to pass a bill like this, there may be future bills about smoking and weight loss. I guess I could also worry that, if we don't pass something, there may be bills in to take off our speed limits or for example to repeal the law that we have on blaze orange. That was a law that was passed by this legislature. I happen to have been here and to have voted for it. I would just like to read to you one of the things that the sponsor of that bill said in the debate back in 1973. He said, "Now the question is invading our constitutional right to wear what we want to wear. Well, we violate that every day because some of us would probably like to come in here with far less on than we do have on but we don't stand on the constitution. We come dressed for the occasion and I furthermore believe that any hunter going into the woods should be dressed for the occasion for his own safety."

My support for this legislation, and I voted for it last time, is because one of my best friends is a paraplegic because he did not have his seat belt on. He was driving along at 45 miles an hour on a wet rainy day and the car flipped over and his spine was crushed.

If I followed the logic of the gentleman from Waterville, Mr. Jacques, I would also support it. I did not send out a questionnaire to my voters. I wanted them to come to me on their own volition and tell me how they felt about this bill. By an overwhelming majority, they told me to come down here and support it. I have no idea whether that is a scientific sampling of how my people actually feel on this.

One of the things that I think stands behind the argument of freedom and liberty being taken away is that people are basically afraid of seat belts. I know some that have asked me to vote against it have expressed their fear of having their car in an accident and being trapped, the car bursting into flames and their being burned to death in it. I have seen some statistics recently to show that is a very false fear and that basically, those people who have been trapped in car fires, have not been wearing seat belts, have been thrown, knocked unconscious and therefore, not able to get out of the car.

Just one final thought — obviously, if we do pass this bill, there will be some problems with it. In New York, there was a major problem with this bill after it was passed. That was, that so few young people were being killed, that they were having trouble getting organ transplants. So, I hope you will vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to give you a long tirade about seat belts. I hope everybody wears their seat belts. Being an old ambulance driver, I can tell you I have seen every crash that ever happened and all the problems that were involved with it, but that is not my point. My point is this — we have a 55 mile speed limit. Now, most of you use the interstate, how many people are going 55 miles an hour? None. They are all going 70 miles an hour. The point is, how many people, if you pass this law, are going to use seat belts? Do you think a \$15 fine is going to make any difference to

anybody? Do you think you are going to reduce any deaths? The people that don't want to wear seat belts are not going to wear them and you are still going to have your 50 deaths. My constituents just say, "Bob, vote against it" and that is what I am going to do.

The SPEAKER: The Chair recognizes the Representative from So. Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I would sort of like to explain my position as being a supporter of this seat belt legislation in this session since I was against it a year ago. I was approached a few months ago by the Governor's Office and asked if I would sign out the bill out of the Transportation Committee so it could be brought to the floor of the House for debate. I felt it was an important enough issue so I said I would do that. At the time I agreed to that, I agreed to support a bill that said, you would wear seat belts. I did not support a referendum and I do not now support a referendum.

We keep going back to blaze orange for hunting safety. I sort of listened to that with a little amusement. At the time that law was passed or that suggestion was made, I was a member of the Governor's Committee on Hunting Safety which recommended that law. I had heard quite a lot about it at that time too.

We go back to referendums and I think that is where my hangup is. The young gentleman from Bethel, Representative Mills, doesn't seem to agree with my thinking in this particular session. I think you were sent here because the people in your districts thought of you as leaders, not followers. I think they sent you here to make decisions. If you are not willing to vote on the subject of whether we should have seat belts or whether we should not have seat belts, I question very strongly whether you should be here. This is exactly the reason we were sent here, to make decisions.

A year ago at this time, a very good friend of mine signed a bill out of Transportation, the Senator from Saco, Senator Danton, I was rather ashamed at that time that I let him stand alone because I think that perhaps he was right. In the ensuing year, I have talked to many of my people. I have told them that I would probably support seat belts this time. I don't think that I have received that many negative feelings. Some of them have said, well you go up there, you do whatever you think is best. That is what I am doing in this particular instance.

I am a little sorry that the sponsors of this bill have gone from their position of supporting seat belts without, I don't think, a great deal of fight. I think perhaps if that was their opinion at the hearing, they have made very good statements, very strong speeches supporting seat belts, I think they have moved from that position now to supporting a referendum. I don't intend to do that. I will stand by the report that I signed and I will not support a referendum.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I have heard many Representatives stand up here and say that they have had their constituents tell them that they should not vote for this bill. There may have been a few, I am

sure there were, there is no question about it, there were on mine. But I did sent out 4,200 questionnaires and the results of those questionnaires said, and I reiterate, 39 percent were in favor; 50 percent against and 11 percent undecided. That didn't give me any clear mandate, in my opinion. That is why I want to send it out to let all of the voters out there to have a chance to vote on this thing.

Most of the time, and you all have been through this, you may receive 20, maybe 30 calls. If you receive 30 calls on a certain bill, that is quite a lot, believe me when I tell you, that is quite a lot. You may walk downtown and have three or four people mention something about it and sometimes it is both ways. I just don't think that that is a clear mandate for me to go ahead. I also have 7,500 people and, in view of the fact that the questionnaire was based on the voting list, there were 4,200 voters, I don't think that, on the basis of my questionnaire, there were only 460 returned and I gave you the percentage, that that is a clear mandate for me. I see nothing wrong with sending this out to referendum and letting the people of the State of Maine decide for themselves whether or not they want this seat belt law. I don't think it is a copout on our part at all. I really think that is the way to do it and I hope that you will vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: I think Representative Dillenback brought up a good point and that is a lot of people are not going to comply with this law if we pass it. It is going to create a whole new class of law breakers. People are going to look to Augusta and shake their heads and say, here is another unnecessary law that restricts my personal freedom.

Another point that I don't feel has been addressed here fully today is that the minority of people, for whatever reason, physically cannot wear seat belts. I have received letters from women or men who have been claustrophobic. I had a letter from a woman who physically, every time she puts the seat belt on, it comes across her neck. Now are we going to tell these people that they have to wear seat belts?

In conclusion, seat belts, yes; mandated seat belts, no.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clarify that the bill in any of the forms except for "Ought Not to Pass" gives a medical exemption for anyone who has any physical problem with not being able to wear a seat belt. I just wanted to clarify that.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Nicholson.

Representative NICHOLSON: Mr. Speaker, Ladies and Gentlemen of the House: For the most part, I agree with everything that my worthy Representative from South Portland said. Along with what he was saying, I just want to bring to your attention, from a questionnaire that I mailed out a year ago, 63 percent were for and 46 percent were against the seat belt. Presently, it is half and half coming to me right now for and against the seat belt. The only thing is, in agreeing with what Representative

Macomber said, I think if we have to compromise, there has been good reasons expressed why we should go along with the referendum. I believe, too, we are here to make decisions.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: As a former law enforcement officer of 25 years, I stand before you today as a person who has serious mixed feelings about the seat belt bill. First of all, I cannot argue with the bare facts that wearing seat belts does save lives. However, I am also a firm believer that if a person is an adult, he is presumed to know right from wrong, be able to weigh the positive versus the negative aspects of any issue and use common sense from there on. Every adult person, I believe, should have the freedom to make a choice.

I question the enforcement that could be expected should a mandatory seat belt bill become law. How does an officer prove in a court of law that the defendant was, in fact, wearing a seat belt? As far as I know, it is still in the Constitution that a person is protected from self-incrimination.

Already lives have been saved due to the child restraint provision. Just last week, I saw a young lady driver in traffic and, being to the rear of her vehicle, I saw two young children playing on the shelf of the rear window of that car. It was very obvious that common sense was lacking here.

Since the first session of this 112th, I have traveled a total of 28,000 miles. I may have worn my seat belt a couple of times. I consider myself a very careful driver, and when vehicles pass me, I might add exceeding the speed limit, I can't help but wonder just how much, if at all, a seat belt would do.

I am not a fatalist but I still believe in the freedom of choice. I have smoked cigarettes for 40 years and I know it is bad for one's health, I just hope my doctor isn't listening. I have to confess that I am hooked on cigarettes and I know I should quit, no doubt I shall have to pay the piper some day, but my choice is still there.

We all know it is bad business to stick your finger in a light socket because it hurts. It might even kill you. Do we now pass a law that said you should wear rubber gloves if you want to do this kind of thing? The seat belt bill has become a split issue and, with that in mind, the adult voters should have a chance to vote on this bill.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Bonney.

Representative BONNEY: Mr. Speaker, Ladies and Gentlemen of the House: We have all heard from constituents of ours and the message that I got from one of mine, I think, applies in this situation and that we are off course a little bit. He called me on the helmet bill for motorcycles and gave exactly the same speech that he just gave me in regards to seat belts and that is, that it is impossible for us here to legislate brains. You can't legislate brains and if a guy driving a car is a dummy, he is going to stay a dummy, whether we put through a seat belt law or not.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: I wish to pose a question to a member of the Transportation Committee or anybody who would care to answer it. How does this medical exemption

work? How does one go about getting an exemption for a physical reason?

The SPEAKER: Representative Bott of Orono has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: It is going to work just as any other time that you ask your physician for an exemption, you convince him.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: You haven't heard too much from the Committee on Human Resources on this bill. At ten o'clock this morning, we were supposed to be up there talking about health care. You people haven't heard much about it but we have, we have heard a lot about it. I heard my good friend, two seats away, talking about, "Don't mandate" -- let me tell you something, in about three weeks, he will be up here asking us to give the University of Maine at Orono more money. Where is that money going to come from? I would like to give the University of Maine more money and I would like to give a lot of social service programs more money. I would like to keep more people out of nursing homes and out of hospitals where they end up.

The bottom line is, if somebody doesn't have any insurance, do you know who pays? It is not the insurance companies, it is the taxpayers. The hospitals in this state, to their credit, have not turned out anybody because they can't afford to have insurance or they don't have insurance. They are under some pretty strict rules and regulations and I might add that I am pushing for and many of us voted for two years ago. So when you stop to consider where the money should really be going -- should it be going to pay for those nurses in the emergency room? They will tell you, "we don't need it." Should it be going to those people who are in nursing homes? There are plenty of other people who need to be in those nursing home beds besides the head injury people. When we had the bill two years ago, one of them indicated that for one year the cost was \$50,000 for a head injury -- \$50,000. Now I ask you, how many educational programs could \$50,000 pay for? Not many, in some instances, but probably a lot in others.

Representative Nelson has got a bill on the table right now talking about truancy, which is a major issue in this state and it is about \$90,000. With this \$50,000, all we need to come up with is \$40,000 more. We are talking about money and, unfortunately, it is going to places where even the hospitals don't want it. They would rather see us deal with people who are sick, really sick, and not people who, because they didn't have their seat belt on, are in there.

Let's look at the bottom line -- where is the money going to go? Do you want it to go to pay additional health care costs or do you want it to go to pay for the education of your children and your children's children or any other program that you think is more important?

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am another

Representative who has changed his mind since we took the vote last year. In fact, I changed my mind just in the last couple of days for a couple of reasons. I think we are becoming too complacent with our automobiles and with our driving record. I spend as much time on the turnpike probably as anybody here, commuting back and forth from Kennebunkport every day. I spend about three hours a day on the road traveling. A car passed me the other day and in the car there was a young lady and, as she went by me, she was looking in the rearview mirror putting on her mascara and makeup. After a snowstorm you will see these cars out on the road with no more than the smallest space on the windshield that they have scraped -- right in the clear vision on the driver's side -- not even their back window do they scape anymore. Sometimes during a storm, when there is ice or snow, or even just a rainstorm when it is wet, people rarely slow down anymore. Sometimes they go as just as fast seeing if they can buck the odds and not get in an accident -- I just feel that we have become too complacent and that is an extra safety precaution that is well worth the seconds to buckle up.

The SPEAKER: The Chair recognizes the Representative Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Ladies and Gentlemen of the House: I think we are about ready to vote on this and, before we do, I would like to reduce this to its bare essential, if I may. The question is, as I see it, do we want to punish people who choose not to wear a seat belt or forget to wear one? My answer to that is, I don't think we should. I don't think we should because I firmly believe that we cannot effectively coerce people into not dying on our highways or not getting seriously hurt. I see it as simple as that.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how many of you people went down to the committee room hearing but we had people standing up and calling us "rednecks" and that we shouldn't send out these little things right here. I spent \$200 -- I sent out 3700 of them and the gentleman from AAA said, "just complete foolishness." He said, "we sent out a poll of 4,000 telephone calls. Your poll doesn't mean a thing." He said, "our poll is right." I would like to ask a question to anybody in Transportation -- where did the \$20 million come from to get this seat belt law into effect.

We also had a gentleman there from New Hampshire. When they took the vote in New Hampshire for mandatory seat belts and it was 4 to 1 against.

There are also 7, 8 or 10 states that are going to try to repeal the seat belt law so I don't know why we should put this thing out to referendum.

I have the little town of Pembroke and I have one of these things that is no earthly good whatsoever, according to the people that spoke in committee -- little town of Pembroke, a thousand people live there, got it from the second selectman and he said, we took a poll and nine out of the ten people that were polled don't want the seat belt law to pass.

I had a selectman from Dennysville, used to be my good seatmate, told me today that he took a poll in Dennysville and, in no way, did they want seat belts. He even told me that the ambulance service,

and the firemen don't wear seat belts. He said, "I don't have anything against seat belts." By the way, he is the Republican Chairman of the Republican Committee and he told me he had a lot of power but I wouldn't get too many votes in the town of Dennysville if I voted for the seat belt in any way, shape or form.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: This will be brief. Undoubtedly, as we all know, there are many people who are opposed to mandatory seat belt law, both in this House and throughout the State of Maine but, at the same time, this debate has served an excellent purpose and evidence shows that there are more people who are now voluntarily buckling up because of the issue. I think if we take this to a referendum, that will give additional time and, in turn, more people will voluntarily become aware because of the media exposure and start buckling up and we will have accomplished a very worthy goal in saving lives.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that L.D. 1951 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

72 having voted in the affirmative and 74 in the negative with 5 being absent, the motion did not prevail.

(See Roll Call No. 258)

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Members of the House: On Report A, I would ask for a roll call and I would ask you to consider not voting against sending this bill to the people.

My position on this bill has been made very clear. I oppose the mandate of seat belt use. I also believe that I was sent down here to do a job. One thing that solidified my position this morning, that I would not send it to the people, is this piece that was placed on our desks. I would ask you to read that -- it says that the Maine Seat Belt Coalition believes that it is the wrong approach. No matter how the committee wants to phrase it, such a plan would amount to nothing more than passing the buck.

You have heard leadership on both sides of the aisle this morning asking us to send it to referendum -- I believe that they are our leaders but we should not follow our leaders today. My position is, that when the gentleman from Waterville spoke this morning, he gave me the lead that I am going to follow, not my leadership.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I thank my good friend for his gentle hand. I was anticipating more -- thank you.

We had an issue before us in the first session dealing with low level nuclear waste and we sent an issue out to the people that would have taken away their right to vote and we were all surprised in the aftermath of that vote, that those citizens of the state said that no matter how they felt on that



issue, they wanted the right to vote. The issue that is before us today is their right to vote and I would hope that you would not take that away from them.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I am not taking away the right of people to cast their vote. I, too, am going with Representative Jacques and I am not going to be rhetoric.

Their vote is going to be cast through me. My questionnaires and they were very emphatic -- no mandatory seat belt law. If we do not follow the wishes of our constituents through this process, then, not only are we wasting money, wasting time, we are wasting their time and their money. Taxpayers do pay for incidences that happen through automobile accidents but don't forget, the taxpayers are also your constituents and they tell you how they wish to be represented. I urge you to vote against a referendum.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: To the good gentleman from Kennebunk -- I stated that the people have a right to vote; yes, I agree 100 percent but the difference with low level nuclear waste is that it was initiated by the people. This was initiated by the Governor, that's a big difference, the other issue was initiated by the people. I agree that if this was initiated by the people, I would be all for sending it out to the people but it was not. I have had no one from my district that ever came up to me personally, except through my questionnaire, which is 15 out of 500 that I have received that are for it, so for the first time, I am not going to go along with a referendum.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I thought I was going to be able to sit here and listen to all of this but I just cannot. What we are doing is mandating something instead of educating our people as to the good use of these seat belts. It comes down to this question -- do we want to ask people to follow us blindly or do we want to show them, through the process of education, why wearing seat belts is beneficial, those are the two things that we have to make a decision on here today.

Lastly, in talking about hunting safety -- the minute we put on the flaming orange, we didn't reduce our accidents drastically. What happened was, the Fish and Game clubs of our state, plus our educational institutions got into the act and through the years, it certainly has declined. Education is the way, ladies and gentlemen, not mandation.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Like the gentleman from Monmouth, Mr. Davis, I hadn't intended on getting up. It has been a long debate but I have a feeling that we all agree that this issue is important to take up a little time.

We were sent here to make decisions. Those decisions sometimes are easier than others and, whenever we get to an issue like this, that word we invented, mandation, crops into the debate.

I agree, I voted for this bill last year and I would have voted for it again today and I agree that we ought to make the decision. I see the writing on the wall and I think the consensus is, that if this concept is going to go forward, that the referendum provision was its best hope.

In listening to the debate today and giving it some thought over the last few days -- as a matter of fact, I talked with a constituent of mine last week, I got about three calls on this and this constituent was strongly urging me to vote against this bill. I told her of the various options that were being considered, one of them being the referendum, and at the end of the conversation she said, you know, with the referendum provision on that law, I don't have a problem with it. I don't mind if you send this out to the people. For them to make the decision, I think I can buy it. I think that could be the general consensus around the state but the one point I want to reiterate before we end this debate today and vote on the pending motion of acceptance is the point that was made, sort of passed over very quickly, I think, and that is what the referendum itself can do to the whole issue of seat belts, the safety factors, the information, the millions of dollars, the hundreds of lives that can potentially be saved -- all of that will come in the debate in the next few months between now and election day.

So, my initial feeling is, if we should make the decision which I think has been influenced by the fact that, through public service announcement on television and newspaper advertisements and all the civic organizations that would ultimately get involved with promoting the use of seat belts, all of that is well and good, but we know from our experience in politics and from watching television, what can really spread the message and that is nothing more than paid media, active involvement, activist groups all over the state promoting one side of the issue or the other. That debate itself, I think, will be the most significant educational component to this debate that we could ever see.

Based on those arguments, I very strongly favor the referendum provision at this point. I think it is solid, I think it is absolutely appropriate, I think the people of Maine want to make this decision. All of the questionnaires that we have heard talked about -- the people on the pro side, the people on the con side, one legislator with 50 percent in favor; the other legislator with 50 percent against -- who knows? I have 7500 constituents and I can honestly tell you that I have not had the opportunity to speak with all of them individually. I cannot use my crystal ball and project to you that I know exactly how they feel about this issue. It is difficult to do that on any issue. We have got to make our judgments to the best of our ability based on the facts that we have at our command. I think the facts are clear. No one has disputed seat belt safety.

Ladies and gentlemen, I think it is our obligation today and our duty to send this out to referendum and let the people decide and I think that will put the issue to rest, once and for all. Also as a side benefit, educate the people to what seat belts can do to improve the safety of our highways and to preserve lives in the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women



of the House: What are we really saying here? Are we saying that we want a costly referendum so we educate people regarding the need to wear seat belts? I submit to you that it would be a heck of a lot cheaper if someone would put in a bill to come up with a small appropriation so we can have a seat belt awareness campaign and take that across the state, not vote for referendum just because it is going to make the people more aware of it. That seems an awful costly and ineffective way to do it. If you vote to send this out to referendum, what you are really saying today is that you want to pass the buck, you couldn't make the tough decision right here and you want yet another extension on life for this bill in November. I submit to you that, if it goes out to referendum in November, the people will turn it thumbs down.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Lander.

Representative LANDER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you vote with Mr. Jacques when the vote comes up. I think the people of the State of Maine have sent a message. I would dare guess that 90 percent of the legislators in this room sent out a flyer to their people. I will venture to guess that most of them came back 2 to 1 in favor of no seat belts in the State of Maine.

I didn't want to get up and speak today but I felt that I should, just like Representative Davis did a few minutes ago. The people in my district got together a petition, at least a half inch thick, gave it to me and I gave it to the Transportation Committee. I think the people of the State of Maine have already spoken on this issue and I think they have already voted on this issue. I wish you would vote to put this legislation to bed right now.

I would like to say that I am a supporter of wearing seat belts. When I came down here this morning, I had a seat belt on, but the people out there don't want to be wired to Human Services in the State of Maine and have every aspect of their lives controlled. We have people here in this state that would like to control everything that we do, including handguns, the use of private airplanes, and helmets on motorcycles. Let's send a message back saying that we want to think for ourselves, we want to do what our constituents want us to do, and kill this measure right now.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: This has gone on far too long but I have to say something, I guess. Just a matter of habit more than anything else.

The point that I want to make is this debate makes me wonder whether we are serious about saving lives on the highway, accidents and this sort of thing or whether we are not. I remember when we reduced the speed limit to 55 miles per hour -- that first year, the national death toll went down by 10,000 people. If we were serious about saving lives, we would enforce the 55 mile per hour speed limit. I must admit that every time I go anywhere other than next door, I exceed the speed limit -- why do I do it? Because there are no penalties, it is more convenient to do that. Even though I am going down the road with the speed control set at 55 miles per hour, it seems to me that everybody and his brother is passing me. You can put on seat belts and all the gadgetry you want to, if you are going to

whack something at 65 or 70 miles per hour, you are going to be dead. The protection you take is simply not going to do you any good.

I sympathize with the 67 people that Representative Diamond mentioned that died last year in the state or wherever they were from but if we mandate seat belts, how many of those 67 people would still not be wearing seat belts?

I call your attention to another fact and that is the fact that if you do wear a seat belt doesn't it preclude you from being killed. The monthly reports that come each month indicate that people do get killed even though they are wearing seat belts. I think we are naive to think that we are not going to be in highway fatalities or injuries simply by wearing seat belts. It is not going to happen. If people want to wear them, that is fine. It is a precaution that they do take and they probably do save lives but we are being very naive to the extent that that will happen.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I have a suggestion here. You know when you all send out those real pretty questionnaires with your picture on the top and on the back it says, "printed at my own expense" -- why don't we from now on change that to "don't bother answering this because we aren't going to pay attention to it anyway."

The SPEAKER: The pending question before the House is the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Report "A". Those in favor will vote yes; those opposed will vote no.

63 having voted in the affirmative and 82 in the negative with 6 being absent, the motion did not prevail.

(See Roll Call No. 259)

Representative Strout of Corinth moved acceptance of Report "B".

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call. I would remind members of this House that we still have options in front of us and I would urge you to vote against the pending motion so we can try again to pass this measure.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Strout of Corinth that the House accept Report 'B'. Those in favor will vote yes; those opposed will vote no.

89 having voted in the affirmative and 57 in the negative with 5 being absent, the motion did prevail.

(See Roll Call No. 260)

Non-Concurrent Matter

Bill "An Act Relating to Driver Education for the Handicapped and Already Licensed Individuals" (H.P. 1562) (L.D. 2200) which was referred to the Committee on Education in the House on March 17, 1986.

Came from the Senate referred to the Committee on Transportation in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 879)

STATE OF MAINE  
112th LEGISLATURE  
AUGUSTA, MAINE 04333

March 17, 1986

Senator Edgar E. Erwin  
Representative John M. Michael  
Chairpersons  
Joint Committee on Agriculture  
112th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Donald W. Buzzell of Fryeburg for reappointment to the Animal Welfare Board.

Pursuant to Title 17 M.R.S.A Section 1051, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/Charles P. Pray  
President of the Senate

S/John L. Martin  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

The following Communication: (S.P. 880)

STATE OF MAINE  
112th LEGISLATURE  
AUGUSTA, MAINE 04333

March 17, 1986

Senator Edgar E. Erwin  
Representative John M. Michael  
Chairpersons  
Joint Committee on Agriculture  
112th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Rachel Leighton of Milbridge for appointment to the Animal Welfare Board.

Pursuant to Title 17 M.R.S.A Section 1051, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/Charles P. Pray  
President of the Senate

S/John L. Martin  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Joseph G. Walker of Norway be excused March 13 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative TARDY from the Committee on Agriculture on Bill "An Act to Increase the Registration Fee Charged to Pesticide Manufacturers and Other Registrants" (H.P. 1208) (L.D. 1715) reporting "Ought to Pass" in New Draft (H.P. 1563) (L.D. 2208)

LATER TODAY ASSIGNED

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative NADEAU from the Committee on State Government on Bill "An Act Concerning the Allocation of Certain Operating Costs of the Administration of the Maine Children's Trust Fund" (Emergency) (H.P. 1416) (L.D. 2000) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1566) (L.D. 2211)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds to the Maine State Prison Farm" (H.P. 1277) (L.D. 1794) reporting "Ought to Pass" in New Draft (H.P. 1574) (L.D. 2213)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft/New Title

Representative STEVENS from the Committee on Business and Commerce on Bill "An Act Regulating Full-contact Karate Known as Kick-boxing" (H.P. 1355) (L.D. 1899) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Regulating Kick-boxing" (H.P. 1573) (L.D. 2212)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass

Pursuant to Joint Order (H.P. 1316)

Representative MASTERMAN from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of the Franklin County for the Year 1986 (Emergency) (H.P. 1575) (L.D. 2214) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1316)

Report was read and accepted, the Bill read once. Under suspension of the rules, the Bill was read a second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Require Employers to Notify Employees of the Termination of Group Insurance" (H.P. 1384) (L.D. 1953) reporting "Ought to Pass" in New Draft (H.P. 1564) (L.D. 2209)

Signed:

Senators: DUTREMBLE of York  
BLACK of Cumberland  
TUTTLE of York

Representatives: WILLEY of Hampden  
TAMMARO of Baileyville  
RUHLIN of Brewer  
LANDER of Greenville  
BEGLEY of Waldoboro  
BONNEY of Falmouth  
HEPBURN of Skowhegan

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Employers to Notify Employees of the Termination or Substantial Modification of Group Insurance" (H.P. 1565) (L.D. 2210) on same Bill.

Signed:

Representatives: HALE of Sanford  
JOSEPH of Waterville  
BEAULIEU of Portland

On motion of Representative Beaulieu of Portland, tabled pending acceptance of either report and later today assigned.

PASSED TO BE ENGROSSED

Bill "An Act to Provide for High School Graduation up to 5 Academic Days Prior to the Conclusion of the School Year" (Emergency) (S.P. 868) (L.D. 2184)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed in concurrence.

ORDERS OF THE DAY

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first matter of unfinished business:

An Act to Strip Crime of its Profit (S.P. 847) (L.D. 2139)

TABLED - March 17, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" - Minority (3) "Ought Not to Pass" - Committee on State Government on Bill "An Act to Place in the Unclassified Service 3 Utility Accountant III Positions at the Public Utilities Commission" (H.P. 1437) (L.D. 2028)

TABLED - March 17, 1986 by Representative GWADOSKY of Fairfield.

PENDING - Motion of same Representative to Accept the Majority "Ought to Pass" Report.

On motion of Representative Sproul of Augusta, retabled pending the motion of Representative Gwadosky of Fairfield that the House accept the Majority "Ought to Pass" Report and later today assigned.

The Chair laid before the House the second tabled and today assigned matter:

An Act to Clarify the Confidentiality Provisions of the Maine Banking Code (H.P. 1532) (L.D. 2159)

TABLED - March 17, 1986 by Representative BRANNIGAN of Portland.

PENDING - Motion of same Representative to Reconsider Passage to be Enacted.

Subsequently, the House reconsidered its action whereby L.D. 2159 was passed to be enacted.

On motion of Representative Brannigan of Portland, retabled pending passage to be enacted and tomorrow assigned.

#### MATTER PENDING RULING

Bill "An Act to Clarify the Duties of Notaries Public and Notarial Officers" (S.P. 843) (L.D. 2137)

- In Senate, referred to Committee on Legal Affairs.

TABLED - March 5, 1986 by Speaker MARTIN of Eagle Lake.

PENDING - Ruling of the Chair.

The SPEAKER: In reference to Joint Rule 37, the Chair would rule that this bill is in violation of that rule and improperly before the body.

Sent to the Senate.

(Off Record Remarks)

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered

sent forthwith to the Senate.

On motion of Representative Erwin of Rumford,  
Recessed until four o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

#### PAPERS FROM THE SENATE

##### Ought to Pass in New Draft

Report of the Committee on Aging, Retirement and Veterans on RESOLVE, to Establish a Commission to Study the Integration of the Maine State Retirement System with the Social Security System (S.P. 691) (L.D. 1777) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 872) (L.D. 2202)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-420).

Report was read and accepted, the New Draft read once.

Senate Amendment "A" (S-420) was read by the Clerk and adopted and the New Draft assigned for second reading, Wednesday, March 19, 1986.

#### CONSENT CALENDAR

##### FIRST DAY

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(S.P. 244) (L.D. 770) Bill "An Act to Adopt a State Uniform Fraudulent Transfer Act" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-418)

There being no objections, the above item was ordered to appear on the Consent Calendar of Wednesday, March 19, 1986 under the listing of Second Day.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bill and Resolve were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

State Government

Bill "An Act Establishing the Bureau of State Employee Health" (H.P. 1578) (Presented by Representative HICKEY of Augusta) (Cosponsors: Representatives MANNING of Portland, GWADOSKY of Fairfield, and Senator GILL of Cumberland)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules (H.P. 1579) (Presented by Representative CARTER of Winslow) (Cosponsors: Speaker MARTIN of Eagle Lake, President PRAY of Penobscot, and Representative GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)  
Sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MURPHY from the Committee on Legal Affairs on Bill "An Act to Strengthen the Rent Profiteering Law" (H.P. 1501) (L.D. 2114) reporting "Leave to Withdraw"

Representative PERRY from the Committee on Aging, Retirement and Veterans on Bill "An Act to Correct Inequities in the Laws of the Maine State Retirement System" (H.P. 1196) (L.D. 1701) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

CONSENT CALENDAR

FIRST DAY

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1312) (L.D. 1828) Bill "An Act to Establish the Lubec Port Authority" (Emergency) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-582)

There being no objections, the above item was ordered to appear on the Consent Calendar of Wednesday, March 19, 1986 under the listing of Second Day.

PASSED TO BE ENGROSSED

RESOLVE, Authorizing the Lease of Little Jewell Island (S.P. 877) (L.D. 2206)

Bill "An Act to Increase the Registration Fee Charged to Pesticide Manufacturers and Other Registrants" (H.P. 1563) (L.D. 2208)

Were reported by the Committee on Bills in the Second Reading, read a second time, the Senate Paper was passed to be engrossed in concurrence and the House Paper was passed to be engrossed and sent up for concurrence.

TABLED AND ASSIGNED

Bill "An Act Concerning the Allocation of Certain Operating Costs of the Administration of the Maine Children's Trust Fund" (Emergency) (H.P. 1566) (L.D. 2211)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and tomorrow assigned.

PASSED TO BE ENGROSSED

Bill "An Act to Provide Funds to the Maine State Prison Farm" (H.P. 1574) (L.D. 2213)

Bill "An Act Regulating Kick-boxing" (H.P. 1573) (L.D. 2212)

Were reported by the Committee on Bills in the Second Reading, read the second time, the House Papers were Passed to be Engrossed and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Amend the Charter of the Sewer District of the Town of Kennebunk (H.P. 1417) (L.D. 2001)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-417) on Bill "An Act to Clarify the Rate Design Stability Responsibilities of the Public Utilities Commission" (Emergency) (S.P. 717) (L.D. 1840) which was tabled earlier in the day and later today assigned pending acceptance of either report.

Representative Vose of Eastport moved acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I would like the House not to accept the Majority Report and accept the Minority Report, which is "Ought Not to Pass".

In order to equalize the costs over the five

years, I truly have a feeling that the average ratepayer, who is your constituent, is the one who is going to be paying the freight for industrial rate and maybe commercial rate. I may be wrong and stand to be corrected but I truly have that feeling. I don't believe the consumers would feel a great rate increase in their rates because they would be spreading it over five years; therefore, we all know that industry and the commercial have a good representation. They have attorneys, they have people who know what they are talking about but the average homeowner has the Public Advocate. As a matter of fact this afternoon, we had a hearing to try to tie the Public Advocate's hand -- sort of like saying we want police protection, we are going to have a police officer in pursuit, a holster but no pistol, a car, but no gas, and I truly feel that this bill will not be helpful to the average citizen in the State of Maine. Therefore, I would hope the House would vote against the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Men and Women of the House: It appears to me that there are a number of problems with this bill and that is why I signed the Minority Report. I will be offering an amendment later in the process and I hope that we can accept the Majority Report at this time so that the amendment can be offered later.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Eastport, Representative Vose, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

95 having voted in the affirmative and 9 in the negative, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (S-417) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, March 19, 1986.

#### Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Require Employers to Notify Employees of the Termination of Group Insurance" (H.P. 1384) (L.D. 1953) reporting "Ought to Pass" in New Draft (H.P. 1564) (L.D. 2209)

Signed:

Senators: DUTREMBLE of York  
BLACK of Cumberland  
TUTTLE of York

Representatives: WILLEY of Hampden  
TAMMARO of Baileyville  
RUHLIN of Brewer  
LANDER of Greenville  
BEGLEY of Waldoboro  
BONNEY of Falmouth  
HEPBURN of Skowhegan

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An

Act to Require Employers to Notify Employees of the Termination or Substantial Modification of Group Insurance" (H.P. 1565) (L.D. 2210) on same Bill.

Signed:

Representatives: HALE of Sanford  
JOSEPH of Waterville  
BEAULIEU of Portland

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I move acceptance of the Minority "Ought to Pass" Report.

I would like to review exactly what the bill is to you and then explain why there are two reports.

The original bill was initiated by the Department of Labor to help protect employees that are covered by group medical insurance. Each year, the department receives numerous complaints from employees that the group insurance they purchased or were supplied as part of their employment benefits did not exist. In some instances, employers have willfully and knowingly misapplied insurance premiums withheld from pay. In some other instances, the insurance carriers terminated or substantially altered group policies with employers, who then failed to notify their employees.

Let me give you two examples that the Bureau of Labor brought in to us as to why they felt this bill needed to be discussed and needed to pass at this point in time. One of the examples was of a woman who had \$20 a week withheld from her paycheck for family health insurance. She is now facing \$3500 in medical bills. Her employer had failed to notify her that the group policy had been cancelled because of bad checks -- checks that should have been covered by the money withheld from the employee's earnings. Seven other people in that particular firm were also affected.

The other example was that of a new mother who found out too late that her husband was not covered by the insurance for which he paid. The employer in question promised insurance coverage to the employees as a benefit, withheld money from the wages for family coverage and even gave out informational sheets on filing for benefits. Needless to say, the insurance carrier had never heard of this employer, and when confronted with this knowledge by his employees, the employer filed for bankruptcy. To quote the young mother, "It doesn't seem fair that my husband can be employed, promised insurance as a benefit, then we pay premiums, only to find out that we have no insurance."

So the bill that was brought before our committee was brought with the intent to rectify and to put into place a process that would prohibit this kind of situation. It calls for all employers to notify their employees on termination. The Minority Report that I have moved is different from the Majority Report in one instance, and if you will note the three of us who signed it out, we asked the bill to be kept more in line with what the department brought in as the original bill, and that is to say that we feel the employers should also notify employees when there has been a substantive change in their benefits. For example, if your deductible goes from

\$100 to \$200, should you not as an employee be informed of that? If a rider is eliminated from the former policy, should you not be told about that? If the policy has been changed to give you a greater benefit on one end by dumping something you had prior, should you not be told about that?

We support the Majority Report fully and do not intend to fight it, should you decide to not go along with what we are asking as another protection for the employees. We debated it in committee and there was some feeling that where the department brought no examples forward, that we did not need to deal with this substantive change issue. Three of us opted to go the other route because we feel that is equally important and that can impact on what you're assuming to have for coverage.

I think you need to remember that it is the employer and the insurance company who negotiate what you're going to have in your package. In some unionized situations, the employees negotiate with the employer for additional benefits. The ultimate responsibility does rest with the employer and the insurance carrier. Most certainly people should be informed when their policies have been terminated and there should be some protective measures. It should be a crime when somebody is collecting from an employee under false pretenses, as I cited to you before. We ask you to help us in the debate because the minority feels very strongly that, when there is a substantive change made, that those employees should also be notified.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Rhulin.

Representative RHULIN: Mr. Speaker, Men and Women of the House: I want to thank my House Chair very kindly for giving you a very good understanding of what this bill is and where the two sides are coming from.

When I first saw that bill -- I was the original sponsor by the request of the Department -- I said, this is a great bill. I was appalled that we did not already have something on the books to recognize that the fringe benefits of employment are actually part of the employment contract. I was very pleased. However, as we started working on the bill, and working it through committee and through our work sessions, we ran into one problem. The committee in general agreed in principle with what this bill is attempting to do; however, when the department was asked, why do you have "substantial modification" in this bill, they said they were starting with a new bill and they wanted to round the whole bill out. We then asked them if they had any complaints from the citizens on changes of "substantial modification" and we were told no. We then said, we have a problem with the definition of "substantial modification", (and our apologies to the lawyers present) we do not want to make this into a lawyer's bill, we want something that the people can understand and we want a good definition of "substantial modification" or we don't want it in there. I do not feel that we were given a good definition of "substantial modification", so consequently the majority, recognizing as the entire committee did, that something is needed. We decided to take the first step and limit it to termination and bring that before you as a Majority Report.

Consequently, I move to indefinitely postpone the Minority Report and all its accompanying papers.

The SPEAKER: The Chair would advise the

Representative from Brewer that I am not sure that is the motion he would care to make since it would kill the bill, including the Report he is on.

Subsequently, Representative Ruhlin of Brewer withdrew his motion.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Men and Women of the House: When the department recommended "substantial modification", it was truly rounding out this bill. It truly covers what needs to be covered to make this bill a complete bill before this body. "Substantial modification" -- the definition in this bill means any change in the level of benefits. That is exactly what it means if you look it up in Webster's Dictionary, substantial is "real or true." Modification is "change." That is the only intent.

It is very disheartening for any employee to feel that they have coverage and then to be surprised when they get a bill that that service is not covered under their policy. There were cases cited before our committee and I can give you one where a gentleman testified that his wife was expecting within a period of time. The company had changed carriers with no prior notification. Fortunately, the employer rectified it for that employee, but many times this is not the case.

I urge you to vote in support of the minority on L.D. 2210.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Men and Women of the House: Representative Beaulieu's explanation of the bill in general, I think, was very thorough. There is one thing that I want you to realize, that the penalty on the employer in any of these instances, is indeed, substantial, which is why we took exception to the "substantial modification." The penalty on the employer says that, if he doesn't comply with this notification, he gets to pay the bill. In the instance of a small employer, a sizable medical bill, as you can easily see, will put him out of business rather quickly.

We went along with the idea of the original bill insofar as termination of insurance was concerned or should they change carriers. That is something that we think should be done because it has been abused. The department said there had never been an instance where there had been any problem about "substantial modification."

In talking about the bill and arguing about it for many hours in committee, we got into a heck of a hassle on what substantial is. In recognizing the implication on the employer, we decided not to go that route, the majority of us, because it is devastating.

I want you to realize another thing, that the coverage we are talking about is not mandatory, it is voluntary on the part of the employer. In the instance of a union shop, it is negotiated and most of the large employers are unionized, so it is negotiated and all of the bases are covered. What we're talking about generally is a small employer, those with very few employees who can't afford this devastation and more apt to make the mistakes because they don't have the manpower to do a good job at it anyhow. What happens in the instance when we overencumber anything with bureaucratic red tape? You might want to realize also that only about 60 percent of the employers out there have this

voluntary coverage. So if he becomes overencumbered, what happens? If I were the employer, I would simply cancel it, I wouldn't supply that coverage any more. I think that is a definite possibility.

The other thing that is happening and happening in numbers, in the instances where the employer is large enough, they self-insure. There is more of it going on every single day for two reasons. In the first place, it saves them money. They don't have to pay a state tax on what they have paid for this coverage and it is not involved in state bureaucratic red tape for the simple reason it comes under ARISA, which is a federal regulation and much more benevolent from that point of view.

For those reasons, I would ask you to defeat the motion on the floor and accept the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Men and Women of the House: For twenty-five years, I was an employee of a municipality and when I left the department, I was an active member of a group health insurance plan. In 1982 when I retired, I was given the option to pick up the group plan, providing that I continued to pay the premium, to which I agreed. In 1983, without any prior knowledge, I received in the mail that there had been a change in the former carrier and the extensive coverage under the plan was being held by another carrier. I had no prior notice of this.

At the time I left, I was paying under \$90 a month on the premiums and last year it reached the point of \$162 per month taken out of my retirement check. I favor the Minority Report for this reason. I think any member, either an employee or a retiree that continues in the group plan, should have prior notice.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Men and Women of the House: I would like to address Representative Paul's concern and it is a very great concern. It is addressed in both the Majority Report and the Minority Report. In the case of termination of coverage, he would have to be notified. In the case of changing carriers, you must be notified, so I think you would have been covered under either one of these plans.

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tammaro.

Representative TAMMARO: Mr. Speaker, Men and Women of the House: I, too, signed the Majority "Ought to Pass" Report because I had problems with "substantial modification". I hope that you people will go along with Representative Rhulin and Representative Willey in the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: So as not to confuse the issue whatsoever, you have to understand that both Reports are exactly the same, the only difference is in the words "substantial modification". I went to the law library and looked up "substantial" in the terms that attorneys use. It was listed in Black's Law Dictionary as "any significant change." There are other definitions of substantial.

Thinking of Representative Paul's story, about termination of benefits or change of carrier,

wouldn't you, if you were an employee, want to know that, if you had a heart attack, that it would be covered by your policy? That if you developed cancer, that you would be covered by that policy? If, because when you first were employed by that employer and you thought that you were covered for these catastrophic illnesses, and in fact because of the cost, your employer decided to change that policy, that good policy, and that you or one of your family members were not covered for these catastrophic illnesses, that would be considered a substantial change. It is defined in this bill as a significant change and I believe it is a very important part of this bill. I urge you to support the Minority Report for that reason.

It is a fairness issue, it is an honest issue, it is an openness issue. I believe that it will show that we have the leadership to anticipate a problem that can exist, that does exist, and that will exist. And, yes, no employees or workers came before us and testified that this had happened to them; however, I have heard of cases where in fact persons felt that they were covered for maternity benefits and were not -- too late. It is an issue out there. I'm sure that it is an issue in your constituency.

I would urge you to consider the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, it has been brought to my attention that there is an L.D. 2209 and an L.D. 2210. So when you ruled earlier that we could not do that because we would be .... do you see my question?

The SPEAKER: The Chair would answer in the affirmative, the Chair sees the question. However, when the motion was made for indefinite postponement, it dealt with the original bill. The two drafts will not come before this body until acceptance of either Report.

Representative BEGLEY: Thank you, Mr. Speaker. Members of the House: I have serious considerations about either of these bills but I did finally agree I could live with L.D. 2209, the Majority Report. I honestly believe that we're in an area on this bill that we should not even be in at all, because of what has been brought out to you earlier, that the employer does not even have to do this group insurance. It is a voluntary thing on the part of the employer unless it is a negotiated contract. When we are talking about a lot of small businesses in this state, we have a lot of situations where he or she is doing the group insurance on a voluntary basis. For that reason, I feel we are in an area that we shouldn't even be in on the state level. We are now here saying that "the employer shall" notify employees of termination of a policy or be liable." I, personally, had to draw a strong line between notification of termination and notification of "substantial modification".

Again, I repeat, we are in an area, I believe, we should not be in at all and I urge you to vote no on the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I would like to respond to the issue that Representative Paul raised. If he were in a situation of where his coverage or where his employer had changed to another carrier, the Majority Report would take care of him. However, if



the coverage under the new carrier had changed, then the Minority Report would be very helpful to him. I think, in many instances, that is where an awfully lot of people get caught. They think they have the same coverage all along, all of a sudden there is a change of carrier, they are not notified that that has occurred, they don't look at the policy, they get ill or need hospitalization or some sort of medical care, and the coverage is not the same as they had before. I believe that that is just as distressing to an employee as having the policy terminated or some of the foolishness that has been going on out there that I cited to you as the two prime examples as to why this bill was brought in by the Bureau of Labor in the first place.

The issue we are asking you to decide today is, do you concur that employees should be told that a group policy plan has been terminated? The Minority Report is saying to you that we feel it is equally important that the employees also be notified when there is a substantial change made in the coverage.

Again, I will go back to the deductible -- it is higher than it was before or a rider has been eliminated or you may have an additional benefit but in order to have gotten dental care, they dropped some other section of that contract -- is it, if an employer and it is voluntary, offers a medical plan to you as a worker, how should you be notified of termination or changes? We think that those changes are just as important as termination.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair, if I may.

Using as an example the insurance that many of us have here in the legislature, we are insured by a group, which in this case, happens to be Blue Cross-Blue Shield -- now if there are any changes that take place, aren't we, as individual subscribers, usually informed of any changes that Blue Cross is going to make, for example?

As members of a group policy, if our employer, as has been mentioned here, has voluntarily supplied this coverage to us, would we be notified by the insurance company if, in fact, our coverage was cancelled? That is my question.

The SPEAKER: Representative Zirkilton of Mt. Desert has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative BEAULIEU:

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The answer, in both instances, would be yes, because our employer and the carrier would see that we are informed. Unfortunately, not everybody works for a company like ours (if that is what you would call state government) and have a responsible carrier. More often than not, most insurance companies might notify an employer of a change but that never filters down to the employee. That is what this bill is about.

The SPEAKER: The pending question before the House is the motion of Representative Beaulieu of Portland that the House accept the Minority "Ought to Pass" Report. Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

29 having voted in the affirmative and 76 in the

negative, the motion did not prevail.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

(Off Record Remarks)

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" - Minority (3) "Ought Not to Pass" - Committee on State Government on Bill "An Act to Place in the Unclassified Service 3 Utility Accountant III Positions at the Public Utilities Commission" (H.P. 1437) (L.D. 2028) which was tabled earlier in the day and later today assigned pending acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I know I only need five minutes for this, so it will be no time at all and we will be out of here.

I would urge you to support the Majority Report. There were 10 members who signed this bill out "Ought to Pass". This bill would place in the unclassified service three utility accountants, three positions within the Public Utilities Commission. Currently the staff attorneys, the financial analysts and the chief utility accountant are currently unclassified. The reason for placing these in the unclassified service is because the Public Utilities Commission has had a great deal of difficulty in recruiting and retaining these particular positions.

Let me explain that a little further. One of the positions, which remains vacant today, has been vacant for nine and a half months; another position, which was recently filled, a promotion was made from the other classified positions, the Accountant II position up to the Accountant III position, that had been vacant for eight months and a third position, which is currently occupied, had been vacant for ten months and the only reason it is occupied now is because the person took \$11,000 a year pay cut to come work for the State of Maine. I understand his wife took a job at UMA.

Obviously, the pay scales seem to be the problem with recruiting people to fit in these slots. The current pay range for these Accountant III positions are \$20,000 to \$28,000. I certainly would be willing to work for that, as I am sure most people here would be. Unfortunately, the commission has been recruiting, not only statewide but nationwide, and has been unable to find the type of quality people they need to fill these particular positions.

Let me make three quick points here. These are very unique, high level positions with a high degree of independence. So you know what they are doing, they serve as advocates in rate cases and testified before the commission as expert witnesses. They also advise the commission directly on rate cases.

Secondly, the majority of the committee believed that by unclassifying these positions so they can attract and offer a little bit higher salary, that you would be able to attract the qualified people you need in these positions and it is a good investment

because it reduces consultant costs that they currently pay. The Public Utilities Commission is estimating that they are going to pay some \$300,000 in consulting costs next year. We believe that getting quality people in these positions would help reduce that, as was the case when they hired the last person in the Accountant III position who had a PHD in economics.

Thirdly, the commission is not without restrictions under this proposal. Even though we are unclassifying a position, the salaries would still be set through the Governor's Office so there is a cap on that, you don't have to worry about that.

We are not suggesting that declassification is an appropriate solution for all cases. However, the precedent was set last year with the Audit and Program Review Committee who recommended that some of these positions be declassified so that you can obtain the highest qualified people.

Nothing in this bill would preclude Accountant II positions currently in the State of Maine from applying for these jobs. I want to make that clear because there has been some suggestion that we are slighting the other accountants that are in the state system. The point is we are talking about a very sophisticated degree of utility expertise that is needed here. We have seen the same problems with the Bureau of Insurance and a few other departments and I think it is well worth the investment to unclassify these positions to make sure that the State of Maine is getting as fair a case as possible, when we review these multi-million dollar rate cases that come before us. We also believe that the small investment in raising these types of salaries is going to reduce the consultant costs and we think it is the correct direction to go. I urge your support.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Sproul.

Representative SPROUL: Mr. Speaker, Men and Women of the House: In interest of fairness, Representative Gwadosky didn't even leave me two and a half minutes, but I will proceed as quickly as I can.

I readily agree with a lot of what the Representative from Fairfield, Representative Gwadosky, said. There is a problem of retention of accountant positions in the PUC. There is a problem with vacancy and they are not adequately compensated.

However, I oppose this bill for one major reason and that is because these positions were looked at last year by the Audit and Program Review Committee, of which I am a member, and if precedent means anything, the major precedent that this body has always used to declassify positions has been that those positions are major policy influencing positions. It was decided by the Audit and Program Review Committee last spring that these positions were not major policy influencing positions and they voted to keep them as classified at that time. As a matter of fact, there was some discussion, I believe, with the Governor's Office on reaching some agreement. I was left with the impression, and other members of the Audit Committee might have different thoughts, and if so, I would be interested in hearing them. I was certainly left with the impression that the PUC and the Department of Personnel would be working this out and I believe the concept of direct hire came before the Audit and Program Review Committee last spring.

However, in addressing the other concern, which

is a real one, on the financial problem, the vacancy problem, there are two other bills currently before the State Government Committee, one of them, L.D. 2040 "An Act to Authorize the Payment of Retention and Recruitment Stipends" and L.D. 2120, which we just held a public hearing on today and will continue tomorrow, "An Act to Authorize the Office of Human Resources," I feel either of those address throughout State Government, this problem we have with vacancy, of adequate compensation and retention.

Again I repeat, the major criteria that this body has used in the past on declassifying positions is that they are major policy influencing positions and again I would reiterate, the Audit Committee looked at that last year and I believe that they definitely found that these were not policy influencing positions. I would urge you to vote no on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Ladies and Gentlemen of the House: I also won't take very much time. As a signer of the Minority Report, I wanted to tell this body why I signed out on that. I am not convinced and I was not convinced at the hearing that there are not three qualified utility accountants within the state system. They have not convinced me of that. They also have not followed the process. We keep hearing that there is a process set up to do things. The process that was set up by this legislature in 1976, when they adopted the Hay standards -- that if jobs are not classified correctly, if you are having a problem filling a position, you should go through the steps that all of the other departments have to go through and ask for a range change. That would take care of the fact that they say they cannot spend the money to get the qualified people. I object to them going around the process that most of the departments have to use. It may take a little time but that is what we are here for and that is what the Department of Personnel keeps telling us, when we want to do things like that.

I strongly oppose people circumventing the system and not following the process.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Since the gentleman from Augusta did mention the Audit and Program Review Committee, I would just make a few comments about that.

In our investigation of the Public Utilities Commission, we did find that in a number of instances they were having significant problems getting personnel. We did declassify a number of the personnel and that was put into a bill that we passed last time. In dealing with these particular positions, it is true we did recommend that they come under direct hire. The Personnel Department vigorously objected to that. We received a visit from one of the Governor's assistants saying that the Governor was opposed to our doing that and since the better part of wisdom is to not jeopardize your bill, we took that out of the bill.

My understanding now is that the Personnel Department has changed its position, in fact, gone even further and agreed with this particular proposal to declassify. I don't know why they have done that and why they have changed their position but I did want to give you that basic little bit of history

about the Audit and Program Review Committee.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take any time. I would just like to tell you what it is like to be on the other side of the PUC. I was a trustee of the Portland Water District and when we came before the PUC, we went to Boston to get the professionals to come up and draw up our presentation to the PUC. I am telling you we spent thousands of dollars for these people. It seems to me that the PUC should have the specialists and the people qualified to analyze those papers that come before the PUC. That is why I voted to go along with the majority.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make just three quick points. One deals with the retention issue again. What typically happened in state government is that — particularly in utility rate regulation has been that somebody will be hired and then they work for a year and then a public utility will snatch them up. You see the same thing as legislative assistants who are working perhaps for Business and Commerce, they will work for one year and then get snatched up and go to work for some private industry. Unfortunately, because the salaries are so low in some of these positions, the private industries snaps them up because they love to get people who already have expertise in public and utility rate regulation. That is one reason we need to keep the salaries up so that we can keep the qualified people and retain them and avoid spending the \$300,000 in consultant costs that were projected to be spent next year.

In terms of other qualified accountants in state government — yes, there are cases when they do promote. In fact, the last time they promoted one of these Accountant III positions was from a lower Accountant II position already in state government, so that does happen and there is nothing to preclude other accountants from getting one of these positions.

There has been a comment made that there is a process that should be followed and that process is that they should have gone through the reclassification process. The Public Utilities Commission did go through that process last year for the Chief Utility Accountants position. They tried to reclassify it to upgrade the salary. Unfortunately, because of the Hay system that was put into place, the Personnel Department and the classification system doesn't include labor market conditions in their decision making process. So if somebody is getting paid a substantial amount on the outside, more than they are in the state government job, they don't consider that. That is not a problem just with this commission, it is a problem throughout state government. We have seen it with insurance and we have seen it in all other departments.

Representative Lacroix is chairing a sub-committee this summer that is making some recommendations we hope that will improve that. The reason that they didn't try to reclassify this position was because of the luck they had doing the Chief Utility Accountants position. They realized

and they knew what the position of the Personnel Department was going to be ahead of time, so they decided that they would take the same steps as they did before and try to simply unclassify these positions. As I say, they don't think this is the answer in every instance but it is effective and it is a very quick way to resolve the problems they have now.

I certainly would urge your support.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

I think the previous legislature, probably the 111th, had a bill which was before the State Government Committee, which had to do with the declassifying of quite a few of the state employees. Is this a continuation of that particular bill?

The SPEAKER: Representative JALBERT of Lisbon has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: To respond to the question, over the last four years that I have been on the State Government Committee, we have had two major declassification bills that I am aware of in which there was an attempt to unclassify a number of those positions.

To be quite honest with you, I don't think, and I stand to be corrected, that these positions were included in those original two bills.

The SPEAKER: The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House accept the Majority "Ought to Pass" Report. Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 31 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

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(Off Record Remarks)

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On motion of Representative Beaulieu of Portland, Adjourned until Wednesday, March 19, 1986, at eight thirty o'clock in the morning.

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