

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

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ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
FIRST REGULAR SESSION
48th Legislative Day
Friday, May 9, 2003

The House met according to adjournment and was called to order by the Speaker.

Prayer by Chaplain Andrew Gibson, Chaplain for 52nd Troop Command and State Family Program Coordinator, Maine Army National Guard, Bangor and Augusta.

National Anthem by Nate Higgins, Gorham High School.

Pledge of Allegiance.

Doctor of the day, Sydney Sewall, M.D., Hallowell.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 200)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

May 8, 2003

Honorable Millicent MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

I am pleased to appoint Representative Joseph Perry of Bangor to serve as a member of the Governor's Task Force on the Sustainability of the Dairy Industry in Maine.

If you have any questions regarding this appointment, please feel free to contact me.

Sincerely,

S/Patrick Colwell

Speaker of the House

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative DAVIS of Falmouth, the following Joint Resolution: (H.P. 1185) (Under suspension of the rules, cosponsored by Senator DOUGLASS of Androscoggin and Representatives: ANDREWS of York, AUSTIN of Gray, BENNETT of Caribou, BERRY of Belmont, BREault of Buxton, BROWNE of Vassalboro, CARR of Lincoln, CHURCHILL of Orland, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, Speaker COLWELL of Gardiner, COWGER of Hallowell, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, DUPLESSIE of Westbrook, EARLE of Damariscotta, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GLYNN of South Portland, GROSE of Woolwich, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, KAELIN of Winterport, LEDWIN of Holden, LERMAN of Augusta, LUNDEEN of Mars Hill, MAKAS of Lewiston, MARLEY of Portland, McCORMICK of West Gardiner, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MOODY of Manchester, MURPHY of Kennebunk, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Lewiston, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PINGREE of North Haven, RECTOR of Thomaston, RICHARDSON of Skowhegan, ROGERS of Brewer, SAMPSON of Auburn, SAVIELLO of Wilton,

SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SNOWE-MELLO of Poland, STONE of Berwick, SULLIVAN of Biddeford, SYKES of Harrison, THOMAS of Orono, THOMPSON of China, TOBIN of Dexter, TWOMEY of Biddeford, USHER of Westbrook, WATSON of Bath, WHEELER of Kittery, WOTTON of Littleton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO SUPPORT THE REFORM OF THE SOCIAL SECURITY OFFSETS OF THE GOVERNMENT PENSION OFFSET AND THE WINDFALL ELIMINATION PROVISION

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, under current federal law, individuals who receive a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security are subject to a reduction in the Social Security benefits; and

WHEREAS, these laws, contained in the federal Social Security Act, 42 United States Code, Chapter 7, Subchapter II, Federal Old-Age, Survivors, and Disability Insurance Benefits, and known as the Government Pension Offset and the Windfall Elimination Provision, greatly affect public employees, particularly women; and

WHEREAS, the Windfall Elimination Provision reduces by a formula the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of lower- and moderate-income public service workers, such as school teachers, clerical workers and school cafeteria employees, whose wages are low to start; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision both unfairly reduce benefits for those public employees and their spouses whose careers cross the line between the private and public sectors; and

WHEREAS, since many lower-paying public service jobs are held by women, both the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse effect on women; and

WHEREAS, in some cases, additional support in the form of income, housing, heating, prescription drug and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

WHEREAS, other participants in Social Security do not have their benefits reduced in this manner; and

WHEREAS, to participate or not to participate in Social Security in public sector employment is a decision of employers, even though both the Government Pension Offset and the Windfall Elimination Provision directly punish employees and their spouses; and

WHEREAS, although the Government Pension Offset was enacted in 1977 and the Windfall Elimination Provision was enacted in 1983, many of the benefits in dispute were paid into Social Security prior to that time; and

WHEREAS, bills are present in Congress in both the House of Representatives and the Senate, known as "The Social Security Fairness Acts," that would amend the Social Security Act, 42 United States Code, Chapter 7, Subchapter II and totally

repeal both the Government Pension Offset and the Windfall Elimination Provision; now, therefore, be it

RESOLVED: That We, your Memorialists, request that the President of the United States and the United States Congress work together to support reform proposals that include the following protections for low- and moderate-income government retirees:

1. Protections permitting retention of a combined public pension and Social Security benefit with no applied reductions;
2. Protections permanently ensuring that level of benefits by indexing it to inflation; and
3. Protections ensuring that no current recipient's benefit is reduced by the reform legislation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States; and each Member of the Maine Congressional Delegation.

READ.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. This is the social security offset, which we are one of 15 states that do this. The majority of the people this affects are women. This will go to Congress. In Congress they are debating this very issue at this moment. Let's hope this passes. Thank you very much.

Subsequently, **ADOPTED.**

Sent for concurrence.

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 28)

ORDERED, that Representative Joan Bryant-Deschenes of Turner be excused Tuesday, April 29th, Tuesday, May 6th and Wednesday May 7th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jeff Kaelin of Winterport be excused Monday, May 5th for health reasons.

AND BE IT FURTHER ORDERED, that Representative Susanne P. Ketterer of Madison be excused Monday, April 28th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lillian LaFontaine O'Brien of Lewiston be excused Monday, May 5th and Tuesday, May 6th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joshua A. Tardy of Newport be excused Wednesday, May 7th and Thursday, May 8th for personal reasons.

READ and PASSED.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-276)** on Bill "An Act Concerning Age Requirements for Student, Apprentice and Noncommercial Lobster Licenses"

(H.P. 1003) (L.D. 1368)

Signed:

Senators:

DAMON of Hancock

PENDLETON of Cumberland

BENNETT of Oxford

Representatives:

BULL of Freeport

SULLIVAN of Biddeford

PERCY of Phippsburg

MUSE of Fryeburg

McNEIL of Rockland

KAELIN of Winterport

BOWEN of Rockport

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

Signed:

Representatives:

ASH of Belfast

DUGAY of Cherryfield

BIERMAN of Sorrento

READ.

On motion of Representative BULL of Freeport, the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-276)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Monday, May 12, 2003.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell Certain Real Estate Lands of the Long Creek Youth Development Center in South Portland

(H.P. 378) (L.D. 489)

Signed:

Senators:

ROTUNDO of Androscoggin

LaFOUNTAIN of York

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth

STONE of Berwick

KETTERER of Madison

CROSTHWAITE of Ellsworth

BARSTOW of Gorham

BOWEN of Rockport

SUKEFORTH of Union

BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-289)** on same Resolve.

Signed:

Representative:

PEAVEY-HASKELL of Greenbush

Representative SUSLOVIC of Portland - of the House - abstaining.

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act to Prohibit the Use of a Handheld Cellular Telephone While Driving"

(H.P. 151) (L.D. 192)

Signed:

Senators:

HATCH of Somerset
DAMON of Hancock
SAVAGE of Knox

Representatives:

JODREY of Bethel
MARLEY of Portland
McNEIL of Rockland
COLLINS of Wells
BROWNE of Vassalboro
McKENNEY of Cumberland
USHER of Westbrook
MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-288)** on same Bill.

Signed:

Representatives:

PARADIS of Frenchville
SAMPSON of Auburn

READ.

Representative USHER of Westbrook moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-287)** on Bill "An Act To Prevent Distracted Driving"

(H.P. 613) (L.D. 836)

Signed:

Senators:

HATCH of Somerset
SAVAGE of Knox
DAMON of Hancock

Representatives:

SAMPSON of Auburn
JODREY of Bethel
MARLEY of Portland
McNEIL of Rockland
COLLINS of Wells
USHER of Westbrook
MARRACHÉ of Waterville
BROWNE of Vassalboro
McKENNEY of Cumberland

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

Signed:

Representative:

PARADIS of Frenchville

READ.

Representative USHER of Westbrook moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I rise to speak in opposition to LD 836 and I would like to lay out some of the reasons why I oppose this particular bill. In the last session we passed a bill that made it illegal for people to read while they were driving, unless they were reading directions. That was a step in the direction that we are taking today. In order to properly present a bill before the court, it would be necessary for the prosecution to ascertain and prove the acceptations that are allowed, the fear of life of safety or if they believe that a criminal activity has been perpetrated, to report an accident or activities. This creates quite a burden upon the people trying to prove a case in this matter. Trying to prove whether or not they were fearful or prove whether or not they were afraid of a criminal activity that was going to happen and obviously it would be fairly easy to ascertain whether or not they were reporting an accident through files.

It also leads the question as to whether or not a police officer stopping a vehicle found a McDonalds wrapper with half a hamburger in it, would that be distracted driving, not knowing whether or not that had been eaten while they were driving. I think that this opens the door to a lot of other things that could happen and different ways that it could be interpreted by the law enforcement community and also by the prosecutors.

Mr. Speaker, I hope that you, along with the others, would vote in opposition to this bill because, once again, we are trying to dictate to people how they should handle their lives. I don't think that there is any proof that there are a lot of accidents happening out on the highway that is caused by distracted drivers. As a matter a fact, I would propose that there are many more accidents that are caused by people falling asleep at the wheel, especially if you look at the holes in the trees as you drive up and down the interstate and the Maine Turnpike. You will find that many of those are caused by people falling asleep. Are we going to make it illegal for people to fall asleep next? I would ask that you vote in opposition to the Ought to Pass. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who may care to answer, if there is an accident under this law, perhaps a fatal accident or an accident with significant property damage, if it is determined that that accident was caused by a driver who may have been distracted at the time of the accident, how does that affect the ability of that person to affect their liability insurance? In other words, would they be able to be insured if they were at fault because of distracted driving?

The **SPEAKER**: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. In response to the gentleman's question, I haven't done the research, but I suspect that the legal theory of per say liability would come into play. That is to say when does a violation of a statute, even a minimal violation of statute that can be used to prove negligence, whether or not this act would constitute negligence without the statute coming into play? It would

potentially, very much, increase one's liability for otherwise pure accidents when somebody is distracted under this statute.

My other concern about the statute, however, is that it is so over broad and that it sort of ignores the current statute which outlaws driving to endanger, which in itself is fairly broad now. Driving to endanger under our current statutes criminalizes behavior that endangers either the driver, him or herself or another person on the road or the property of another or your own property. When you drive so as to cause an accident and the criminal negligence that that statute already comes into play. This broadens that even further and affects not only civil liability, but liability for a traffic infraction. I am not clear from my reading of the amendment, whether or not you would lose points off this as well. I suspect that you would.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This is a rather calm debate here. I hope everyone has pulled out the amendment that I read as now the Majority Report. It basically says you hadn't better be using your cell phone. If you read this thing on the second page of it, it allows the authorities to go into your telephone records to establish whether or not you were using your cell phone at various periods the road and there is a trigger mechanism for that. This is not a bad bill, but it needs a lot of work. I would suggest that you actually read this amendment before we vote, if you haven't already made up your mind.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. To answer the previous speaker, the government authorities, police departments, already have authority to go into your cell phone records. This only allows that cell phone records to be an indication of that violation. They already have the ability to look at cell phone records for any number of crimes. To answer the Representative from Lincoln on what constitutes distracted driving, I believe that the same standard still applies. If somebody is stopped for a traffic violation and at the same time the police officer witnesses that that person is on a the phone, eating a hamburger, combing their hair or whatever, then that is the time that that distracted driving citation would be issued.

I don't think the presence of a half-eaten sandwich or a cell phone sitting on a seat would be evidence enough of distracted driving. I believe the police officer would have to actually see that conduct.

The purpose of this bill is to penalize the violation that occurred, which is a traffic violation. The violation shouldn't be talking on the telephone. The violation should be whatever you are doing with the car at that time. We hear all the time that somebody blew through a stop sign and I watched them on the cell phone. The fact that they are on the cell phone is not the crime, the fact that they blew through the stop sign is the violation. That is the action that should be penalized. If the police officer at the time witnesses that you were on a phone while you blew through a stop sign, then that is the secondary charge of distracted driving. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne-Friel.

Representative **GAGNE-FRIEL**: Mr. Speaker, Ladies and Gentlemen of the House. Where is our liberty going? We get into a car and all of a sudden everything that we do within that is punishable by law. It is always a secondary offense so that we don't worry about it as much. The seat-belt law is a secondary offense and they get you for that. They will get you for this too. I

don't see how they even have time, as Representative Carr mentioned. They will need a checklist. We have the seat belt secondary. We have the food, the cell phone, cosmetic or whatever it is. This is ridiculous. It seems that every year we get something that is going to stop us from being free to move about this country. I do not like it. Vote against this.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Members of the House. I would encourage you to vote against this bill. It is totally untenable, as many columnists have written recently. It is much too general a bill. I think we should be focusing on the problem at hand and encourage you to vote accordingly on another bill. Thank you.

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

Representative **MARLEY**: Mr. Speaker, Ladies and Gentlemen of the House. As a member of the Transportation Committee, I listened to this bill very closely. In the past I actually voted for the cell phone ban that we will be hearing later.

In the testimony a number of very good points were made. One of the most important points is when you are looking at causes of accidents. Cell phone use was actually very low on the list. Out of 10, I believe it was between six and eight. Others were people who put makeup on, drive with a dog in your lap, read the paper, eat while they are driving. We are all guilty of that. If you follow me up here, I may be sipping a coffee.

The intent of this bill was that people can do those actions responsibly and drive. It is the action of distracted driving that is the genesis of this bill. Incidentally, I believe the idea started in New Hampshire, the Live Free or Die State. When we are talking about taking away liberties and freedom, I think it is ironic that we are looking at New Hampshire, which tends to be a more conservative state when you are talking about this legislation. The idea was not to outlaw those sorts of behaviors on the road. The idea was that if you are driving irresponsibly and you are being pulled over and the cell phone, the makeup that you are putting on, the hamburger that you are putting into your mouth with two hands and not holding onto the wheel, that in combination would make a distracted driver.

I am not an attorney and I am sure there are other attorneys in the House that will correct me, but we asked about this. Isn't driving to endanger the same thing? That seems to be a higher level where a life is in danger or a property is damaged. Personally, when I voted for this bill, I looked at this as a lower rung, if you will, of the driving to endanger. This is someone who is driving distracted. There is a two-tier piece to this as far as the distracted. There is a reason they are distracted. It might be the cell phone. It might be the newspaper that they are reading. When they are pulled over those can be put together for this infraction. I support this. I think Representative Murphy brought a good idea forward as far as he saw the need there. He saw that unfortunately the cell phone ban that we have discussed in the past was too narrow a focus and this was a broader scope. I think personally it will save lives. I support this and I hope that the others will support the Majority Ought to Pass Report. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who might answer, if we pass this legislation, in the case of an accident where no one was

liable, couldn't an attorney argue that if one of the drivers was distracted in any way, whether it be a coffee or a phone or whatever it might be, combing their hair, that that driver would be liable for any injuries that occurred during that accident?

The SPEAKER: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Mr. Speaker, Ladies and Gentlemen of the House. I won't attempt to answer a hypothetical question, but I will give you a real situation that actually happened to me. It was a situation where it was the best car I ever had. It was 15 years old. It had 300,000 miles on it and got 30 miles to the gallon. I took it places I wouldn't take my 4-wheel drive truck now.

I loaned it to a friend of mine to go see his girlfriend in Baltimore, foolishly. He never made it out of the State of Maine. There was an accident in South Portland and he was looking at the accident and was rear-ended by somebody else, totaling out the car. In terms of insurance this should have been a no brainer. I should have gotten a few hundred bucks for the value of my car. I filed a claim. The insurance company said that they are very sorry. They do not believe that our driver is at fault. Good luck in court. After getting a lawyer, four months later, I got \$800 for the value of my car.

I think in order to rhetorically answer the Representative from Waldoboro's question, I think that the unintended consequence of this could be one more tool for insurance companies not to pay claims.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Mr. Speaker, Ladies and Gentlemen of the House. I will vote against this bill because it is too broad, not enforceable. This would be good information for a driver education class, for example. You are opening the door for civil litigation afterwards. The bill is too broad and not enforceable. I will vote against this. Thank you.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. I am continually amazed by the good Representative Dunlap on unique examples that he is able to bring to the floor and debate. It is amazing when you turn that ignition off on that car it coasts downhill and pushes up the miles per gallon.

We have a tremendous problem on our roads. I drive probably, well it will be 1,000 miles this week. I spend an awful lot of time on the road. When you ask, where do old driver's ed teachers go, I was one, they get into a car and they just keep driving and I am doing that in my life.

Every attempt to deal with the problem that down our way when you are at a stop sign, a four-way stop, or you are at a stop light it always used to be that you would go along, count one, two, three and then when you got the green, you could go. You would watch the angle of the sun. What we are finding increasingly is people blowing through the stop signs, blowing through the stoplights and they are clueless, absolutely clueless. It is as if they are alone of the road at 2 a.m. and no one else is there. It is not just cell phones. When we meet late afternoons on the way south, I will have people pass me that will have the pizza box on top of the wheel. They have their chin over the top of the pizza box so they don't drip on their tie or their nice dress. That person is an accident waiting to happen. An example I used in committee, there is a lot of people who come to Maine or live in this state that let the dog do the driving. That isn't too bad if you have a little poodle dog, but if you got yourself a big lab or a dog

that is getting up to be 80 pounds, you have problems getting your arm around that animal and getting to the wheel or seeing around the head of that dog. If you are on Maine roads, you will see that there are a lot of canines that are driving.

What we have tried to do in the past, and there have been very heated debates in this chamber, is we tried to take a whole class of people's cell phones and say ban them all. What we are learning is in variety of distracted behaviors that put people at risk, not only themselves, but others that are sharing the road, we are really talking about 2 percent or 3 percent of the drivers that are out there.

What this is is an alternative that has been in effect almost two years in New Hampshire that is used very sparingly. The feedback that I got from the Secretary of State's Office in New Hampshire is that a second ticket is given when that officer was behind the car and saw the behavior and then saw action with that car that is a ticketable offense or that officer was sitting at the intersection and saw the person blow through and at the same time saw the pizza to the face or the phone to the ear or some type of distraction that put everyone at risk. It has to be clearly observable and much like our seat belt law, that as that officer writes the ticket for what that car did as a result of that traffic stop, then they write a second ticket in terms of the behavior that caused that car to go over the double yellow line, to leave the road, to swerve, that to come up 20 or 25 miles per hour faster than the traffic and being distracted by eating, come up and follow too close or bump the car in front of you.

It is very clear the definition of a moving offense and it has to be clearly observable. Using that rule of law and being able to back up that ticket, it has been used very sparingly in New Hampshire. As the good Representative from Portland had said, in New Hampshire it is on their plate, Live Free or Die, and they value their civil liberties. We all do, but we value our lives as well in terms of that small percent that are putting us at risk. The good Representative from Lincoln had talked about reading, which is illegal. If you are seen reading while driving, that is illegal. Every day coming up and every day going back, there are people that are reading their novel. I can follow the progress of where they are at from Monday through Friday. They are coming up at 70 or 75 miles per hour and they are reading. They are reading the book. The only thing I haven't seen yet is the laptop hooked to the steering wheel, but I am sure that is coming. It will be here eventually.

You have seen people come at you and you have had to take evasive action. You have been at stop signs and stoplights and you have seen people put you and your family at risk. Rather than going at a whole class of people, we have asked law enforcement officers when you are going to ticket a person for the dangerous action they took with a car, if you clearly observe that that action took place because they were distracted, then after you write the first ticket, you write the second ticket. We are going at the cause of the problem.

I have supported cell phone bans in the past, but things have changed since September 11th. Many of our families now use the phone to stay in touch. We worry about each other. It is a business tool that 95 percent of the people in this state can use responsibly. It has increased worker's productivity. I have seen day and night that I drive back and forth that when there is dangerous driving behavior or there is a drunk swerving on the road, I see the cell phones go right to the ear. Usually within a few miles the blue lights are coming to pull that person off the road. I don't think a cell phone ban is the direction that we should be going. Let's identify those that are putting us at risk with a clearly observable distraction and let's give them the second ticket.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I have driving great distances as a volunteer for about 10 years in different parts of New England. I spend a lot of time on 95. I am probably one of the worst drivers that is around. My wife will tell you that in a heartbeat. However, my philosophy of driving is to drive the car at a controllable speed. If you do the physics or the math, you will know that if you are going 80 miles an hour and you are not really focused on what you are doing for whatever reason, I don't care if it is a cell phone, cigarette, changing a tape or whatever, if you are distracted at 80 miles an hour, there is no way that you are going to prevent an accident should you find yourself in harms way, because of your driving behavior.

I think that this bill is one of those rare things that I have seen that I like to call a common sense bills. I think it makes sense and I think that there are an awful lot of people that drive poorly because they allow themselves to be distracted, to not be focused. They have got so comfortable with that, that they have forgotten how many feet it takes to stop a vehicle at so many miles an hour. Those figures still hold true. The only thing, the difference between then and now, is the distractions have increased, speed has increased and our ability to focus on our driving has decreased. I am fully in support of the Majority Ought to Pass Report on this. I encourage the rest of you to think very seriously about that same thing. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. One thing that I do agree with the Representative from Kennebunk is that cell phones don't cause any more accidents than other things. I think from there that we do disagree on some of the others. The Representative from Farmington, Representative Mills, touched upon driving to endanger. The Representative from Kennebunk, also mentioned that many of the people who are distracted are blowing stop signs, running red lights, going through intersections, etc. These people are already breaking laws. I think if there is a problem, it is probably a problem of enforcement and enforcing the laws that we presently have.

If this law is passed, many of us in this building today will be affected by this because we already do many of those things. Not just that we do it, but our constituents do many of these things too. I am talking about people who drive a motor vehicle and drink coffee at the same time, people who eat an ice cream cone, people who eat traveling between schedules. Everybody will be affected by this. I think that we are giving away a little bit more of our freedom each time that we pass another law like this. We need to be careful that we are not a society of laws, it we haven't already established that distinction.

Again, Mr. Speaker, I would ask that people vote in opposition to what we have up here today. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. Let's think about it in this way for just a minute. We are trying to regulate the activities within a motor vehicle. The consequences of that activity is most important, but it is the after affect, whether it is a violation of the law, breaking the law by speeding, running a stop sign or an accident that does occur. It is after the fact. We are trying to regulate something that is after the fact. It has happened and on conjunction with

what is on the books as far as unlawful behavior we are trying to enforce.

In my past career, I have issued thousands and thousands of summons for different violations on the motor vehicle code. Guess what, I was distracted because I was thinking about what I am going to do tonight. I was a little bit late. I was worried that by appointment would be kept, and on and on and on. It is a mental set with the operator it is most important. How many times have you heard, I was on my cell phone and I went right by my exit. What are you doing trying to control your driving and trying to concentrate on other things as well as that? We all do it. It is the after affect that is of a concern, whether you are breaking the law or you are involved in a motor vehicle accident. I suggest to you that trying to regulate activity within a motor vehicle, it may be a public way, we have to be very careful on how we do that because we will wind up with if you don't have two hands on the steering wheel, you may be in violation. I don't think we wan to go that way. I will vote against this bill. Thank you Mr. Speaker.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Lincoln had said in his previous testimony that we, or our constituents, will be affected by this law. He didn't finish the sentence. We, and our constituents, will be affected by this law, if we veer over a double yellow line, veer off the road or too closely follow. The only way you are impacted by this law is if you are clearly ticketable for a moving offense. I think the overwhelming positive aspect of this bill is there are many people who are not multi-task. They cannot handle more than one thing at a time. They are the ones veering everywhere. They are the ones blowing the lights. They are the ones that are out of control. The fact that there may be a second ticket acts as a deterrent. That is what we are after. Those people that can't do two things at once, saying maybe I better go inside and eat or maybe I better wait on that call or maybe I ought to put the dog in the seat in the backseat. The value of this bill is the deterrent. Getting people to think about what they are going to do before they get on the road to make sure they are not distracted, that they don't put us, and your constituents, at risk.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I can't help but wonder from Philosophy 101, if a tree falls in the woods and no one is there to hear it, does it make a sound? If you are not breaking a law and you are not distracted, will there be an accident? It seems to me that accidents are distractions. Rather you are mentally distracted thinking about your sick child or how you are going to pay that mortgage bill because you are unemployed or rather you are eating or rather you are thinking about, I wish I had said this on the floor of the House instead of something else, you are distracted. I believe we, again, almost opened up the 1984 idea of big brother. What is going on in your mind? Because of that, what is a distraction, how do you find it and after the accident has occurred, does it really make any difference? It seems to me that this is a bill is just looking to double punish somebody who has been in an accident. It doesn't get to the problem, seriously, of people on the roads doing things other than just cell phones. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Usher.

Representative **USHER**: Mr. Speaker, Men and Women of the House. Our enforcement people can't be everywhere. Perhaps this is a driver not being responsible. Perhaps there are

many of us sitting here that have abused the law by using the phone and not paying attention to the road. This sends a message. This is a response to many constituents. I know in my area I hear, can't you do something about those cell phones? I have friend of mine who has a daughter who was at the University of Maine in Orono. She came home for the spring break just over a month ago. She was coming down the interstate by the Sidney exit, a person was entering on the exit. She observed the woman that was talking on the phone. She drove straight right on the interstate, forced her off the highway. She rolled over three times and fortunately she had her seat belt on and she only got a scratched hand out of it. They had to go and stop that lady that drove on because there were other witnesses and it was a cell phone. That was a distraction. She didn't even know what highway she was going on. This sends a message. This doesn't ban cell phones. This takes care of the distracted driver, the one that is not being responsible. Every one of us that will go home today will probably observe somebody involved in this discussion.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I am very sympathetic to this piece of legislation and what motivates it. It makes a lot of sense. We all see the increase in driving distractions. I won't speak about my own driving habits, especially not on the record. I am interested, sincerely interested, in trying to understand what current law permits and distinguishing it from what the bill would propose. Under Title 29A, Section 2413, driving to endanger, it talks about activities as a driver that would endanger others. In fact, this legislation was challenged in court because it was broad and vague. The court upheld it and said it was valid law. It seems that many of the activities that are being described here, could be covered by this current law. I am interested in the legislation and I am certainly supportive of the concept, but I would pose the question to anyone who may answer, what, specifically, are we seeking to address with this legislation that isn't already addressed by either Title 29A, Section 2413 or some other statute in law at the moment? Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Washburn, Representative Churchill.

Representative CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House. My law enforcement career was prior to the influx of cell phones. Then it was smoking and trying to open a bottle of aspirin and an array of other things. It appears what we are trying to do here is make a law against stupidity. If we do that, then we should patrol in 66-passenger buses, because there is a lot of it out there.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 80

YEA - Brannigan, Browne W, Bruno, Bull, Bunker, Clark, Collins, Cressey, Cummings, Davis, Dudley, Dunlap, Duplessie, Fischer, Gerzofsky, Heidrich, Jodrey, Kane, Landry, Ledwin, Lemoine, Maietta, Marley, McKenney, McLaughlin, McNeil, Murphy, Norbert, O'Neil, Percy, Piotti, Richardson J, Rosen, Sampson, Smith N, Suslovic, Thomas, Treadwell, Usher, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Adams, Andrews, Ash, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Breault, Brown R, Bryant-Deschenes, Campbell, Canavan, Carr, Churchill E, Churchill J, Clough, Courtney, Cowger, Craven, Crosthwaite, Curley, Daigle, Dugay, Duprey B, Duprey G, Earle,

Eder, Faircloth, Finch, Fletcher, Gagne-Friel, Glynn, Goodwin, Greeley, Grose, Hatch, Honey, Hotham, Jacobsen, Jennings, Joy, Kaelin, Laverriere-Boucher, Lerman, Lessard, Lewin, Mailhot, Makas, McCormick, McGlocklin, McGowan, Millett, Mills J, Mills S, Moody, Moore, Muse, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Patrick, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Pingree, Rector, Richardson E, Richardson M, Rines, Rogers, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Thompson, Tobin D, Tobin J, Trahan, Twomey, Woodbury, Wotton, Young.

ABSENT - Annis, Bliss, Hutton, Jackson, Ketterer, Koffman, Lundeen, Marraché, McKee, Simpson, Smith W, Sykes, Tardy, Vaughan.

Yes, 43; No, 94; Absent, 14; Excused, 0.

43 having voted in the affirmative and 94 voted in the negative, with 14 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the Minority **Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-70)** on Bill "An Act to Control Internet 'Spam'"

(H.P. 210) (L.D. 255)

Signed:

Senator:

HALL of Lincoln

Representatives:

RICHARDSON of Skowhegan

ADAMS of Portland

RINES of Wiscasset

FLETCHER of Winslow

LUNDEEN of Mars Hill

BERRY of Belmont

BLISS of South Portland

GOODWIN of Pembroke

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

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

MOODY of Manchester

CRESSEY of Baldwin

READ.

On motion of Representative GOODWIN of Pembroke, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-70)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Monday, May 12, 2003.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (11) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-288) - Committee on TRANSPORTATION on Bill "An Act to Prohibit the Use of a Handheld Cellular Telephone While Driving"

(H.P. 151) (L.D. 192)

Which was **TABLED** by Representative USHER of Westbrook pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Members of the House. Last session I was on the opposite end of this debate on cell phones. Our good friend, Gerry Bouffard, campaigned, almost single-handedly at times, to ban hand-held cell phones. I did vote against them in committee, but I didn't feel really comfortable about it. New York State banned these, similar to what LD 192 would do. I started changing my habits of using cell phones. I did promise to Representative Bouffard before the end of the session that I would sponsor one of these bills. I was a little late turning it in. Representative Eder did sponsor it and I did cosponsor it. I feel proud of that.

About a month ago there was a press conference right outside the Cross Office Building put on by the NDOT. There was a sign contest for kids to construct signs that would be effective in controlling excessive speed in worksite places. The winner, a young boy, came out with a very interesting design that had a car with a person with a hand held cell phone. I think kids have an insight and I don't think we give them enough credit for seeing things the way that they are actually, but hand held cell phones are a distraction. The motto of that was very interesting. "Drive carefully, not darefully."

Some companies, and I applaud Verizon for what they are doing; they recognize this problem with hand held phones. They are advocating remote control hands off sets, which this bill would permit. There is an alternative, remote controlled voice activated phones. The maximum danger period using these hand held phones is in the dialing. When you are driving on the interstate at 75 or 80, this can be fatal. Also, the intense involvement, the conversation that takes place at times is certainly very dangerous.

The Secretary of State recognizes the problem and has proposed graduated licenses for young drivers, hand held cell phones would be banned.

The bill LD 192 has included very sensible exemptions, physicians, law enforcement or emergency personnel and so on. It is a matter really of changing habits. I now do my phone calls at rest areas where it is very comfortable. There is no pressure. If my wife is with me, she handles the phone. If it is the opposite, I do. It can be done.

If reading is illegal, as someone mentioned, why not make hand held cell phones also illegal.

I think many of our constituents are looking to us to pass sensible legislation. I think it is high time that we do that. I would encourage you to vote against the proposed Ought Not to Pass motion and go on to support LD 192. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Eder.

Representative **EDER**: Mr. Speaker, Men and Women of the House. I dare to think that this is the legislation that you have been waiting for because it much more specifically deals with a particular behavior that we have all come to recognize through

our own activity using cellular phones and through the activity that we have observed by drivers on the road that we share the road with. Cell phones in particular are the problem on the roads today. There is something very specific about cell phone use. This has been addressed by a professor from Utah by the name of David Stayer, from the University of Utah. He calls this phenomenon inattention blindness. There is a cognitive affect that happens when a person talks on the cell phone that involves all of their senses and so totally distracts them from the activity on the road that it is of particular danger.

Many of my colleagues have said here today that there are laws that already cover driving while distracted or driving to endanger. Yes, that is true. An interesting thing about the use of cell phones is a study done by the Transportation Research Group in Great Britain found that people who were talking on a cell phone had a 30 percent slower reaction time than people who were legally drunk. We have laws that specifically deal with drinking and driving. We recognize that above all other habits that endanger while driving on the road, we have identified that drinking and driving is a particular danger. Like drinking and driving, cell phones slows our reaction time.

When you are talking in a car with somebody else as you are driving, which some people say if this cell phone is a distraction, why isn't a conversation with somebody else in the car a distraction? There is a reason for that. When you are driving with someone else in the car, many of us have done this before, and we think that if we weren't in the car with my friend today, he would have been killed because he didn't even see that stop sign and he almost ran through it. What happens when we are in the car together, we have two sets of eyes on the road. We share the responsibility. It is a phenomenon that we have all experienced.

Cell phones are different because the person on the other end of the phone has no idea what the driving conditions are like for you when you are driving. They will keep talking to you and maybe talking to you very intense. They can't see the road. They can't see the distraction. If they were in the car with you, they would be using that imaginary break on the passenger's side when they saw that you were about to speed through a work zone and possibly endanger men and women working on the side of the road. They would stop talking to you and say, look out. On a cell phone they don't know what the road conditions look like for you. Chief Mike Chitwood from Portland put it very well. He became a proponent of some sort of regulation of cell phone use in vehicles. One night, he recounts the story he told to the *Portland Press Herald*. He was driving to the scene of a homicide and he was talking on his cell phone the whole way. When he got out of the car, he realized that he had no idea what route he had taken or how he had gotten to the scene of the homicide. It was at that moment that he realized that cell phones, in particular, involve so much of your cognitive ability that it really makes you blind to the activity on the road, thus the term inattention blindness.

One of my colleagues mentioned earlier that if you drive through a stop sign, for example, and cause an accident, you will be fined for driving through a stop sign. If you are talking on a cell phone, you could drive through a stop sign while you are involved in a conversation, kill a pedestrian or kill somebody else in the car in front of you and you would only be fined for running through a stop sign. This bill, unlike those that have come before, learn from those that have come before, and deals with emergency personnel, commercial driver's licenses, people who use these phones in an emergency. I realize that cell phones are a very useful tool. On 9-11 we all realized the dramatic impact that cell phones can have on our lives when people received calls

from loved ones who were on a plane that was about to go down. I think cell phones are a great tool, but we have to be responsible. Most people recognize this.

Eight percent of the people polled by WGMW TV in Portland back in January said that they supported some type of a ban on cell phone use. The reporters went to the street and interviewed people on the street, people who use cell phones, and said, yes, I use a cell phone while I am driving and I do know that is really bad behavior. They look down in shame at the ground when they told the reporter this. I probably won't change my behavior, one person said, unless there is a law that deals with it. I know it is bad and I know it is wrong. Eighty percent of the people who were polled who phoned in or e-mailed in their opinion, agreed that there should be some type of ban.

New York State has already passed a ban. It was supported by Verizon Wireless and other wireless companies because it was a ban that allowed for hands-free use, as this bill does. Hands-free use technology is readily available with most cell phone purchases these days. Verizon did not support this bill because the political will wasn't there. That is the only reason they didn't support this bill, not because they don't agree that it is a dangerous activity, but because when you open up the first page of any cell phone manual that you receive, the first thing that you will see is do not use this phone while driving your car.

The last time this bill came before the committee, the cell phone industry said, let us police ourselves. Representative Bouffard came and joined us again. He was the sponsor of this bill in the past. He came and he joined us on the day that we gave testimony before the committee. He said he remembered the cell phone industry asking to please be able to police itself on this one. Since then, he has been very attentively watching ads that come in the newspaper and on TV. He could not identify any warning at the bottom of those ads that said that you should not operate this vehicle while driving. He has gone to speak with people who sell cell phones and ask them what type of education are they doing when they hand out a cell phone regarding talking on cell phones while driving. They said that they did none. They don't do any education on this.

We heard from many people the day that we took testimony on this bill that had been injured by somebody else who was talking on a cell phone. They had been rear-ended. Cell phone use has skyrocketed since this bill last came before you. It is standard equipment these days. As use goes up, we see that accidents go up. We see that public opinion goes in the direction of we must do something to police this.

Men and women of the House, I ask you today to think about what you know about when you were using a cell phone. Think about that time that you saw a driver, I just saw a driver a couple weeks ago, wildly swerving back and forth. When we passed that driver to get away from them, sure enough, they were talking on a cell phone. As we were passing them, they were swerving right back toward us again and they nearly had run someone off the road in front of us. Cell phone use, in particular, unlike tuning the radio, you don't tune the radio for 10 minutes, unlike putting on lipstick, you don't put on lipstick for 10 and 20 minutes at a time. Your cell phone conversation goes on for 10 and 20 minutes at a time.

I ask you to do the responsible thing and please support the Minority Report on this bill. Thank you.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Minority Report, the Ought to Pass as Amended. I will tell you why. This is a no brainer. We have an awful lot of issues that we are looking at.

Concerns that put food on the table for our constituents and their families, find jobs for people, bring industry into this state. The list goes on and on. We are sitting here arguing, debating, rather, about what I consider to be a no brainer. I have a cell phone. I have never had a cell phone until I came here. When I got my cell phone, I had to get a head set, because of the simple biological fact that I cannot talk and free up my right hand at the same time. I had to have a head set. Even with a headset, I still have to push buttons to call someone. I still have push buttons to answer a phone call even though it is coming through a headset. I have to take my eyes off the road at my normal 65 miles an hour and look at a button and push it. I have been distracted. At 65 miles per an hour, the speed limit, a distraction for any more than a split second can kill you. I would ask that the House consider, if nothing else, the safety aspects of this. No matter what we pass, I guarantee you, somebody somewhere is going to find fault with it. We all know that. Somebody is going to think their rights are being infringed upon. However, in this particular case, this is a no brainer and we ought to just move this thing. I would urge my colleagues to vote Ought to Pass as Amended. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Majority Ought Not to Pass Report on this bill. This winter I did a survey, like other members did, to my constituents on a number of issues. On this one it came back overwhelmingly in opposition to doing anything to limit people's cell phone use in my district. People thought it was intrusive. They asked what about eating? What about makeup? What about this, that and CD? These are very good questions. This body just killed a bill that would establish a distraction standard. I have used cell phones since they started becoming available. I spend about 35,000 miles a year on the road easily. It is probably a little bit more now that I am over here.

The hands-free ear buds and so forth, I will tell you, are more complicated, more distracting than holding a small cell phone in your ear. That is not an answer. In my own business, I did go to the hands-free set with a speaker. It cost me \$150. I also had to go and buy a booster, which was another \$250 for when I drive down the eastern part of the State of Maine I have a good signal.

If this bill passes, who is going to pay our constituents, the mothers that want to keep in touch with their daughters after basketball and so forth? Who is going to pay for a good hands-free set for those people? This is an intrusive bill. I urge everybody here to support the Ought Not to Pass report. Thank you very much.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I have heard several references to the New York law, which was enacted, I believe, last year. One of the original references I heard was from the good Representative from Frenchville, Representative Paradis. I appreciate his comments and I appreciate him bringing it to the attention of this body. I would just say that I am sure that all of us here wish and hope that the good Representative from Frenchville has a waterproof cell phone.

Regarding the New York law, I would like to just make this observation. I believe that the New York law has now been in effect for some little time. The data is preliminary at this point in time. However, I believe that not too long ago I did see some preliminary data that has indicated that there has been no reduction, no traceable reduction, in the number of accidents per

mile traveled on New York roads since this ban went into affect. If that is incorrect, I certainly would welcome that correction, but that is my understanding at this point in time.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. During some of the debate in the committee one of the pieces of information that was given to us is a book called *Along for the Ride, Reducing Driver Distractions* from the National Conference of State Legislatures. Some of the points that they made in here is that perhaps one of the reasons those incidences have not been reduced in New York is that hand-held cell phones listed eighth in reasons for accidents caused by driver distraction. During a study they concluded, although cell phones and other devices have potential to distract a driver, they are only part of the larger driver distraction issue and should not be singled out for restriction. Thank you ladies and gentlemen.

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

Representative **EDER**: Mr. Speaker, Men and Women of the House. I heard a couple questions go by that I could not let go unanswered. My colleagues have mentioned the issue of cell phones not being any greater distraction than any other activity. The reason that we have no good understanding of cell phones as a distraction versus any other activity is because not many states have done reporting of when an accident happens, in Maine, for example, when the police officer arrives at the scene of the accident to take the report, she will ask, were you wearing your seat belt? We have that on accidents and seat belts and their relation to accidents. We don't have data on cell phones, because we haven't been taking any data on cell phones. That is the main reason. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. Once again I have dug out my Committee Amendment, which is the Minority Report. As I read this I see that there are several exceptions to this law. There are drivers authorized to operate emergency vehicles. It doesn't say that they must be driving those emergency vehicles. For physicians and it doesn't say whether or not those physicians have to be in a performance of their duties as a physician.

The SPEAKER: Would the Representative defer? The Representative is out of order in the debate. He is debating the Minority Report. The question before the House is the acceptance of the Majority Report. I want the members to confine their remarks to debating that. The Representative may proceed.

Representative **CARR**: Thank you Mr. Speaker. I apologize for getting off track. I do want to bring to your attention that there are many issues before us in this Legislature and probably this may be one of the least important. Thank you Mr. Speaker.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

A vote of the House was taken. 102 voted in favor of the same and 18 against, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED**.

On motion of Representative **EDER** of Portland, the House **RECONSIDERED** its action whereby the Majority **Ought Not to Pass** Report was **ACCEPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority **Ought Not to Pass** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 81

YEA - Andrews, Ash, Austin, Barstow, Bennett, Berry, Bierman, Blanchette, Bowles, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ledwin, Lemoine, Lerman, Lessard, Lewin, Maietta, Mailhot, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Patrick, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Walcott, Watson, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Adams, Brannigan, Canavan, Craven, Dudley, Eder, Faircloth, Landry, Laverriere-Boucher, Makas, Norbert, Paradis, Percy, Pingree, Piotti, Sampson, Simpson, Twomey, Wheeler.

ABSENT - Annis, Berube, Bliss, Bowen, Bunker, Hutton, Jackson, Ketterer, Koffman, Lundeen, Marley, Marraché, McKee, Smith W, Sykes, Tardy.

Yes, 116; No, 19; Absent, 16; Excused, 0.

116 having voted in the affirmative and 19 voted in the negative, with 16 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 489) (L.D. 659) Bill "An Act To Standardize Reporting Requirements for PACs, Parties and Independent Electioneering Expenditures" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-301)**

(H.P. 780) (L.D. 1062) Bill "An Act To Protect Lienholders of Titled Vehicles" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-299)**

(H.P. 1133) (L.D. 1547) Bill "An Act To Amend Certain Laws Administered by the Department of Environmental Protection" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-298)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 328) (L.D. 987) Bill "An Act To Establish Consistent Requirements for High School Course Credits and Diploma Eligibility"

(S.P. 519) (L.D. 1544) Bill "An Act To Revise the Standards for Reporting Public Sector Workplace Deaths and Serious Injuries"

(S.P. 162) (L.D. 443) Bill "An Act To List Agriculture as a Designated Use in Water Quality Standards" (C. "A" S-106)

(S.P. 321) (L.D. 980) Bill "An Act To Amend the Laws Governing the Qualification of Candidates" (C. "A" S-108)

(S.P. 491) (L.D. 1485) Bill "An Act To Update Water Quality Criteria" (C. "A" S-107)

(H.P. 607) (L.D. 830) Bill "An Act To Include Androscoggin County in the Law Governing the Use of County Surplus Funds"

(H.P. 387) (L.D. 502) Bill "An Act To Expand the Education Tax Credit" (C. "A" H-286)

(H.P. 408) (L.D. 523) Bill "An Act To Hold Supervisors Personally Liable for Discrimination in the Workplace" (C. "A" H-285)

(H.P. 421) (L.D. 558) Resolve, To Enhance Services to Children and Families (EMERGENCY) (C. "A" H-293)

(H.P. 514) (L.D. 697) Bill "An Act To Require the Installation of Dental Amalgam Separator Systems in Dental Offices" (C. "A" H-274)

(H.P. 557) (L.D. 751) Bill "An Act To Implement the Recommendations of the Legislative Youth Advisory Council" (EMERGENCY) (C. "A" H-295)

(H.P. 685) (L.D. 928) Bill "An Act Regarding the Sale and Protection of Ferrets" (C. "A" H-296)

(H.P. 762) (L.D. 1045) Bill "An Act To Require Major Substantive Rules To Govern the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs for Consistency" (C. "A" H-284)

(H.P. 764) (L.D. 1047) Bill "An Act To Ensure Communication about Public Complaints against State Employees" (C. "A" H-279)

(H.P. 777) (L.D. 1059) Bill "An Act Regarding Water Storage Reservoirs" (C. "A" H-283)

(H.P. 900) (L.D. 1226) Bill "An Act To Clarify the Division of the Positions of Town Assessor and Selectman" (C. "A" H-280)

(H.P. 904) (L.D. 1230) Bill "An Act To Provide Mandatory Minimum Penalties for Vandalizing a Street Sign or Traffic Control Sign" (C. "A" H-278)

(H.P. 1040) (L.D. 1417) Bill "An Act To Make Changes to the Laws Governing Aquaculture Leasing" (C. "A" H-282)

(H.P. 1091) (L.D. 1494) Resolve, Regarding Legislative Review of Chapter 306: Information Disclosure Rule Amendment, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) (C. "A" H-294)

(H.P. 1103) (L.D. 1510) Bill "An Act To Improve Access to the Victims' Compensation Fund" (C. "A" H-277)

(H.P. 1123) (L.D. 1531) Bill "An Act To Amend Provisions of the Submerged Lands Law" (C. "A" H-275)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

(H.P. 1112) (L.D. 1519) Resolve, To Establish a Task Force on the Planning and Development of Marine Aquaculture in Maine (EMERGENCY) (C. "A" H-281)

On motion of Representative BULL of Freeport, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Resolve was **READ ONCE**. **Committee Amendment "A" (H-281)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-281)** and later today assigned.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act To Manage the Sea Urchin Fishery
(S.P. 483) (L.D. 1451)
(C. "A" S-99)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Ensure That Title Applications are Timely Delivered
(H.P. 233) (L.D. 290)
(C. "A" H-242)

An Act To Amend the Lien Procedures for Time-share Estates
(H.P. 248) (L.D. 305)
(C. "A" H-233)

An Act To Amend the County Contingent Fund
(H.P. 324) (L.D. 416)
(C. "A" H-237)

An Act To Include a Representative of Mental Health Providers on the Board of Directors of the Maine Health Data Organization
(H.P. 329) (L.D. 421)
(C. "A" H-253)

An Act To Clarify That the Maine Juvenile Code Does Not Preclude Sharing Information with School Administrators for Purposes of School Safety
(S.P. 145) (L.D. 427)
(S. "A" S-95 to C. "A" S-29)

An Act To Change the Process of Enforcement of a Municipality's Obligations to a School Administrative District
(H.P. 435) (L.D. 572)
(C. "A" H-251)

An Act To Provide Parity in Lending by State-chartered Financial Institutions
(S.P. 223) (L.D. 614)
(H. "B" H-246 to C. "A" S-82)

An Act To Enhance Professionalism of Private Investigators in this State
(H.P. 735) (L.D. 1014)
(C. "A" H-249)

An Act To Separate the Office of Tourism from the Office of Community Development
(H.P. 1033) (L.D. 1406)

An Act To Amend the Laws Pertaining to the Department of Corrections

(H.P. 1094) (L.D. 1497)
(C. "A" H-248)

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.

Resolves

Resolve, Directing the Maine Health Data Organization To Evaluate the Current System of Annual Assessments and User Fees

(H.P. 417) (L.D. 532)
(C. "A" H-255)

Resolve, To Reduce the State Valuation for the Town of Hermon

(S.P. 182) (L.D. 542)
(C. "A" S-101)

Resolve, Regarding Fire Safety Issues in Head Start Preschool Programs Located in Public Schools

(H.P. 808) (L.D. 1105)
(C. "A" H-254)

Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

(S.P. 488) (L.D. 1460)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act to Ban Smoking in Beano and Bingo Halls

(H.P. 186) (L.D. 227)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative DUNLAP of Old Town, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Allow a Retiree Eligible for State-paid Health Insurance Coverage To Decline Coverage and Reenroll at a Later Date

(S.P. 408) (L.D. 1277)
(C. "A" S-102)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 82

YEA - Adams, Andrews, Ash, Austin, Barstow, Bennett, Berry, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings,

Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Annis, Berube, Bliss, Bunker, Goodwin, Hutton, Jackson, Jennings, Koffman, Lundeen, Marraché, McKee, Smith W, Sykes, Tardy.

Yes, 136; No, 0; Absent, 15; Excused, 0.

136 having voted in the affirmative and 0 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Representative RICHARDSON of Brunswick assumed the Chair.

The House was called to order by the Speaker Pro Tem.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-199)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Laws Governing Privacy of Consumer Financial Information" (H.P. 491) (L.D. 661)

TABLED - April 30, 2003 (Till Later Today) by Representative O'NEIL of Saco.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

Representative O'NEIL of Saco moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

Representative BRUNO of Raymond **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Yarmouth, Representative Woodbury.

Representative **WOODBURY**: Mr. Speaker, Men and Women of the House. I would like to speak to this recommitment motion. First by telling you a little bit about what this bill does and why it needs to be recommitted. This is a bill about the sharing of claim information by banks, credit card companies, mortgage companies, investment companies, credit unions, essentially any business that provides financial or credit services to us as their clients. These companies collect diverse information about us. Some is demographic like our name, address, telephone number and date of birth. Some is from our applications to do business with the company, like our income, for example, when we apply for a credit card. Some is about the business that we have done with the company, such our loan balances to our mortgage company or our assets in our investment companies or the composition of our credit card spending. Right now companies are allowed to share this information with other companies, unless we explicitly ask them not to share it.

This bill would change the standard so that keeping information private would become the default, but you could still give permission to share. A key point here is that it is already our legal right to choose either way, either to let them share the information or to keep it private. The bill is just about which is the default. Do they keep it private first or do they share it first?

My contention is that given the simple choice, 99 percent of us would choose privacy. Very few people actually go through the effort of requesting privacy.

The **SPEAKER PRO TEM**: Would the Representative please defer? It is important that the members understand. This is a motion to commit. As a motion to commit, we are arguing the merits of whether this ought to be committed or not and not the merits of the bill. The Representative may continue.

The Chair reminded Representative **WOODBURY** of Yarmouth to stay as close as possible to the issue.

Representative **WOODBURY**: Thank you Mr. Speaker. Mr. Speaker, it is as important to understand some of the complexities of this bill in order to know why we need to recommit it.

I was at a point of explaining why it is that people don't generally elect what is already their legal right to keeping the information private. It is because we have to do it individually for every single one of our companies. You may get these forms that say, we respect your privacy and so forth.

Mr. Speaker, let me move to why I think it is important to recommit this bill. There is a catch to all this. As I said, I think 99 percent of people would like privacy. Why don't we just do this? The answer is that the financial services business community has asked that we not do this. They like the standard the way it is. I have agonized about this bill for a long time. It has taken me a long time to figure out what side I am on this. I sort of had to weigh the privacy question with the question of just how much would businesses be hurt?

That leads me to why we need to recommit this bill. There is some question about whether federally chartered institutions that are operating in Maine would be subject to the standard or not. The Attorney General has said he is going to spend more time looking into this and the committee would like to hear that.

The **SPEAKER PRO TEM**: For what reason does the Representative from Raymond, Representative Bruno, rise?

Representative **BRUNO**: Point of order, Mr. Speaker.

The **SPEAKER PRO TEM**: The Representative may state his point of order.

Representative **BRUNO**: Thank you Mr. Speaker. The motion on the floor is the motion to Commit. I keep hearing arguments about why we need to listen about the bill and the merits of the bill. I would ask that the Representative from Yarmouth keep his points to the motion to Commit.

On **POINT OF ORDER**, Representative **BRUNO** of Raymond asked the Chair if the remarks of Representative **WOODBURY** of Yarmouth were germane to the pending question.

The **SPEAKER PRO TEM**: The Chair will again remind the members in the chamber that the pending motion is the motion to Commit. Therefore, the motion at hand is whether we commit this bill or not. Therefore, the argument should be limited to the merits of whether we commit or not. The Representative may proceed.

Representative **WOODBURY**: Thank you Mr. Speaker. I thank my colleague from Raymond for keeping me on track. There are two reasons I see for needing to Recommit this bill, things that the committee should spend more time considering before bringing this to the floor. One is the question how would state chartered banks and federally chartered banks be treated differently if this is enacted? We do not have a clear answer to that question. I believe we need to learn more about it. Secondly, I don't believe that the committee has done enough deliberation on the question of whether this is a bill that we should enact straight or whether it is a bill that we should send out to referendum and let the people decide about. These are two issues I think would be better addressed further by recommitting this to committee. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER PRO TEM**: The Representative may pose his question.

Representative **DUNLAP**: Thank you Mr. Speaker. To the Representative from Yarmouth, Representative Woodbury, do I understand the jest of your remarks regarding commitment of this bill to be summarized to saying it is a complicated issue, we ought to talk about it some more in committee?

The **SPEAKER PRO TEM**: The Representative from Old Town, Representative Dunlap has posed a question through the Chair to the Representative from Yarmouth, Representative Woodbury. The Chair recognizes that Representative.

Representative **WOODBURY**: Mr. Speaker, Ladies and Gentlemen of the House. Usually I am not too wordy, however, in this case I think that my colleague made a good point and that is, in fact, that it is a complicated issue and I think we should be considering it more in committee.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. The reason I made a motion not to Recommit this back to committee is that we have studied this issue for three years now. We have heard it over and over and over again. It is now time to act. If we are really going to get out of here by the end of May, which is what many of us want, let's act on this piece of legislation now. It does no good to send it back to committee and hear the same arguments over and over. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. First, I would like to thank the committee chair, Representative O'Neil, for suggesting to us all that his committee maybe will want to spend more time discussing this issue. I have

great respect for the committee chair and think that we would all do well to follow his recommendation.

I will try to be careful and limit my comments this morning to the motion at hand. I could speak at length about the details of the bill, but I will spare you all that for perhaps another time.

To reemphasize the points from the Representative from Yarmouth, Representative Woodbury, it is worth recommitting, because the Attorney General has made a commitment to us all that he is going to spend the time between now and next January to study what the effects are of the current law on the people living in Maine to find out to what extent people are exercising their rights under to current law to protect their privacy, to understand the degree to which Maine people are even aware of their rights under current law to protect their privacy and to determine to what extent those hundreds of Maine people who are victims of identity theft are victims because of the over sharing of their personal property, their personal information.

These are all good reasons to defer consideration of this bill until next session and to send it back to committee to give them an opportunity, perhaps, to carry it over until next year. I support the motion and I encourage you all and I hope you all will join me in supporting the committee chair. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I just heard the Attorney General is going to do a thorough investigation of this, gather data and all sorts of interesting things. It is also interesting that the Attorney General reported to the Judiciary asking for more money for Assistant DAs. He said he is running short. Merit pay has been cut. I would be interested to know what resources he is going to use to do the investigation. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. When this issue was brought before the committee, one of the issues raised at the time was the extent to which Maine people actually respond to the opt out notices that banks send them. At that time the AG said that in his view very few Maine people were aware of the implications of these notices and that many Maine people just simply tossed the notices out. I have to say that I have discussed this issue with many of my constituents and that seems to be the case. Many don't realize that when they throw these notices out, they are simply forfeiting their right to privacy. One of the committee members asked at the time that the AG provide the committee with more information concerning how Maine people respond to receiving these notices. For that reason, we are asking that this bill be Recommitted so that the Attorney General can have time to comply with the committee's request. It is just as plain and simple as that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. The reason I am standing here today is to oppose the Recommitment to our committee. I really believe that we have thoroughly studied this. First of all, let me give you a little bit of history. We had a public hearing on this. The good Attorney General did not make it to the public hearing. Later on when we did a work session, he did come. He wanted to give his testimony then and there. We did listen to him. We talked about this thoroughly. We went over this and over this. I believe that what came out of our committee, is what is ultimately going to come out in the end. I ask you to please vote against the pending motion to Recommit this to our committee. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, serve on the Insurance and Financial Services Committee and was part of the discussions and the recommendations on this bill on the Ought Not to Pass side. The statements that have been made on the floor, I would like to back up the good Representative from Poland, Representative Snowe-Mello and say that all of these issues were taken into account by our committee when we voted our recommendation. The reason why the recommendation was reported as it was was that this bill will serve to make Maine an outlier in the area of financial services. Maine has worked very, very hard over the past few years to create a more attractive business environment in the financial services arena, including the passage of the universal bank charter legislation in 1997. This issue is a perennial one that returns to the Legislature. The need for Recommitment, I don't believe has been proven. I believe that we should follow the recommendations of the Insurance and Financial Services Committee and move on to the acceptance of the Majority Ought Not to Pass Report.

Mr. Speaker, I would further request that the Clerk read the Committee Report.

Representative **GLYNN** of South Portland **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. For anyone who just heard the report, it is a rather lopsided report. I am on the majority side, Ought Not to Pass. However, this is a serious issue. The sponsor has worked very hard on this issue. It is one that we have had before. It is one that we will have in the future. I intend to extend the courtesy of Recommitting the bill to the sponsor. He has worked hard on it and I think he deserves the opportunity. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. While this item has been sitting on the Unfinished Business Calendar, we have been subject of just a flurry of dueling handouts. Even the dueling handouts, when they focused on opt in, opt out, pointing the finger at one group and pointing the finger at the other, they can't even agree. There is a great deal of confusion in terms of the accusations that have been made back and forth. It appears that this day is a libertarian theme day. This is the third vote today dealing with privacy rights. We have had two earlier votes where the House has spoken overwhelmingly on two bills, talking about privacy on the road while you are driving.

This motion talks to Recommit, to try to get more information. Where is it wrong to try to get more information before you cast an intelligent vote? I am sure that the good Representative Dudley from Portland has had, while this has been sitting and waiting, and our names have shared a lot of communications and flyers that have come out to this body. I am sure he has had to reassure his caucus where he is on a position where I am also on, that that also shows you, I think, there is a broad libertarian streak that runs through this House and it doesn't matter which of the three political parties are here. It has been a Maine characteristic in terms of, we are neighbors, we share and we still build stone walls and good fences. When it comes to what is you, what you have created in your lifetime, your assets, the information that you thought you laid out, one to one, with an employer, a credit card company, a bank, that that was private

privilege. Actually when you fill out that application, you have to sign a waiver supposedly so they can go get a credit report on you. You are the gatekeeper for the credit report, but under this law, you don't even need to do that anymore.

I think recognizing that libertarian theme that you expressed in two earlier votes about privacy and your own space. A committee has requested, even though they originally voted against the bill, that a majority of them want the issue to come back so we can find out more before we cast our vote or before it would go out to referendum and the people of the State of Maine cast their intelligent vote. I support the motion to Commit back to committee. Let's get that information. The Attorney General has volunteered to do so because this bill is all about the privacy rights and the private space of the people we represent. That is what it is all about. I would hope, regardless of what your position is on this bill, because of dueling fliers, that we send it, recommit it back to committee, get that information, bring it forward when we have the information and cast a fully knowledgeable vote. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I want to commend Chair O'Neil for seeking to have further study on this piece of legislation and commend Representative Dudley for a very thoughtful and incremental approach to this issue. Why do we send these issues back to committee on some occasions and commit them back to committee for study? They are big issues and important issues. In some ways even though this is a moderate and incremental approach to the issue, the issue itself is one of the major issues of our time. It has to do with, as the good Representative from Kennebunk pointed out, privacy rights of individuals.

Theodore Roosevelt who has been dead now 85 years, the greatest Republican President of the 20th Century said that corporations exist at the pleasure of the common wheel. They exist at the pleasure of the people. Over the last century or so, we have seen the slow, incremental loss of individual rights and our privacy rights in relation to that of corporate power.

There is no greater issue. The Attorney General of this state has made clear that he wants to analyze and study this issue, an Attorney General held in the highest regard by members of both parties. The committee chair seeks to Recommit this. Members of the committee who happened to be on the other side of the issue seek to Recommit it. I think there is no more worthy issue for commitment for further study. I support this motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I am somewhat confused about the origin of this request for it to be Committed. Did the committee actually get together as a committee and is this a combined recommendation voted on by the committee to Commit or otherwise? Thank you.

The SPEAKER PRO TEM: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question, the request for committal comes after the bill left the committee. No, the

committee has not discussed this bill because it hasn't been in the committee.

The simple question for me is to whether we have an Attorney General who says he would like to shine some light into the room on this issue? He is an Attorney General who has done so on other issues in the past and done so quite effectively. He suggests that perhaps there is a different approach. I think it is incumbent upon the committee to give that consideration to him and to the proponents. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, Men and Women of the House. In response to the issues that have been raised, the information was given to the committee on the position of the Attorney General and his offer to take a look into this. This committee, the Insurance and Financial Services Committee, had that information available to us. It was given at our work session and we were aware prior to voting out our recommendation of this offer. That being said, the need to Commit is unwarranted and unneeded at this time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative CANAVAN: Mr. Speaker, Ladies and Gentlemen of the House. We represent not only the banking interests in this body, but the people at the grassroots level. In the year 2000, the Legislature voted to give banks the right to share information without the express permission of their customers. Banks must, however, send notices to customers giving them a chance to opt out of information sharing. Since the law has been in place, only one year, we have no idea how many people in Maine return these opt out notices or whether they simply toss them out there by forfeiting their right to privacy. By Recommitting this bill to committee, it will give the AG an opportunity to look into that issue and report back to the committee. I don't see what possible problem there can be with getting more information that will help the people of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative BOWEN: Mr. Speaker, Men and Women of the House. I know we want to get done. I will be very quick. The reason we don't need to do this is because we really do know more of the answers than we seem to be letting on in here. We know that just about 5 percent of people return those forms. The libertarian position is that if you are forewarned and you don't take advantage of it, tough. Do people know, in answer to Representative Dudley's question, what their rights are? Current law says that financial institutions need to give that information every year. You receive notice from your financial institutions that says, here are your privacy rights, our policy and so forth. If you don't like it, here is the phone number to call. If people throw that away, that is not our fault.

Is it going to have power over federally chartered banks in other states, no it won't. My Visa card is out of a bank in Florida. My IRA is run out of a bank in San Antonio, Texas, my mortgage is held by a company in Massachusetts. None of those entities is going to be covered by a law in Maine.

The SPEAKER PRO TEM: Would the Representative please defer? For what reason does the Representative from Portland, Representative Dudley, rise?

Representative DUDLEY: Point of order, Mr. Speaker.

The SPEAKER PRO TEM: The Representative may state his point of order.

Representative DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House. The Representative from Rockport doesn't appear to be discussing the motion at hand.

On **POINT OF ORDER**, Representative DUDLEY of Portland asked the Chair if the remarks of Representative BOWEN of Rockport were germane to the pending question.

The **SPEAKER PRO TEM**: The Chair will remind the body that the pending motion before this body is a motion to Commit. Therefore, it is not merits on the motion of Ought Not to Pass or Ought to Pass that is in order, but merely those issues as to why it is that we either should or should not commit this bill. I feel like a judge up here. The Representative may proceed.

The Chair reminded Representative BOWEN of Rockport to stay as close as possible to the issue.

Representative **BOWEN**: Mr. Speaker, Ladies and Gentlemen of the House. I am laying out a case. The argument that we are hearing is that we need to send this back for more information. My position is that we don't need more information. We already know that this bill will not do the things that it claims that it will do. It simply cannot because of the nature of the world of financial information. It is global. It is not located in Maine.

My argument Mr. Speaker is that we need to get this bill done. If the Attorney General wants to go and work on it, then he has all summer while we are out of his hair to go and work on it all he wants. We can revisit this in the next session. The answers we know. People know what their rights are. If they don't know, then they are informed every year. If they can't take the effort to be informed, then too bad. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative **DUDLEY**: Mr. Speaker, Ladies and Gentlemen of the House. Just to correct some of the points made by the Representative from Rockport, in fact, the State of Vermont and North Dakota, the regulators there are currently enforcing a provision against national banks when it comes to the sharing of personal and private information.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is to Commit the Bill and all accompanying papers to the Committee on Insurance and Financial Services. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 83

YEA - Adams, Barstow, Bennett, Brannigan, Brown R, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Kane, Ketterer, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McLaughlin, Mills J, Murphy, Norbert, Norton, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rines, Sampson, Simpson, Smith N, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton.

NAY - Andrews, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Breault, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills S, Moody, Moore, Muse, Nutting, O'Brien J, O'Brien L, Peavey-Haskell, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Annis, Blanchette, Bliss, Bunker, Hutton, Jackson, Koffman, Landry, Lundeen, Marraché, McKee, Smith W, Sykes, Tardy, Mr. Speaker.

Yes, 64; No, 72; Absent, 15; Excused, 0.

64 having voted in the affirmative and 72 voted in the negative, with 15 being absent, and accordingly the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **INSURANCE AND FINANCIAL SERVICES FAILED**.

Representative DUPLESSIE of Westbrook moved that the Bill be **TABLED** until later in today's session pending the motion of Representative O'NEIL of Saco to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative DAVIS of Falmouth **REQUESTED** a roll call on the motion to **TABLE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

Subsequently, Representative DAVIS of Falmouth **WITHDREW** his **REQUESTED** for a roll call.

Subsequently, the Bill was **TABLED** pending the motion of Representative O'NEIL of Saco to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 32) (L.D. 25) Bill "An Act Imposing a Horsepower Restriction for Boat Motors on Pickerel Pond" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 57) (L.D. 49) Bill "An Act to Implement the Recommendations from the Programmatic Review of the State's Inland Fisheries Management Program" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-304)**

(H.P. 115) (L.D. 106) Bill "An Act Regarding Alewife Harvesting" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-302)**

(H.P. 577) (L.D. 778) Bill "An Act To Create the Snowmobile Trail Fund Advisory Council" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-306)**

(H.P. 779) (L.D. 1061) Bill "An Act To Eliminate Filing by Special Hide Dealers" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-303)**

(H.P. 1064) (L.D. 1456) Bill "An Act To Establish the Landowners and Sportsmen Relations Advisory Board" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-305)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-292)** on Bill "An Act To Restrict Excessive Rental Fees for Self-service Storage Facilities"

(H.P. 905) (L.D. 1231)

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
O'BRIEN of Lewiston
DUPREY of Medway
SMITH of Monmouth
BERUBE of Lisbon
ROGERS of Brewer

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

Signed:

Representatives:

AUSTIN of Gray
JACOBSEN of Waterboro
RECTOR of Thomaston

READ.

Representative SULLIVAN of Biddeford moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative KAELIN of Winterport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is acceptance of the Majority **Ought to Pass as Amended** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 84

YEA - Adams, Bennett, Berube, Blanchette, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Kane, Ketterer, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler.

NAY - Andrews, Ash, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Young.

ABSENT - Annis, Barstow, Bliss, Goodwin, Hutton, Jackson, Jennings, Jodrey, Koffman, Landry, Lundeen, Marraché, McKee, McNeil, Pingree, Smith W, Sykes, Tardy, Wotton, Mr. Speaker.

Yes, 67; No, 64; Absent, 20; Excused, 0.

67 having voted in the affirmative and 64 voted in the negative, with 20 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-292)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-292)** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Allow Slot Machines at Commercial Horse Racing Tracks" (I.B. 2) (L.D. 1371)

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc
GAGNON of Kennebec

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
CANAVAN of Waterville
JENNINGS of Leeds
LANDRY of Sanford

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representative:

BLANCHETTE of Bangor

READ.

On motion of Representative CLARK of Millinocket, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

SENATE PAPERS

The following Joint Resolution: (S.P. 563)

JOINT RESOLUTION RECOGNIZING NANCY RANDALL CLARK

ON THE OCCASION OF HER RETIREMENT

WHEREAS, Nancy Randall Clark, of Freeport, is retiring after a distinguished career of teaching at Freeport High School since 1968 and for 5 years before that in Scarborough. Nancy began nursing training in Boston before she decided to return to Maine to pursue her education as a teacher. She has a bachelor's degree, a master's degree and an honorary doctorate and taught in her own beloved hometown; and

WHEREAS, for 20 years, Nancy Randall Clark split her time between her teaching career and her public service role as a State Legislator in the Maine State Legislature. She served from 1973 to 1992, first for 3 terms in the House of Representatives and then 6 terms in the Senate, where she rose to leadership position and was the first woman to be Senate Majority Leader in Maine; and

WHEREAS, Nancy Randall Clark's teaching career began in the 1960s, a time when women's roles in society were changing, and she entered politics to support the federal Equal Rights Amendment. Her hard work and interest in state politics earned her awards from veterans' groups and the business community, and during her political career she was a strong advocate for elderly persons, displaced homemakers and children; and

WHEREAS, Nancy Randall Clark has said that teaching and lawmaking are complementary, in that they both deal with people and affect people's lives immeasurably. Nancy Randall Clark has been a success at both endeavors and retires having left both jobs with an impressive record; and

WHEREAS, Nancy Randall Clark exemplifies the spirit of public service in the great State of Maine, with her distinguished career in education and as a Legislator, and as a member of numerous organizations, such as the Grange, the League of Women Voters, the Freeport Historical Society and many other political, business and professional groups. As she once said, "These are not duties imposed on me. I sought them out. I welcome them"; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature, now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to express our sincere appreciation to Nancy Randall Clark on the occasion of her retirement from teaching and for all that she has given to her school, her community and her State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Nancy Randall Clark with our best wishes and appreciation.

Came from the Senate, **READ** and **ADOPTED**.
READ and **ADOPTED** in concurrence.

SENATE PAPERS

The following Joint Resolution: (S.P. 562)

JOINT RESOLUTION HONORING MOTHERS ON THE OCCASION OF MOTHER'S DAY

WHEREAS, Mother's Day is a day to honor and celebrate mothers throughout the Nation. The movement to have an official day to raise awareness of mothers was started by Anna Reese Jarvis, who organized a day called Mother's Work Day to bring attention to the hard work women perform in poor communities; and

WHEREAS, when Anna Reese Jarvis died in 1905, her daughter, also called Anna, began a campaign to memorialize the work of her mother. Anna recalled that her mother noted that there were many days dedicated to men but none for mothers, and she began to lobby politicians, including President Taft and President Roosevelt, to support a Mother's Day; and

WHEREAS, Anna organized a church service honoring her mother in 1908. In 1910, West Virginia issued the first Mother's

Day proclamation and Oklahoma soon followed. By 1911, every state had its own observances. The Mother's Day International Association was incorporated in 1912 to further meaningful observations of Mother's Day; and

WHEREAS, the United States Congress passed a joint resolution in 1914 designating the 2nd Sunday in May as Mother's Day. President Woodrow Wilson issued the first proclamation making Mother's Day an official national holiday and a day to make a "public expression of our love and reverence for the mothers of our country"; and

WHEREAS, the people of the State of Maine have long supported this tradition and each year the sons and daughters of Maine join sons and daughters everywhere to honor and express appreciation of their mothers; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature, now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to express our sincere appreciation to the mothers of the great State of Maine, and we wish them a very happy Mother's Day.

Came from the Senate, **READ** and **ADOPTED**.

READ

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I would like to be on record in support of this, because I would like to be on the winning side of something today.

Subsequently, **ADOPTED** in concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith who wishes to address the House on the record.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. In reference to Roll Call 78 on LD 1271, if I had been present, I would have voted yea. On Roll Call 79 on LD 1343, if I had been present, I would have voted yea. Thank you Mr. Speaker.

On motion of Representative GERZOFKY of Brunswick, the House adjourned at 12:26 p.m., until 9:00 a.m., Monday, May 12, 2003.