

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twentieth Legislature
State of Maine

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ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
55th Legislative Day
Wednesday, May 23, 2001

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

Prayer by Angelina Hubert, Chaplain, MaineGeneral Medical Center, Waterville (retired).

National Anthem by Rockland District High School Chorus.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Require Lifetime Probation for Dangerous Sexual Offenders"

(H.P. 374) (L.D. 476)

Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE READ** and **ACCEPTED** in the House on May 21, 2001.

Came from the Senate with the Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-350)** in **NON-CONCURRENCE**.

On motion of Representative POVICH of Ellsworth, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Require the Destruction of Confiscated and Forfeited Handguns"

(S.P. 209) (L.D. 774)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **CRIMINAL JUSTICE READ** and **ACCEPTED** in the House on May 21, 2001.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-96) AND SENATE AMENDMENT "A" (S-149)** in **NON-CONCURRENCE**.

On motion of Representative POVICH of Ellsworth, **TABLED** pending **FURTHER CONSIDERATION** 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 item appeared on the Consent Calendar for the First Day:

(H.P. 379) (L.D. 481) Bill "An Act to Modify the Dam Repair and Reconstruction Fund" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-559)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-554)** on Bill "An Act Creating a Pilot Project to Provide Video Camera Surveillance at Intersections in Ellsworth"

(H.P. 728) (L.D. 948)

Signed:

Senators:

SAVAGE of Knox
O'GARA of Cumberland
GAGNON of Kennebec

Representatives:

MARLEY of Portland
McNEIL of Rockland
BOUFFARD of Lewiston
PARADIS of Frenchville

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

Signed:

Representatives:

COLLINS of Wells
WHEELER of Eliot
WHEELER of Bridgewater
FISHER of Brewer
McKENNEY of Cumberland
BUNKER of Kossuth Township

READ.

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

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-557)** on Bill "An Act to Enhance Tourism Promotion and Increase State Revenues"

(H.P. 1230) (L.D. 1677)

Signed:

Senators:

BROMLEY of Cumberland
YOUNGBLOOD of Penobscot
SHOREY of Washington

Representatives:

MORRISON of Baileyville
DUPREY of Hampden
CLOUGH of Scarborough
MURPHY of Kennebunk

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-558)** on same Bill.

Signed:

Representatives:

THOMAS of Orono
HATCH of Skowhegan
RICHARDSON of Brunswick
BRYANT of Dixfield
DORR of Camden
MICHAUD of Fort Kent

READ.

On motion of Representative RICHARDSON of Brunswick, the Bill and all accompanying papers were **COMMITTED** to the Committee on **TAXATION** and sent for concurrence.

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass** on Bill "An Act to Repeal the Presidential Preference Primary Elections" (H.P. 960) (L.D. 1273)

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

LABRECQUE of Gorham
CHIZMAR of Lisbon
COTE of Lewiston
ESTES of Kittery
TUTTLE of Sanford
O'BRIEN of Lewiston
HEIDRICH of Oxford
PATRICK of Rumford
DUNCAN of Presque Isle
MAYO of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-556)** on same Bill.

Signed:

Senators:

DOUGLASS of Androscoggin
BROMLEY of Cumberland

READ.

On motion of Representative CHIZMAR of Lisbon, the Majority **Ought to Pass** Report was **ACCEPTED.**

The Bill was **READ ONCE.**

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** and sent for concurrence.

Five Members of the Committee on **JUDICIARY** report in Report "A" **Ought Not to Pass** on Bill "An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination"

(H.P. 1176) (L.D. 1599)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
Representatives:
LaVERDIERE of Wilton
BULL of Freeport
MUSE of South Portland

Five Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "A" (H-561)** on same Bill.

Signed:

Senator:

FERGUSON of Oxford

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

Three Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-562)** on same Bill.

Signed:

Representatives:

JACOBS of Turner
MITCHELL of Vassalboro
SIMPSON of Auburn

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** Report "A" **Ought Not to Pass.**

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-241)** on Bill "An Act to Increase the Fire Investigation and Prevention Tax, Repeal Certain Fire Inspection Fees and Direct the Commissioner of Public Safety to Set Certain Fire Inspection Fees by Rule"

(S.P. 418) (L.D. 1362)

Signed:

Senators:

McALEVEY of York
O'GARA of Cumberland

Representatives:

POVICH of Ellsworth
O'BRIEN of Lewiston
BLANCHETTE of Bangor
PEAVEY of Woolwich
GERZOFISKY of Brunswick
MITCHELL of Vassalboro

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

Signed:

Representatives:

TOBIN of Dexter
QUINT of Portland
SNOWE-MELLO of Poland
WHEELER of Bridgewater

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-241).**

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-241)** 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" (S-241)** in concurrence.

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.

An Act Adopting and Implementing the National Crime Prevention and Privacy Compact (EMERGENCY)

(S.P. 545) (L.D. 1691)

TABLED – May 17, 2001 (Till Later Today) by Representative **NORBERT** of Portland.

PENDING – PASSAGE TO BE ENACTED.
(LD 1691)

The **SPEAKER**: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 1691, if you look at the document, it's a long title, it's a lot of language and the best thing I can do for the body is try to boil it into two sound bites to make it easy to understand. There's less to it than it sounds. What this bill wants to do, it comes to us from the State Police and right now arrest and conviction data the whole file reposes or arrests with the FBI and when the state needs to have information from another state without this compact, the state has to go to the FBI and have the whole file transferred. What this bill does is set up an index, which says that, the FBI and in the FBI file there are records that exists with a particular state, like Maine or Idaho, and if you want this information, the state will send it to you. You don't have to go through the FBI. The important part of this bill is that the state controls the record and the State of Maine determines how this record is going to be disseminated according to laws that this state propagates. In other words, it's not going to be disseminated in any way differently then what this body and the other body have decided they want to do, so it's a tool to codify the index. It's an index. It's like a table of contents that exists in the FBI that another state can go to by a database for whatever their reasons and their rights. Important reasons because, of course, we pass the laws so we know they are righteous and important but it's our law and we control it the way we've determined. If you don't like the law, then we'll change the law, but in no way does this index take it out of our hands and allow another state to do something that we wouldn't allow it to do. That's about the best I can do folks and I thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. Someone suggested that we'd hear a lot about big brother again this morning. As I look at this bill, this is the mother of big brother bills and I will give you time enough to it get out so that you can have in your very hands, LD 1691. The best way to understand the bill, I think, is to look at it yourself because it cannot be explained adequately by somewhat of my limited ability. The preamble does say whereas

the Maine police will participate in the national fingerprint file as part of its responsibilities as the repository for criminal history record information in the state and participation in the national fingerprint file requires a plan that the Maine State Police have developed and whereas the Maine Police have begun the process of purchasing computer software necessary to implement the plan. So they are already purchasing the software. I suspect, I can't help suspect there is some connection between this bill and the controversial fingerprinting of educational employees. If this does go into affect and there is a national fingerprint file, as this suggests, it would be a tremendous waste not to put everyone's fingerprints in it. What's the sense of setting it up if the intention isn't to put everyone in it? My suggestion is, we're getting along nicely without this now, let's vote it down, be rid of it, then we won't have to worry about what it's going to do to us. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Members of the House. The other evening this train was headed down the track and I'd gotten up that evening and we put it off on the siding for a while while we had a chance to look at this and I had the same reaction as I began to read through that bill. There was just a chill that went through my body and it wasn't because it was a cool evening in Augusta. There are fingerprints all over this bill and the fingerprints deal with our liberties and it was my understanding with the fingerprinting law that this was a one time snapshot and if a red flag went up, then your school district was notified that you were no longer certified by the state and could no longer work for that school unit, period, end, all over, wipe it clean. When you start to read this bill we're going a brand new route and it talks about a non-criminal fingerprinting pool. Now if that doesn't send a chill through the libertarian soul of this House in terms of individual liberties. Whenever they start talking about making collective information about you easier to gather and easier to access, on one hand we're told this is information just to give to the employer, and now we have this information going into a non-criminal fingerprinting national pool, if that doesn't scare you. Thank you

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

Representative **SULLIVAN**: Mr. Speaker, Ladies and Gentlemen of the House. My good friend and seatmate from Ellsworth, Representative Povich, talked about we make the laws. The State Police, we'll take this and the laws are good and they're going to keep this quiet. I recall earlier this session the Attorney General had to rule on something, a law we put forth, much like the Representative from Kennebunk, Representative Murphy, it was a one time snapshot to be destroyed, only looking for certain things, sophistication now had developed where we could put into the program fields certain convictions that would eliminate people who should not be in our public classrooms as teachers and support personnel. Didn't happen, people. Somehow public safety put in the paper, and did you see the headline? It was great, surely is a good way to recruit teachers to come here to teach and now, not even a year old, we want to find out that their fingerprints are going to go into a pool. We're going to be taking up a bill later about privacies, LD 1640. You've heard it for four weeks, it seems like, in the hallways. Yesterday we voted about if a juvenile was arrested for a crime could we fingerprint or footprint or palm print. This is prints, the ultimate, and we're just going to let this go through. We either are for privacy or we're not for privacy. We can't be for privacy when it seems to affect someone else or when it works for this particular privacy. This is for everybody. I'm amazed that this almost went under the hammer. I would ask you to think

carefully about it. Fingerprinting pool, non-criminal, amazing, I would ask you to not enact this.

The **SPEAKER**: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative SAVAGE: Mr. Speaker, Men and Women of the House. To the extent that this bill creates a compact for non-criminal use of criminal records, I don't think that's a big problem because criminal records are essentially public records. What poses a problem for me is the non-criminal use of non-criminal records. To the bill's credit in Section 5 on Page 3 it says that criminal history records does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system. Presumably that protects teacher fingerprints, which incidentally, I'm a proponent of. However, Section 6 bothers me greatly because criminal justice, remember the end of the sentence I just read to you, if it does not indicate involvement of the individual with the criminal justice system. The criminal justice definition here is, criminal justice means activities relating to the detention, apprehension and there are a bunch of other words, but I'll cut right to the chase, of criminal offenders. Now it seems to me that the fingerprinting of teachers is explicitly for the detection of criminal offenders, so it seems to me that the criminal history records, which are not included in the previous definition, such as those of teachers are explicitly included in the second section and what this compact does is it says that if you want to get information for your state to use, you have to provide the same information to other states, so we're going to have to provide criminal history records, which are essentially records involving the detection of criminal offenders.

The **SPEAKER**: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who don't really know me, I've been around here as long as the old furniture, before they moved it out and put the new stuff in. I truly, truly believe in privacy and this bill is totally against my idea of privacy and I would urge you not to vote for this and Mr. Speaker, while I am up, I would move the Indefinite Postponement of this bill and all its accompanying papers and wish to have a roll call when the vote is taken. Thank you.

Representative TRACY of Rome moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Ellsworth, Representative Povich.

Representative POVICH: Mr. Speaker, Men and Women of the House. I opposed the fingerprinting of teachers each and every time. I hated that bill. If that comes before us again, I hope there is not an eight hour debate, but I will vote against that again. I think that there is a lot going around regarding privacy. I support that, but I think that this debate is a debate focused on the fingerprinting bill of teachers, the law, which is the law of the State of Maine. You don't like that law. I hate that law. That law is expensive. I don't think the law does the job, and I can understand the reason to debate that, well let's not pass this and somehow that will do something to slow down the fingerprinting of teachers. I don't think that will happen. I think we're out of focus here. I'm not trying to read anybody's mind. I think that if I opposed the bill I might do the same thing that I'm arguing against, but we've asked our agencies of state government to do a job. At some point let's finish the debate on that, allow the law

to go and take up the law again. Don't attack the law in this manner. Again, as in my first remarks, we control the data, where it goes. Now you may not like the way we control it, but we control it within the law that this very body established that I voted against, but I don't want to hamstring this agency of state government. The Maine State Police, Department of Public Safety, in my view has done a very good job of observing our mandates, what we tell them to do, this needs two-thirds to pass, they need it. I got a note from one of my committee members, that say we're going to get spanked. We're just trying to do the job, folks, that you told us to do, that's all. Thank you very much. Please defeat the pending motion.

The **SPEAKER**: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I, too, oppose the fingerprinting and I want to remind the members of the House that this is only one purpose of this bill. There are several other purposes. If LL Bean decides to contract with the Maine State Police to do background checks on employees who may be perspective applicants for hire and the State Police are not able to do those type of checks, LL Bean may well hire a felon from another state. I don't know if this is the mother of the big brother, but our own phone books is a pretty big brother, unless your phone number is unlisted, it's right there in the phone book. The IRS we recently went through a census report where they knocked on our doors and asked us all kinds of questions.

Today in American we have a very transient population. I've got a neighbor that moved in next door, down the road, living in a shack with his son from Rhode Island and I doubt that he'll be there by August 15th. I think probably the black flies will have carried him back to Rhode Island by then, but we need to have this tool. The Maine State Police need this tool. Please think a little beyond the fingerprinting argument and vote against the Indefinite Postponement. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. I just want to refer your attention to the summary, which says the bill allows the Maine State Police to enter into a compact with the Federal Bureau of Investigation and other party states for the purpose of organizing an electronic information sharing system among the federal government and the states to exchange criminal history records for non-criminal justice purposes for dissemination is authorized by federal and state laws. It goes on to define non-criminal justice purposes stating non-criminal justice purposes means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, license determinations, immigration and naturalization matters, and national security clearances. It does not limit the purposes, it simply uses the terms. On Page 5 it also says the director of the FBI shall appoint an FBI compact officer who shall and at the bottom, number three, regulate the use of criminal history records received by means of the three systems from party states when those criminal history records are supplied by the FBI directly to other federal agencies. I want to conclude by simply repeating the last two lines. Those criminal history records are supplied by the FBI directly to other federal agencies. Thank you.

Under suspension of the rules, members were allowed to remove their jackets.

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

Representative **TRAHAN**: Mr. Speaker, and Honorable Members of the House. I believe today we are witnessing the awaking of civil liberties in our state and in our nation. A few cries from teachers in the past year, I believe have resulted in getting the attention of the leaders of this state and some of the leaders around the nation. I want to read to you an article that was written by one of our nation's greatest supreme court justices, his name was Louis Brandise, 111 years ago he wrote in an article in the *Harvard Law Review* lamenting the decline of protections for the privacy of individuals. The right to be let alone as they described it. It was an important one. Advances in technology, they claimed threaten the right of privacy and the law should protect individuals from such intrusions. Accordingly the authors declared that recent inventions in business methods, call attention to the next step, which must be taken for the protection of the person. Ladies and gentlemen, the sacrifices of those that quit their job in the name of civil liberties have been heard. We hear it today in this debate and we'll hear it in the next few days in other debates. Thank God for their actions.

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. Some of you may remember, and some of you weren't here that when this law was passed last year on the fingerprinting of teachers, a part of the law is that the teacher's fingerprints will be in a separate file, they will not be thrown in with all of the other fingerprints that are taken. I have here a four page letter from Attorney General G. Steven Rowe, which goes on to say that, his conclusion that the limitation in Section 6103 applies to any information that's supported by legislative history. The addition in 1997 of the second sentence stating that the results of the criminal history record checks are for official use only demonstrates that the Legislature intended that the information received by the Commissioner was to be used solely for the purpose of the issuance of the certificate authorization approval or renewal under chapters thus and so and that the Legislature wanted to protect the privacy interests of the person seeking a certificate authorization approval or renewal and it goes on to say that this applies to the Department of Public Safety as well. I would not agree that this information can be sent on to any state for any purpose, that the teacher's fingerprints are in a separate file and they are used solely for the purpose of something connected with the purpose that the law was written. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Members of the House. When the Speaker said that we could take off our jackets, I noticed nobody did and I don't think it's due to the air conditioning. I think this bill is chilling most people right to the bone. It is certainly me and I would hope you would vote very soon for the Indefinite Postponement. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 239

YEA - Andrews, Ash, Berry DP, Bliss, Brooks, Bryant, Buck, Bumps, Canavan, Chase, Clark, Clough, Collins, Cowger, Crabtree, Cummings, Davis, Desmond, Dorr, Dugay, Duncan, Duplessie, Duprey, Fisher, Foster, Gagne, Green, Hall, Haskell, Hatch, Heidrich, Hutton, Jacobs, Jodrey, Kasprzak, LaVerdiere, Laverriere-Boucher, Ledwin, Lovett, Lundeen, MacDougall,

Madore, Matthews, McDonough, McGlocklin, McGowan, McKenney, McNeil, Mendros, Michael, Michaud, Murphy T, Nass, Norton, Nutting, Paradis, Patrick, Perkins, Perry, Pinkham, Rines, Savage, Sherman, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tobin D, Tracy, Trahan, Treadwell, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Winsor.

NAY - Annis, Bagley, Baker, Belanger, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Bruno, Bull, Bunker, Carr, Chick, Chizmar, Colwell, Cote, Cressey, Daigle, Dudley, Dunlap, Estes, Etnier, Fuller, Gerzofsky, Glynn, Gooley, Hawes, Honey, Jones, Kane, Koffman, Labrecque, Landry, Lemoine, Lessard, Mailhot, Marley, Mayo, McKee, McLaughlin, Mitchell, Murphy E, Norbert, O'Brien JA, O'Brien LL, O'Neil, Peavey, Pineau, Povich, Quint, Richard, Rosen, Schneider, Shields, Snowe-Mello, Stanley, Thomas, Tobin J, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

ABSENT - Goodwin, Marrache, Morrison, Muse C, Muse K, Richardson, Stedman, Tessier, Tuttle.

Yes, 79; No, 63; Absent, 9; Excused, 0.

79 having voted in the affirmative and 63 voted in the negative, with 9 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

The SPEAKER: On the record, the Chair would merely state that any meeting of any committee in any place in this State House or otherwise dealing with matters of official business unless there is a formal vote with stated purposes for going into executive session is open to the public.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

ENACTORS
Emergency Measure

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003

(S.P. 434) (L.D. 1414)
(C. "A" S-51)

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. 102 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Allow Marine Patrol Officers to Hold Elected Positions

(H.P. 1331) (L.D. 1788)
(C. "A" H-534)

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. 105 voted in favor of the same and 8 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, to Provide Access to Personal Care Assistant Home Care Services

(H.P. 895) (L.D. 1187)
(C. "A" H-509)

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

Acts

An Act to Expand Eligibility for the Elderly Low-cost Drug Program

(H.P. 41) (L.D. 50)
(C. "A" H-510)

An Act to Implement the Breast and Cervical Cancer Prevention and Treatment Act of 2000

(H.P. 208) (L.D. 243)
(C. "A" H-516)

An Act to Increase the Bonding Limit of the Trustees of the City of Brewer High School District from \$2,500,000 to \$5,000,000

(H.P. 565) (L.D. 720)
(C. "A" H-522)

An Act to Expand Higher Educational Opportunities in Underserved Rural Areas

(S.P. 525) (L.D. 1648)
(C. "A" S-224)

An Act to Encourage Independent 3rd-Party Certification of Resource Managers

(H.P. 1219) (L.D. 1660)
(C. "A" H-515)

An Act to Promote Outcome-based Forest Policy

(S.P. 544) (L.D. 1690)
(C. "A" S-222)

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.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-565)** on Bill "An Act to Discontinue Complimentary Licenses to Hunt and Fish for Residents over 70 Years of Age"

(H.P. 579) (L.D. 734)

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln

WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
TRAHAN of Waldoboro
CLARK of Millinocket
HONEY of Boothbay
USHER of Westbrook
PERKINS of Penobscot
TRACY of Rome
BRYANT of Dixfield

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

Signed:

Representatives:

CHICK of Lebanon
McGLOCKLIN of Embden

READ.

Representative DUNLAP of Old Town moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative CHICK of Lebanon **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 Dexter, Representative Tobin.

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

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

Representative **TOBIN**: Mr. Speaker, Men and Women of the House. For anyone who can answer, this complimentary license to hunt and fish for residents over 70 years of age, I have had several constituents in my district in the past five years purchase licenses, I believe, that take them from age 65 to 70, or from age 60 to 70, I'm not sure. If this passes, does that mean when they reach age 70 they have to go back to a yearly license? Thank you.

The **SPEAKER**: The Representative from Dexter, Representative Tobin 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, Men and Women of the House. To answer the Representative's question, no. In 2006 the way the bill is amended, first of all there's a couple of things to remember. Anyone who currently holds a complimentary license will keep it. They are not affected by anything that is done in this legislation. So someone who is 70 now and gets a complimentary license, regardless of this legislation, they'll be able to enjoy the privileges under the complimentary license. They will not be required to purchase one in the future. Also, for those who currently hold lifetime licenses over 65, those will be honored for the lifetime of the holder. They will not be required to purchase anything further. What this does is that in 2006, when the implementation comes on for all residents of the state will have lifetime licenses available to them. The complimentary license will be discontinued and will be replaced with a one time \$8 lifetime license for people over 70. That's what this does, essentially. It's actually a pretty good deal for the future license holders of this state.

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. 240

YEA - Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bryant, Buck, Bull, Bunker, Canavan, Chase, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Honey, Hutton, Jones, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lovett, Mailhot, Mayo, McDonough, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Richard, Rines, Savage, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Trahan, Treadwell, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bruno, Bumps, Carr, Chick, Collins, Cressey, Duncan, Duprey, Glynn, Gooley, Haskell, Heidrich, Jacobs, Jodrey, Kasprzak, Labrecque, Landry, Lessard, Lundeen, MacDougall, Madore, Marley, Matthews, McGlocklin, McKenney, McNeil, Mendros, Michael, Murphy E, Murphy T, Nass, Perkins, Pinkham, Quint, Rosen, Schneider, Sherman, Shields, Tobin D, Tobin J, Weston, Winsor, Young.

ABSENT - Kane, Marrache, McGowan, Morrison, Muse C, Muse K, O'Brien JA, Peavey, Richardson, Stedman, Tuttle.

Yes, 93; No, 47; Absent, 11; Excused, 0.

93 having voted in the affirmative and 47 voted in the negative, with 11 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-565) 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-565)** and sent for concurrence.

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-235)** on Bill "An Act to Conform the State's Financial Services Privacy Laws with Federal Law" (EMERGENCY)

(S.P. 521) (L.D. 1640)

Signed:

Senators:

LaFOUNTAIN of York

DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland

MICHAEL of Auburn

SMITH of Van Buren

CANAVAN of Waterville

MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-236)** on same Bill.

Signed:

Senator:

ABROMSON of Cumberland

Representatives:

YOUNG of Limestone

MAYO of Bath

O'NEIL of Saco

SULLIVAN of Biddeford

GLYNN of South Portland

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-236).**

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the **Minority Ought to Pass as Amended Report.**

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority 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 Saco, Representative O'Neil.

Representative **O'NEIL:** Mr. Speaker, Ladies and Gentlemen of the House. LD 1640 was probably the most difficult bill the B & I Committee dealt with this year, if not for the sheer volume of information surrounding it, for the gravity of the subject matter. That's the opt in, opt out you've all been hearing about.

To give you a little history, Mr. Speaker, this originated in 1933 with the Glass Stegel Act, a federal act that prohibited financial institutions, banks, credit unions, so forth from crossing jurisdictional lines into other financial services. That depression era, well-founded policy started to pose problems even through the '40s, '50s and '60s. The Bank Holding Act of 1956 also was problematic, as we got into the '80s and into the '90s. Congress realized more and more that financial institutions were having difficulty. It culminated in 1999, the very controversial and long drawn out process that became Graham Leach Bliley or the Financial Services Modernization Act. It was signed into law by President Clinton on November 12th of 1999. On November 11th of 1999, the U.S. Senate passed it 90 to 8, the US House passed it 362 to 57, but it wasn't always that unanimous. It was quite contentious, everybody from privacy activists, to consumer groups, to financial institutions were at the table and they worked it. Incidentally, all four of our delegation, Representatives Allen and Baldacci, Senators Snowe and Collins supported the final vote in the 106th Congress. So that brings us up to where we are now. What that did was set for the parameters under which these financial institutions could cross jurisdictions. One stop shopping, cross selling, that sort of thing. Many of us as consumers have seen the fruits of that in the last few years. One of the issues relating to that was privacy of information. If my insurance company and my bank are going to collaborate on doing business with me, then there has to be some ground rules here and that's where most of the controversy was laid out. The President threatened to veto it, not once, but a couple of times and sent the parties back until they got it right. What they finally came out with is what we have here, parameters for sharing of the information outside of the corporate family. They're called affiliates and, in essence, what we're faced with is adopting those standards.

Here's what it is most of us have seen in our credit card statements, our check book statements and various correspondence that we get from our financial institutions notices of privacy policies. The financial institutions are required by GLB, Graham Leach Bliley, to lay out for us exactly what their privacy policies are, what information can and can't be shared with their affiliates and so forth and it has to be clear and very easy for us to understand. Furthermore, they have to give us the option of saying no thanks, I'd just as soon you didn't do that. That option has to be easy to do. It has to be done with an 800 number or reply card of some kind that they provide for us.

That's it in a nutshell. On the one hand you've got opt out, that's me, out for O'Neil, that's the minority, six people on that report, seven was the opt in and that's really the only bone of contention among all the parties here. Both the reports are Ought to Pass as Amended, the difference being whether the consumer opts in or opts out.

At first blush I said gee, I can't go with this opt out option, it's personal information and it should be mine only and it shouldn't be shared with anybody else. The fact of the matter is in this day and age, there's information about me every time I go to Shop 'N Save and write a check, fly in a plane, place a phone call, take out a book from the library or rent a movie. Just about everything I do leaves a trail and while that's a little bit unsettling, I'm getting used to it. There are actually some things I pay cash for just to make sure that doesn't happen. But as we got into the discussion the opt out came upon me as being better for the consumers in respect to ease of operation. We all know that this information is out there and we need to be careful with it. This legislation sets forth parameters that make sure that we're well informed and we're in control of that information. There've been handouts all over the place showing the states that have gone to opt out and those that have not and the very disadvantageous position it would be for businesses in Maine, especially the small institutions, the credit union, the small bank in our town, the consumers who frequent those to have to submit to the opt in. It came down to this for me. It was the Bureau of Banking, their promise to make sure consumers were very well informed about what happens here in addition to the requirements in the law and that's where we are at this point, ladies and gentlemen. We've got an opt in and an opt out report. I'm on the opt in and I know that people with opt out will give you their piece and I strongly urge you to follow what the minority of the committee, what the six people have done and what the other body has done and adopt the motion. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. I sure do hate to give you their piece and I strongly urge you to follow what the minority of the committee, what the six people have done and what the other body has done and adopt the motion. Thank you.

This is the way I see it, let's say you get a letter from 18 good friends and each of the letters which are written in very complicated language, each of the letters your friend tells you, remember that story you told me about yourself, or remember that thing we did together that you really don't want anybody to know about, well I'm going to tell somebody, but I won't as long as you write me back and tell me not to. You've got to respond to 18 people in the course of 30 days and you've got to understand what they have written to you in very difficult language. That's exactly what we're looking at today, only the issue isn't some embarrassing story about something you might have done. It's information on how you use your credit card, what your account balances are, whether or not you've had to make late payments, what you buy and where you shop. I don't know about you, but that information I'd prefer to keep to myself unless somebody asks me and it gives me an opportunity to tell them it's okay, expressly.

Now regarding the points the Representative from Saco did make, first of all Graham Leach Bliley, it's true that our Representatives to Congress did vote in favor of Graham Leach Bliley, but part of that law allows the State of Maine and every other state in the union to establish it's own standards. That is the law that our Representatives gave us. They're telling us that it's okay for you to impose a stricter standard and that's what we're proposing to do, an opt in standard. You have to get my

permission expressly before you share this information. You may not assume that it's okay.

Secondly, it's interesting to note that Maine's health insurers right now are not allowed to share health information and that won't change regardless of which report we accept. The bankers and the insurers recognize that health information is very private and it's important and for that we ought to allow the opt in standard to continue. Well I contend that some of my financial information is as important to me as some health information and if it's okay for them in the health area, why isn't it okay in the financial area? They're working with a double standard, that's the answer.

Secondly, regarding the fact that we may have many different standards in this country or in this state for different financial institutions depending on whether they are federally chartered or state chartered. We hear that issue a lot and I usually find it persuasive. What will the state really be accomplishing by stepping in here and imposing the state standard when many of our financial institutions are bound by federal standard? More often than not we bow to that argument, but the fact is that there is a question of state sovereignty here, the state has the authority to regulate state chartered financial institutions and unless we elect to use that authority, I don't know why we keep it. This is one instance among the many that we see, where I'm saying no. The State of Maine ought to impose a stricter standard as was envisioned under the federal Graham Leach Bliley Act.

There's also a question of whether or not the state's actions here may extend beyond simply state chartered institutions. We just don't know. That is going to be a ruling left up to the FTC if I understand correctly. We may, in fact, have the authority here to expand a stricter standard to institutions we don't normally get to regulate. That is a great opportunity. Another point that is important to make here, it's true that no state today has enacted an opt in standard, but many states have not yet begun to assess this issue, so let's set a standard. Let's show other states the way to go and maybe we won't be alone. I urge you to join me in opposing this motion and moving to accept the Majority Ought to Pass as Amended Report.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill does involve fundamental privacy rights of the people of this state. The banking and financial industry has come to the Legislature and is asking us, the legislators, to give them the right to disseminate to non-affiliated parties the private, personal financial information of the unwary. The opt out provision is a provision designed to allow access to the private and personal information of the unwary and frankly we may all be amongst the unwary because we have all received notices and many of us have not screened them carefully enough. Now this Graham Leach Bliley bill has already given to the banking and financial industry half of the loaf. They already have the right to transfer to their affiliates this personal private information and neither of the options available to you will prevent that. What they are asking today, through their lobbying efforts, is for the rest of the loaf, and I suggest to you, that is too much. We should maintain some protection for our people. The reason why the lobbying has been so heavy is that this Graham Leach Bliley bill, which our Legislators in Washington voted for, specifically left in place protections in the states, which were greater than the Graham Leach Bliley opt out provision. The State of Maine, historically and today, has protections, which are much greater than opt out provision. Today the State of Maine requires a financial institution to get the affirmative consent of its customer before it releases information. There has been a lot of confusion

generated through the lobbying efforts about this particular bill, they claim that the vote protecting consumer privacy is going to affect the ability of the banks to continue their business in Maine. I don't believe that. The banks have been doing very well with the existing protections, which require affirmative consent by a customer. They claim that this won't apply to federal banks who are operating in Maine. I think a good close reading of Graham Leach Bliley shows clearly that they will apply to federal banks and state banks anyone who operates in Maine dealing with the financial information of Maine residents here in Maine. For me the issue comes down to considering the values that represent the people who elected me and who elected you. One of the fundamental values taught from childhood is, you don't take or use another person's property without their permission. We were never taught that we could take or use someone's property unless they thought to tell us not to. That's exactly what the opt out provision does. We were taught to ask permission and that's all we are saying in this opt in provision. Ask the people of the state for permission to use their private personal information.

We ask you to vote against this Minority Report and maintain the financial right of a person to decide whether they will give permission for the use of their private personal financial information. Whether they are wary or unwary, we are obligated to protect the unwary as we are to vote in favor of those who are sophisticated and wary. When I return to my community and meet my friends and neighbors I want to be able to tell them that I voted to allow you to decide for yourself if the bank will release your private, personal information, not to leave it to whether you are wary enough to spot the brochure that comes in giving you that limited opportunity. Again, I urge you to vote against the Minority Report.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Three years ago when I arrived here, they told me I was going to be assigned Banking and Insurance and it was rather boring, not true. This issue certainly proves that. First of all, whatever we do today, it is not going to protect the information that we think it is, because this BGL Law only refers to financial institutions and insurance. If you have cards like Macy's, JC Penney, Home Depot, Sears, etc., etc.; if you or your spouse suffers from the disease that I suffer from, shopping, then it is not going to protect you. They are not financial institutions. When this bill was heard, there was only one group in opposition. One group, two groups? Excuse me, two groups. We have taken care of one group. One was the Maine Trial Lawyers, they were in opposition and the other group that was in opposition was the MCLU. It has only been in the last three or four days that we have seen some other groups sign on. I want to know where they were? One of them is the AARP. I am a member of the AARP. They offer some good insurance. Different options, but gee, they are domicile in a different state and guess what? AARP shares your information. They can. They are here to tell what Maine citizens can do. They are in a state that is already an opt out, sort of disingenuous. This is a small business bill and I, even in committee, said I wasn't sure I was having identification problems. I am supporting small businesses and our main charter banks. The little community banks that I have my mortgage at, that I used to take when I was growing up in the city of Saco, and I would take my quarter every week, we aren't allowed to do that any more in the schools, and I would bank my quarter. This will affect them.

At Saco Biddeford Savings, that's my bank, very much would suffer under this and they are a big supporter of the small businesses that start up in my community. Credit Unions, just the other day I received from one of the two Credit Unions that I

am a member of, information that they were going to give me \$1,000 insurance guaranteed, but I could order more. I could buy more if I wanted to. Interesting enough, it is very important, \$1,000 is a lot of money, especially to that older couple that might have a couple hundred in savings. If we go to opt in, that elderly couple will have to write to the Credit Union and say please sign me up, so if you give out this \$1,000, I will be able to get it. Interesting, so remember, this doesn't protect you, it doesn't. It just hurts businesses, Maine charter banks, the little community banks, the groups that are too small to be able to have an insurance company as one part of their company and maybe a securities and investment in another place and maybe a credit card over here. Little guys, they play by different rules.

Then I would add one more thing, I don't have the long time experience of the good Representative from Westbrook, Representative Usher, I certainly don't have the experience of the Representative from Bath, Representative Mayo, but I was here long enough to know how confusing the snack tax was. Remember that? Snack tax, now this is a snack today, but it is not here. We have the same problem. If you get a mortgage loan with a Maine Mortgage Company, then you are opt in, but the same mortgage going to a Mortgage Company outside of Maine, is an opt out. It is too confusing and then is it a Maine chartered bank or is it a state chartered bank, is it a state credit union or is it a federal chartered credit union? The confusion is not fair or right. We should not be hampering Maine businesses and I would add just one other thing. On the Banking and Insurance Committee, we hear from consumers, insurance companies and doctors, care providers, the worst thing is having all kinds of different forms. Boy we could save money if we all had the same forms and here we are trying to come up with a different form for our Maine business people. That costs money. That's not a good deal for our Maine businesses. That is not a good deal for our Maine credit unions and I would ask you to support the Minority Ought to Pass. Thank you very much Mr. Speaker.

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

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. Today we have talked a lot about privacy and it has made me think how much we as a society have changed our attitudes and beliefs about privacy just during my lifetime. The privacy that we, as a people living in a democracy, are all entitled to. It is pretty amazing. Many of you here today may be too young to know that just a few decades ago one of the things people in this country valued above all else was the right to keep private information about their personal finances. People of their generation recognized long before the gurus of this information age did that financial information was power and so they believed they should have the right to control the flow of that information. In fact it was a kin to an unwritten commandment that then you never, never discuss with anyone how much your parents earn and you certainly wouldn't dream of asking anyone else about their earnings. But today in the name of progress financial practices have changed and so have attitudes and social conventions and values and so have our laws, everyone has a number now and it is called social security and everyone has a credit rating file. The credit bureau retains files on everyone and businesses and others can find out any number of things about your personal finances.

You know that when you go to a supermarket and pay with a discount card, the store scans in a record of every item you purchased and using sophisticated technological procedures they can create a profile of your buying habits and later target you with discount offers. Did you know that when you buy items by mail order the store puts your name on a list and later gears

its sales pitch to your profile group. That is only the tip of the iceberg. To tell it all would take more time than you and I have today. Suffice to say that in the name of progress we have come to accept these practices as routine. We think they help business and the economy and we justify their acceptance by believing that it is advantageous to us as well. In the name of progress we are increasingly willing to sacrifice our privacy about financial matters and our right to control how that personal information flows and that's what's really at issue today as we debate LD 1640. In 1999, the Federal Government passed a law called Graham Leach Bliley that you have all heard about today. We're looking at one small part of that law. Among other things Graham Leach Bliley enables financial institutions such as banks to affiliate with insurance companies and brokerage firms under one corporate roof. Industry people are painting a rosy picture of how these merged industries will be able to better serve their customers. For instance, they say, they will be able to offer you more in better products, they say that the customers will be able to do one stop shopping and they say that instead of getting separate statements from banks and insurance companies and brokers, customers will now be able to get consolidated statements. Now there is a real super benefit. All that they say may be true, but what banks don't tell you is that the financial information you give them, they can now share with affiliated insurance companies for use in making decisions about your coverage and your rates. They don't tell you that their ability to share that information may affect your ability to secure a job or your eligibility to purchase insurance. What they don't tell you is that by combining the customer data of their affiliate insurance companies and investment firms they can compile more comprehensive data profiles about you. They can create dossiers of unprecedented depth and specificity about you. Information, it is the ultimate marketing tool and the ultimate power tool and the bone the federal government has thrown out to consumers in all of this is the opt out provision and it is a bone we are all supposed to love. Under that provision banks don't even have to get the consumers affirmative permission to share the vital information they have on file about them with companies outside their corporate families. They can simply send a notice saying essentially if we don't hear from you, we will be sharing information about you with a lot of people all in the name of progress and if you want to see how much information they can share, take a look at the handout you got today from the Department of Professional and Financial Regulation. I have discussed this bill with several of my constituents and found that they were all opposed to the opt out provision with one exception, for obvious reasons, and that tells me that the desire for privacy is still alive, if not entirely well in this country. Because what I hear people saying is essentially this, if you want to use my lawnmower, it isn't good enough to send me a note saying you will be over to get it and if you don't hear from me, you need my affirmative consent to use my lawnmower and if you want to use my car, it isn't enough to send me a note saying you will be over to drive it away if you don't hear from me. You need my affirmative consent to use my car and if you want to use my name and my financial information, it isn't enough to send me a note saying you will be sharing it with half the planet if you don't hear from me. You need my affirmative permission. So, ladies and gentlemen of the House, I urge you to vote against the Minority Ought to Pass as Amended Report of this bill and I thank you and I think your constituents will to.

The SPEAKER: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative HALL: Mr. Speaker, Ladies and Gentlemen of the House. I don't wish to prolong this debate unnecessarily. Like all of the rest of you, I have been lobbied heavily on this bill.

I wonder why this is? It is not about privacy. Indeed Maine banks and Maine bankers are generally pretty good respecters of privacy. No, ladies and gentlemen, it is about money. There is something of value at stake here and that something is your financial information. For me this boils down to one pretty simple question. Who owns your financial information? If the banks do, they should have the right to sell details of your bank accounts, your loans, your payments and your spending. If you own your information, you should have it legally protected by the State of Maine except in such cases as you give specific permission.

Mr. Speaker, I believe Graham Leach Bliley is a bad act. Our adhering to it won't improve it. But that act does explicitly provide that states may go further than it does and enact greater protection for consumers. Let's to that here in Maine. If we support this Minority Report we will be voting today to transfer, to take away something of value from everybody in Maine and to give it for free to the banks. I want to urge my colleagues not to do that. Let's vote down this Minority Report today. Thank you.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House. I wish you to know up front that I come from a career in banking. Early in my career, I learned that financial institutions put a high priority on the confidentiality of customer information. It is not in their best interest to share this information and I repeat this, it is not in their best interest to share it. Now I am on the Banking and Insurance Committee and when the original vote was taken, I voted to opt in. It just so happened it was a Thursday and I returned home on the weekend, my letter from my bank was there and I read the letter. There was also a brochure. The letter was very explicit. The brochure had a 800 number, which I was to call. So I thought I am going to go one step forward and see if this is handled professionally. I called the 800 number, I got a recording that explained opt in, opt out. Then I got a live body that went on to allow me to opt out. It was handled very professionally. This was not a big deal for me to do and I am a senior citizen and if I had a problem as a senior citizen, there are not businesses that I know of that have more financial customer service people, then our banks and other institutions. They very well would actually do it for you if you went in and asked them. I also remind you that it is these very financial institutions that many of them give you free checking accounts, but none of us say anything about that. So I urge you to let seniors take a responsibility for their accounts. We say get out and do some exercise, use your mind, this is seniors using their minds and there are ways to be helped. I urge you to support the Minority Ought to Pass as amended. Thank you Mr. Speaker.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. As this debate started this afternoon, you heard from the Chair of the Banking and Insurance Committee, that this has been a very difficult bill with which to deal. He is certainly entirely correct. I suspect that as of today in this particular legislative session, that we have received as Legislators more material on this particular piece of legislation, LD 1640 than on anything else that has come before us this session, or may come before us this session. I think there are many reasons for this. One of which deals with what I had to correct which was said by the good Representative from Portland earlier. To date 44 states in this country have adopted Graham Leach Bliley, have adopted the opt out provisions. Two of those states among the 44 previously had an opt in provision in statute. They realized that that was no longer defensible in their states so they made the

change. The other six states are currently as we are today and possibly by the end of the week it will be 48 or 49 states.

We have heard certainly or we have read, we haven't heard it today in the debate, but we have read it, that Maine can lead. I would ask the question, who or what state are we going to lead on this issue if very shortly 48 or 49 states have gone along? Where are we going to go? Those states are not about to make a change and there are a number of good reasons why and the most important one is that Graham Leach Bliley will be taking affect, ladies and gentlemen, on July 1 and therefore, in order to comply with that particular piece of legislation, financial institutions are, have been and will continue in the next few weeks to send out information dealing with the opt out phase because that is what the federal legislation says.

If Maine or any other state decides to go it alone and be different on this particular issue, it will require a second mailing to all of the people in that particular state. While that might be easy for a Maine financial institution, because of the computer record keeping and address keeping, it will be expensive, but think for a few minutes about some of the federally chartered institutions whose home office may be in Providence, Rhode Island; Albany, New York; Cleveland, Columbus. Those institutions, some of them, which have branches here, with which you do business, possibly on a day-to-day basis, don't necessarily keep all of their records by state. They may be kept alphabetically. They may be kept batch wise. If that is the case, it will be expensive to identify any state that does not follow the federal legislation, number one, and number two, it will be expensive to do another or a second mailing.

In answer to the good Representative from Waterville, I would state that personal information may be sold right now. But not, and I would repeat, but not by financial institutions. Currently today, the 23rd of May, no Maine financial institution sells personal information. In fact, whether opt in or opt out passes, the laws governing financial institutions in Maine will be far stricter and are far stricter than for other types of businesses.

One of the things that bothered me a great deal this week was receiving a letter from AARP on this particular subject because with a little study and a little investigation and knowing somewhat about AARP, since I am a member, I found the letter, I guess I would have to say this afternoon, quite troubling. What concerned me about the letter in particular, was the last paragraph, which was, in essence, an advertisement for member benefits and services of AARP. I went ahead and looked up some of these advertised benefits on the AARP web site. Most interesting, I would advise any of you when you have time tonight during one of the lengthy debates in this Chamber that you avail yourself of that opportunity. It is www.aarp.org. Let me share with you a couple of things that I found or one thing in particular. As a financial institution, AARP has a privacy policy. How surprising! They have to comply and that policy is available on its web site. When I looked at the policy, what I found was that AARP is sharing information with its providers of life insurance, mutual funds and other products. These particular institutions are sharing information with AARP. We all know that if we are 50 and over and a member of AARP, that they have contracts today with New York Life, with Scudder Investments and with many, many other providers. That information is currently moving back and forth.

We have heard a lot about the confusing nature of some of the forms, some of the material that we have received in the mail and I would have to say I think I am up to either 11 or 12 mailings on this particular subject. Unfortunately, I have too many credit cards, as do many of us in this chamber. The Bureau of Insurance and the Department of Professional and Financial Regulation have stated on more than one occasion as recently

as the 23rd that they intend to handle any complaints that they receive as too confusing information that is sent to a consumer. They realize that there is a need for education on this particular subject and they fully intend to do it with press releases, brochures and on their department web site.

In addition to that, the two bank groups in the state, Maine Association of Community Banks and the Maine Banker's Association have already pledged to work with the Bureau of Banking to ensure that as much information is received by the consumer as possible.

I could go on and spend the rest of the afternoon talking about this particular subject but I don't really feel that it is necessary. In closing, at least at this point in the debate, I would close by reading a little from a letter that some of us received from MBNA and it states, "At the end of 1999 and after careful consideration, Congress enacted sweeping privacy information, GLB Financial Services Act. The opt out approach taken in GLB provides meaningful choice to consumers as to how information about them may be used. Financial service companies must provide annual notice to their customers, however, once you have made the decision to opt out, you do not have to continue to do that each year when you receive a notification" and that is something that has been very confusing to many of you, I understand in this Chamber. MBNA is very strong on this, but remember that MBNA is a national institution and even though there are some words in GLB, it is still an open question today on the 23rd of May, what status Maine would have if it went with the Majority Report and did not accept the Minority Report, what actual affect or status we would have with regard to the seventy plus federally chartered credit unions in this state, the federally chartered banks in this state and other companies that operate in this state, but have home offices domiciled and have their corporate headquarters, their charters, in other states.

It would be very, very confusing, ladies and gentlemen, for Maine to be the only state in this union to not follow the federal law. I urge you to accept the Minority Ought to Pass as Amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Before I move on to my previously unprepared remarks, I have a couple of other unprepared remarks. The previous speakers mention of all of those opt out states, fails to tell you that most of those states were already opt out before Graham Leach Bliley was passed by the Federal Government. It that's how they want to do business, that's fine. He also failed to tell you that the State of Maine was not a completely opt out state before Graham Leach Bliley, it was a partial opt in, partial opt out. If we go to opt out, we are actually reducing the privacy protection that we have already on the books right now.

I have got a letter here on my desk from EDS, it has seven bullet points, three of them, oh, by the way, this EDS letter is in favor of opt out, tell us how opt in would severely limit target marketing. It doesn't seem like much of an argument for opt out to me. It says opt in legislation in Maine can set precedence for other states. That seems to me to be somewhat of an admission of what other states might think it is a good idea. We don't want them to get wind that it might be a good idea. We don't want them to get wind that another state thought this was a good idea, so let's not start spreading this good idea around.

Now, there have been a lot of facts floating around. I am not really going to talk about facts, I am just going to talk about three basic philosophies that I have been dealing with in my mind for the last couple of weeks on this issue.

The first is, we heard a lot of it today from the good Chair of the committee and from others, is that it is so bad already you'll

get used to it. When you get used to it, it will be okay. So just go along to get along.

The second is, and we have dealt with this several times in this Chamber in the last couple of weeks, but we dealt with it this morning, is the idea that a federal compact or a proposal that is huge in scope is going to be laid at our doorstep on a take it or leave it basis and then we are going to be told by the way, if you leave it we can't do what we need to do, so we have no choice, we have to take it. Hey if we have got to take it, why are we sitting around here. Why don't we just stay home? It is not like that folks. We can take it or leave it, based on what we think we ought to do for our constituents.

By the way, my last point, our constituents are a pretty well known quantity to the financial institutions. They know them very well and that is why this is such an important piece of legislation for them. Because they know, if they have to ask our constituents for that information, they are not going to get it. There is a reason why this report is a Minority Report. Please vote against it.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

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

The SPEAKER: The Representative may pose his question.

Representative **MATTHEWS**: Thank you Mr. Speaker, I have just one simple question today. Since I don't represent the banks and the credit unions, they are part of my district, but I represent the constituents of my district. I would ask this question, many of them, all of them are consumers, where were the consumer groups on this legislation? Were they opt in or opt out?

The SPEAKER: The Representative from Winslow, Representative Matthews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Michael.

Representative **MICHAEL**: Mr. Speaker, Men and Women of the House. The ACLU was opt in on this. Most consumer groups didn't check in to the actual hearing, but we have heard from some of them in the mail such as AARP, as the good gentleman from Bath had mentioned. I don't think most people knew this debate was going on. There wasn't a lot of publicity about this, so it has been kind of a sneak through kind of deal, so if it had received a lot of press, we would have heard more from the consumer groups.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Because we were so busy with single-payor and so many other issues, it is really impossible to stay on top of every issue. If someone had asked me who Graham Leach Bliley was last week, I might have said a relative of mine. But I just in a short, three minutes, like I try to do, try to take you to where I have been to come to the bottom line. I spoke to my friend, the good Representative from Biddeford, Representative Sullivan, and asked her what it was about and heard what she had to say. Then I went in the hallway and I asked some lobbyists what they thought about it and then it dawned on me that last weekend when I got home after being here all week and looking through my mail there was a statement from my bank and I opened it up and it said something about privacy with a brochure and I thought it was advertising and I crunched it up and threw it in the garbage, to which I hope my son has not taken it out to the trash, because I want to make sure that I tell them that I don't want them to give my information out.

I guess the bottom line for me is I shouldn't have to do that. That I entrust whatever I have to my bank to whatever I do

thinking that is secure and in my position in Biddeford, people are bilingual. I have lots of seniors who only speak French and they may not even understand the information they get.

Three weeks ago I went to Shaw's and there were girls there, sign up, you will get a discount on things and like a little drone, which I am not usually, I filled it out and I received one of these that I put on my key chain. After the first time that I used it, I realized what I have just done. They know what store I go to. I am sorry Mr. Speaker, that's right. Well on my key chain, I have this little card and they know exactly when I go to the store, what time I go to the store and what store I go to and what I buy and what I eat and what I drink and I thought, wow, that's unbelievable I am never doing this again. I am never using that again and I think what Representative Savage says is right on target. We start taking these little things away from us. We start getting used to it and it is so scary to sit in this body this week with the legislation that has come before us that is eroding just a little bit more, just a little bit more.

Lastly, yesterday I did receive a call from my local Credit Union. I returned the call and unfortunately the lady wasn't there. The first question I would have asked her is, did you poll your members of the Credit Union, because I assure you that people, when I go home, that I have to deal with are the members of that Credit Union, not the Credit Union, I think that the more people I talk to the more people say, opt in. We should not pass that burden, to fill out that card and send it to them because you to could have crinkled it and thrown it away. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to say a few words on this bill. On a bill previous today I said I was a private person and believed in privacy. Privacy is my theme today and will be voting against the Minority Ought to Pass Report and I hope you would do the same. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. As you sit here in the corner a lot of times you tune out debate when you try to figure out what is happening a couple of steps down the road. I finally had the opportunity to sit here and listen to this debate today and often times I want to jump up at a certain point and say no, no, no, that's not the way it is.

We have to give people credit in the State of Maine, we have. I heard that they are not going to have a choice on privacy. Well that's absolutely not true, they do have a choice. They can either opt in or opt out. What we are asking in this bill is that they read information and they opt out. They sign the piece of paper and say, I do not want you to sell my information. I don't want you to give it to anyone. All we ask is they read the information and sign it. Now I give Maine people a lot of credit. I think they are a lot smarter than a lot of us think they are, after all, they voted for all of us.

We have to sit there and say, do we think all seniors cannot function? That is absolutely not true. People have wisdom and experience that comes with aging. They do not automatically become debilitated.

Look around this room, we are all ages in this room and everyone has an opinion on something and everyone functions well. Let's give Maine people some credit.

Now, if Maine is only one of four or six states that do not do this, I think we are in trouble. I disagree with the Representative from Portland that says that it's okay if we are one of the only states out there and we should be stricter than everybody else, because that is hard on any Maine business.

The reason you try and have uniform acts is to make it uniform around the country so you don't have to send out 50 different policies depending on what state you are in. That's the point of this. It was a federal law to try to make it uniform around the country. Now, we heard about AARP, they represent people over 50, which I am starting to approach, I am sure I will get my little card in the mail. I don't know how they got that information that I am going to be 50 years old soon, but as soon as I turn 50, it's in my mailbox. I didn't opt in and say I want that, but they know. Somehow they got that information, but yet they realize that their members are smart enough to choose opt out because that's what they offer. They offer an opt out plan. Go to their web site and take a look. It's an opt out plan. Now if they represent seniors who we are trying to protect, and they have an opt out, why should the Maine Legislature say that the Maine people can't do that.

If you look at this sheet of paper that came around about protecting consumers, support the majority opt in, AARP, AFL-CIO, guess what, ladies and gentlemen, they offer credit cards through JP Morgan, Chase Manhattan, it's an opt out provision for AFL-CIO. Now why is it that they want Maine to be different than what they offer? I don't know, but that's inconsistent. If you are here supporting an opt in provision, why aren't you doing it yourself? I served on Banking and Insurance eons ago and it wasn't a boring committee, sure there were some things that came up that you kind of nodded off on, but over all, it wasn't a bad committee to serve on.

You can guarantee that credit unions and banks were opposed to each other. They never agree on anything. Here they are in front of this Legislature supporting the same thing, the opt out provision. Credit unions are run by their members. Banks are run by their board of directors who represent their members. Those people are here in front of the Legislature saying the opt out provision is what we need to conform with federal law to make it easier for us to operate in this state. Ladies and gentlemen, I ask you to support the Minority Ought to Pass Report.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. Yes, this bill does pose somewhat of a burden to Maine's financial institutions, Maine's insurance institutions, one that I think has been exaggerated, but there is no question that there is going to be a bit more work for them to do. No doubt it would make things a lot smoother for them if they had one national standard. Wouldn't it be great if there was one standard for Texas, California, Maine, Massachusetts, New York and Ohio. The problem here for me is I wasn't elected by the people of the State of Texas or California or Massachusetts or New York or Ohio, I was elected by the people of the State of Maine. The people of the State of Maine have a sovereign right and I think we ought to exercise that right in this case.

Regarding the Representative from Bath's reading of the letter from MBNA, I sure am a whole lot more comfortable knowing that MBNA is comfortable with opt out. Boy that is going to help me sleep a lot better tonight I guess.

I think of myself as informed as the average citizen of Maine and on these issues I am a little bit better informed than the average citizen of Maine because I have the privilege of sitting on the Banking and Insurance Committee. I can tell you that with the volume of mail that I get, and the work load I have in my life, when I get a piece of mail from my credit card company and it doesn't have a bill in it, but glossy insert after glossy insert on how I can save money on rent a cars and on vacations and

whatnot, I don't spend a lot of time looking at that. If it doesn't have a bill in it, it goes into recycling.

Thinking about this recently and finally reading one of these notices that I received, it occurred to me that no doubt I have thrown away more than one of these notices already. I have lost my opportunity to opt out because of the pressures of normal daily life. I did not truly have an opportunity to make a decision on these issues. How many of you are truly in different situation that I am? Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House. In referencing some of the comments of the good lady from Waterville, who mentioned the importance of privacy to Maine citizens, I just wanted to refer you to the pink sheet you may have received the last couple of days that is a gallop poll of September of last year, which says that 95 percent of Americans believe that it is important that their financial information be kept confidential. This is an issue that is important to our constituents.

It is important to know that the Graham Leach Bliley federal law that has been referenced in the debate today, is only meant to be a bottom, it only meant to be a safety net, it is only meant to be a guarantee. It specifies in that law that the states have the right to set more stringent requirements. So we are not going against any federal law by voting down this motion and moving on to take an opt in. It is also inaccurate if it has been implied that only Maine banks will come under these provisions. There is no reason to think that out of state banks as well will be interpreted by the US banking hearings that will be held to come under these provisions as well. That is unclear, but given that Graham Leach gives us permission to make more stringent laws, it is also logical that they will let us implement them. If Maine becomes the only state that has done this, then good, so be it. Let us lead. We have done it many, many times over the years on many, many subjects, which we have been very, very proud of. This would be an excellent one to lead on. As Maine goes, let the rest of the country follow.

The banking industry is scared to death that we are going to pass an opt in, which is what the public wants and that the whole country is going to follow. That is what is at stake here. I have yet to hear one good reason why small banks are going to be damaged by this process and none of this adds up. They all say, oh, it is going to burden us, but no one has even given one good reason. In fact, if you add it up, the amount of paperwork that will happen if you opt out or opt in will be exactly the same. If the opt out, for instance, passes, then the banks are going to get a little tiny bit of paper work from some customers opting in saying we don't want you to sell our financial information. If the opt in passes, the banks are going to get a little tiny bit of information from some consumers saying we would like to opt out. It is going to be exactly the amount of paper work and should cost them exactly the same amount of money.

I would like to concur with the statements of the good gentleman from Buxton, when he says that, essentially the reason that the industry doesn't want the opt in passed, because they know that they will not get permission from us and our constituents to sell our financial information if they can't manipulate the system so that by default we give them permission.

The good lady from Biddeford also mentioned about the piece of paper that her kids had thrown away into the waste can and I will tell you that even if she finds that piece of paper, by the way, she will still have to go and send a separate request for all of her accounts. All of her bank accounts, all of her mortgage accounts, retirement accounts, life, home, auto, disability

insurance accounts, bank savings accounts, car loan accounts, college funds, credit union accounts and credit card accounts all have to be communicated. Let's vote for the people on this one.

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

Representative **LESSARD**: Mr. Speaker, Colleagues of the House. We have all received a little literature, especially e-mails. My wife receives all of the e-mails. She asked me about this opt in and opt out and she did read some of the information. I have too. Will you explain it to me? After I got through explaining it, she says, "Paul, do you know what you are talking about?" I said, "No." If it is law enforcement probably, I could answer or get information relative to that. I told her I would listen to the debate and listen to both sides and to see where we fit into the scope of the big picture in that she also advised me, make sure that whatever the outcome, whatever you vote, perhaps, and she is the financial person of the family. I managed a million dollar budget in the Police Department. She handles the family affairs. She does a darn good job making sure that whatever financial information is out there, I want to give permission, the affirmative permission on my part to release that information. That's how I am going to vote today. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I will finish my remarks by just clarifying a couple of points as they came up. It is kind of technical, I realize. I too didn't like the fact that Graham Leach Bliley was foisted upon us from the federal level. However, we are living in a day and age, an information age, where state lines don't really mean a whole lot. Information travels and it doesn't stop at the bridge down there in Portsmouth.

What happens here is, we have several points that have been made such as this is a take it or leave it basis. We can leave it. We can go with the opt in report, but in the meantime, we will be in this state of incongruous regulation that will be troublesome for people. All I can think of is Pedro Martinez, it makes sense to you, I am sure Mr. Speaker. Pedro strikes out a lot of batters, Mr. Speaker, he is a heck of a pitcher. He can throw at 96 miles per hour or he can throw at 66 miles an hour and at any given time the batter doesn't know which one is coming. If he threw 96 all the time, they would kill him. They would be flying over the green monster. If he threw 66 all the time, the balls would be flying out of Fenway and Pedro would never make it to the Hall of Fame. We would have to wait a lot longer for that World Series ring, but he mixes it up.

If we reject the pending motion and go with the opt in, we will have a situation where we will have state chartered institutions and federally chartered institutions operating under separate guidelines and take my mom as a consumer will presume that because she gets a notice from a state chartered institution that says you are okay, that all those notices from the federal chartered institutions can be thrown away. She will do so in error. That is troublesome to me. Again, it may be troublesome to all of us that the fed does some things, but the best way to deal with it, is the best way to deal with it.

To keep away from a patchwork regulatory scheme to my estimation is good for a couple of reasons. One, I would rather have our Department of Professional and Financial Regulation, Bureau of Banking, Bureau of Insurance, securities and so forth, regulating and watching things for me as a consumer, and the FTC or FCC or the people from away and Mainers are the same.

Two, and this is purely pragmatic. In order to keep that regulatory authority, domicile here in Maine, it is important for me to keep institutions with state charters. We take away any incentive for them to keep a state charter they will jump to the

federal charter. Remember, this is purely pragmatic now, the Bureau of Insurance, Bureau of Banking, these regulators are funded through the entities they regulate. There aren't any more entities that they regulate, we won't have them anymore and we will rely on the federal government to regulate this entirely.

A real quick note on if we go with the opt in. As Graham Leach Bliley allows us to do, of course, they allow us to do that, they didn't want to make it so prescriptive that they couldn't get the votes in Congress, they made it a little more palatable. If we were to do that, things might be okay. My approach is to take the parameters that were set up in this opt out provision, that were clear and concise and easy to follow and consistent, more importantly, take those and if we find that they aren't adequate, we can always jump for more. In the meantime, I'd invite the members of the body who were here a couple of years ago to remember the backlash that we had when the wonderful provisions protecting health care information that we have today were instituted. They were kind of onerous on some institutions, the hospitals and so forth and there was quite a backlash because they needed a little fine-tuning. I would rather not bite off more than a mouth full at this stage in the game.

To illustrate a couple of instances where this exchange of information has actually worked to my benefit, I went to get automobile insurance and, yes, I keep my automobile insurance up to date, and when I wrote a new policy last time the producer, the agent asked me for my name, birth date, social security number, I said, "What do you need that for?" He says, "We run a credit report on you." I said, "What's that for?" He says, "We run a credit report on you." I said, "What's that for?" He said, "We don't even check with the motor vehicle any more we go by credit report that will give us a better risk analysis than your driving record." I said, "My goodness, what is the world coming to?" He said, "It's easy, all that information is out there. Don't worry, it's all protected".

I refinanced a mortgage a few months ago and I remember the first mortgage I got 14, 13, 12 years ago. It took about a month, five weeks to get done. I had to give them so much information, the application took me four hours to do. This last one was, I gave them my name, my social security number, my wife's social security number and they had an answer within hours because that information could be shared and it was marvelous.

Real quickly, I go to Shop and Save, this isn't shared. I go to Shop 'N Save and I buy Kalo cat food there is a coupon on the back of my receipt, because the information is there in their computer. I am not worried about that. I might even get a flyer in the mail for Kalo cat food or another coupon. I would rather have target marketing to those who spoke to that than the flood of marketing.

Lastly, to the Representative who fears that if he threw away the notice, he has lost his opportunity to opt out. We can opt out at any time and the notices are required by this law to come to us annually. Once we opt out, we stay out until we, ourselves, revoke it in writing. It is simple, it is comprehensive and it is as easy to do as buckling our seat belt every time we get into the car. Please accept the pending motion.

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

Representative **MARLEY**: Mr. Speaker, Ladies and Gentlemen of the House. Representative Twomey and I have butted heads this week about issues around privacy, but I am in the same boat as she is as far as I have thrown away the same notice and I try to stay up to date on those sort of things, because unsolicited mail, I think we all overlook and throw into recycling. Before you vote, I hope everyone will think about how confused every single one of us has been about this issue. We

were kidding around in the House saying we should have those buttons that change every time you move it, opt in, opt out, opt in, opt out, it has been that confusing. We have had a lot of lobbying on this. Last night Representative O'Neil was quite concerned about Fred being injured in an accident. Every single Fred in my district, except for the people who are paid to lobby, have e-mailed me or spoken to me and they want to opt in. The scenario he just gave you to share information, he could have opted in and gotten that same mortgage information just as quickly. I hope we would defeat the pending motion, accept the Majority Report. Thank you.

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

ROLL CALL NO. 241

YEA - Andrews, Annis, Ash, Bagley, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Brooks, Bruno, Buck, Bumps, Bunker, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Daigle, Davis, Desmond, Dorr, Duncan, Dunlap, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gerzofsky, Glynn, Gooley, Hall, Hatch, Heidrich, Honey, Hutton, Jodrey, Jones, Kane, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lovett, Lundeen, MacDougall, Madore, Mailhot, Mayo, McDonough, McGowan, McKenney, McLaughlin, McNeil, Mendros, Michaud, Murphy E, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Pinkham, Povich, Richard, Richardson, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Baker, Berry RL, Bliss, Bryant, Bull, Canavan, Chase, Cummings, Dudley, Duplessie, Gagne, Goodwin, Green, Haskell, Hawes, Jacobs, Landry, Lessard, Marley, Matthews, McGlocklin, McKee, Michael, Mitchell, Murphy T, Norton, Perkins, Quint, Rines, Savage, Simpson, Skoglund, Smith, Tracy, Tuttle, Volenik, Watson.

ABSENT - Brannigan, Dugay, Marrache, Morrison, Muse C, Muse K, Stedman.

Yes, 107; No, 37; Absent, 7; Excused, 0.

107 having voted in the affirmative and 37 voted in the negative, with 7 being absent, and accordingly the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "B" (S-236)** 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 "B" (S-236)** in concurrence.

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

ENACTORS

Emergency Measure

An Act to Implement the Recommendations of the Task Force to Study Growth Management

(S.P. 380) (L.D. 1278)
(H. "B" H-537 to C. "A" S-139)

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

On motion of Representative COWGER of Hallowell, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-139) as Amended by House Amendment "B" (H-537)** thereto was **ADOPTED**.

The same Representative presented **House Amendment "C" (H-563) to Committee Amendment "A" (S-139)** which was **READ** by the Clerk.

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

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

The SPEAKER: The Representative may pose his question.

Representative **CARR**: Mr. Speaker, Men and Women of the House. To anyone who cares to answer, this adds a retroactivity section to the bill as well, which wasn't explained. I was just wondering if somebody could explain that, please?

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to the Representative from Hallowell, Representative Cowger. The Chair recognizes that Representative.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. The emergency preamble is removed and there is a retroactivity date to June 1st, so it maintains the same effect as being emergency legislation. There is an obscure part of the Constitution that requires that anything dealing with home rule, and as we discussed the other night, this is an agreement that has been worked out with Maine Municipal Association to really not affect home rule beyond the period of the next one year when we are going to be looking at the definition of subdivision. An emergency enactor cannot be applied to any sort of home rule legislation and therefore, it has to be done in the manner in which this amendment is before the body.

Representative **CARR** of Lincoln **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-563) to Committee Amendment "A" (S-139)**.

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 adoption of House Amendment "C" (H-563) to Committee Amendment "A" (S-139). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 242

YEA - Annis, Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Nass, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perry, Pineau, Povich, Quint, Richard,

Richardson, Rines, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Buck, Bumps, Carr, Chase, Collins, Cressey, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, McGlocklin, Mendros, Michael, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Sherman, Shields, Snowe-Mello, Stanley, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Brannigan, Estes, Goodwin, Jones, Marrache, Morrison, Muse C, Muse K, Stedman.

Yes, 100; No, 42; Absent, 9; Excused, 0.

100 having voted in the affirmative and 42 voted in the negative, with 9 being absent, and accordingly **House Amendment "C" (H-563) to Committee Amendment "A" (S-139) was ADOPTED.**

On motion of Representative COWGER of Hallowell, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "B" (H-537) to Committee Amendment "A" (S-139) was ADOPTED.**

On further motion of the same Representative, **House Amendment "B" (H-537) to Committee Amendment "A" (S-139) was INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Mr. Speaker, Colleagues of the House. Now that we have adopted House Amendment "C," it is in conflict with House Amendment "B" and that's why you are seeing this postponed. That will hopefully answer the questions.

Committee Amendment "A" (S-139) as Amended by House Amendment "C" (H-563) thereto was ADOPTED.

On motion of Representative COLWELL of Gardiner, **TABLED pending PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (S-139) as Amended by House Amendment "C" (H-563) thereto and later today assigned.**

Emergency Measure

An Act to Pay for Cleanup of Contamination at a Waste Oil Disposal Site in Plymouth

(H.P. 1051) (L.D. 1408)
(C. "A" H-496)

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. 105 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.

Resolves

Resolve, to Establish the Commission to Study Ways to Improve Transportation for Senior Citizens and the Disabled

(S.P. 454) (L.D. 1507)
(C. "A" S-220)

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

ENACTORS

Acts

An Act to Strengthen Maine's Economic Development Incentive Laws

(S.P. 95) (L.D. 321)
(C. "B" S-216)

An Act to Amend the Beano and Games of Chance Laws

(H.P. 407) (L.D. 528)
(C. "A" H-526)

An Act to Update the Name of the Department of Mental Health, Mental Retardation and Substance Abuse Services

(H.P. 1162) (L.D. 1562)
(C. "A" H-518)

An Act to Amend and Improve Education Laws

(H.P. 1212) (L.D. 1644)
(C. "A" H-523)

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.

An Act to Establish a Lottery Game to Improve Purses for Maine Harness Racing and to Enhance Penalties for Use of Illegal Gambling Machines

(S.P. 480) (L.D. 1544)
(C. "A" S-228)

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

On motion of Representative TUTTLE of Sanford, was **SET ASIDE.**

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Regarding the Laws Governing the Department of Defense, Veterans and Emergency Management and the Commission to Recognize Veterans of the Vietnam War in the State House Hall of Flags

(H.P. 1351) (L.D. 1808)
(S. "A" S-215)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

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

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

Bill "An Act to Require the Destruction of Confiscated and Forfeited Handguns"

(S.P. 209) (L.D. 774)

Which was **TABLED** by Representative POVICH of Ellsworth pending **FURTHER CONSIDERATION.**

Representative POVICH of Ellsworth moved that the House **ADHERE.**

Representative MADORE of Augusta moved that the House **RECEDE AND CONCUR.**

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR.**

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 Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I urge you to defeat the pending motion. There are three jurisdictions or agencies in Maine that handle confiscated handguns used in homicides, Bangor, Portland and the Maine State Police. Their time tested policy is, no weapons, no how, are ever auctioned off if they were used in a homicide. I asked our analyst to poll the Portland Police Department and the Bangor Police Department and confirm their policy.

According to the Portland Police Department, weapons confiscated by the police are generally destroyed. If a weapon was confiscated from someone who had stolen the weapon, there is a process for allowing the rightful owner of the weapon to get the weapon back, except in the case of homicides. In which case, the weapon will keep indefinitely as part of the file, some arrangement may be made to reimburse the rightful owner for the loss of property, for example, through a victim right's fund. Weapons used in serious crimes are kept as long as they may be needed for evidentiary purposes during the trial and afterwards for the purposes of any appeal, which in most cases will be a very long time. The person who our analyst spoke to with the Portland Police Department used the word indefinitely.

According to the Bangor Police Department, the City of Bangor handles confiscated weapons in a similar manner. Weapons used in homicides and attempted homicides are kept indefinitely and are never returned to the owners. Weapons used in lesser crimes are kept as needed, often a year or more, as storage space is available. Length of time is determined case by case based on the requirements of criminal justice. Weapons not needed are destroyed. The weapons are held as evidence, when the court determines, they are destroyed. We are talking about weapons in homicides. There is a lot of emotion behind this thing.

The committee does not disagree that these weapons with the emotional attachment surrounding these weapons should not be returned to the public. They certainly should not be auctioned off. As current law as we described, allows rifles, handguns, that are used in crimes such as violation of the deer hunting laws, those weapons are forfeited and they are collected and are auctioned off to law abiding citizens and they are subject to the Brady check and no crime has been committed any of these weapons that have been auctioned off. They are very carefully handled.

The problem we have here in the Recede and Concur, I am talking about the amendment that came from the Senate, this is a real problem. It isn't a question about whether these guns are somehow ever going to see the light of day again on the street, to commit another crime, these guns used in homicides. It is not all guns. In the amendment, it's handguns and we know that there were two instances recently where homicides were committed by rifles. Up in Northern Maine, one that comes to mind, the amendment would not touch that. The amendment, there is a process problem, and I have a real problem with process because the process is important to the public to come in and have a say. The people of Maine in the committee process talked a lot about LD 774, which is not before us now. The amended version is before us, they talked a lot about it. We heard them and we made a decision based upon public testimony and our workshop. The amendment that came from the other body, late, let's pass the bill and it's not a good amendment. We don't know if this amendment would not order the destruction of the handgun, not any rifle, because if a rifle, as I said, if a rifle was used in a homicide, that is not part of this amendment.

I have a real question whether the handgun in question, if it were ordered to be destroyed, might be destroyed before the court had an opportunity to play out their process of appeals. I don't know if it was written too quickly. So what I think I would like the body to recognize is, what are we trying to do? There is no disagreement in what we want to do. We want firearms and weapons, they could be knives, they could be throwing stars, they could be handguns, they could be rifles, any weapon used in a homicide stays in the evidence cabinet until the courts determine what can be done with it and our three jurisdictions that handle these weapons, these will not permit them to see the light of day. They will be destroyed. No weapon, no how, used in homicides will survive. The amendment is unnecessary. So please, Ladies and gentlemen of the House, defeat the current motion.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Some of you before or after that last vote had indicated that you were very uncomfortable on voting on the broader issue. Actually that evening that the two reports that came to this floor represented two different organizations aspired on this issue and the gentleman is correct, this amendment, this narrowing down of the issue, came to us late and it came to us primarily because of the efforts of a mother. She has been representing other Maine families.

The other night some of you said if we could only bring it down to that narrow issue, I don't want to go through that other report to get to the narrower issue, well with the Recede and Concur Motion. We are now voting on that specific narrow issue and it deals with those handguns used in a homicide that are in State Police possession.

The last time we spoke on this issue, we talked about labels. When we have issues that really polarize people, it is very difficult to step out of that label when there is an opportunity to find common ground and in this last week, as we have waited for this issue to come back up, some people have been able to take the label off for a few minutes, for a couple of days and then it goes back on and it flows back and forth like the tide. So we did see in committee two reports that came out from two different groups that usually are unyielding. But a mother has brought us common ground. So it is no longer a pro-gun report or an anti-gun report, but it is a victim's report. If you vote yes on this Recede and Concur, you will be telling Maine families that they will not have to seek a court order to have that weapon destroyed. If you vote to Recede and Concur, you will be making a policy statement that the State of Maine does not regard a homicide handgun as an asset and will not profit from it. The homicide gun, if you say yes to the Recede and Concur, will be destroyed like all other murder weapons. If you vote to Recede and Concur, you will be telling any morbid collector that might be out there that we put families, the lifelong victims first. There are those morbid collectors out there. So I am asking you for this vote, take the label off come to this narrow common ground, vote yes, vote to Recede and Concur for the lifelong victims, the survivors. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Once again, this is very painful to talk about with victims, their feelings and the emotions at stake and there is a lot at stake here. The other day when we were talking about this a few people said this is not a gun control bill, this is not about gun control, but please search your souls and ask yourself then if it has nothing to do with gun control, then why is it only targeted towards handguns? Shotguns or rifles are exempt. They are

used in these atrocities also. I may be wrong. If I am wrong, please somebody correct me. I believe there are paid lobbyists here on this issue and I believe Handgun Control, Inc. has some money involved here, it isn't just to do with weapons that have caused misery in these families, it has to do with handguns. Please search your soul on that. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I come to my feet today to do something that is very, very painful as a member of the Committee of Criminal Justice. I have to come out and disagree with my Chairman, Representative Povich from Ellsworth, and tell you that I will be voting for this motion to Recede and Concur because it is a victim's bill.

We are not talking about a lot of guns. We are not talking about a lot of money being lost to the State of Maine coffers. I am one of the lucky ones. I come from a municipality that has the jurisdiction to investigate, prosecute and destroy any weapons that take a life, in my municipality. Portland has the same privilege.

If this destroying of these guns that have committed a homicide in the State of Maine through State Police has been such a rousing success in the past, I have to stand here and ask this body or anybody in this body that can answer me, why this bill ever made the desk of Criminal Justice? Obviously the law as it stands now is not working. This is not a gun bill. I don't want to take people's guns away that enjoy them for target practice, enjoy them for hunting. But when they take a life, I want to see them destroyed, so I will be voting for this motion before us. Thank you Mr. Speaker.

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

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I am not feeling very great right now. I would have preferred not to get up on this bill, but I promised a young mother down the hall who lost her son that I would speak on this because I, probably more than any other of you, understand what this bill means.

When I ran for the Legislature, I had no idea that I would be bringing up so often the most unhappy, traumatic time of my life, but I have. I am a victim. My stomach is churning at the mere thought that the gun used to murder my husband is possibly still in existence. This was not an accidental shooting. It was murder. He was shot five times.

So as I say today, at the present time I am suffering from nausea, a little shakiness that I again have to deal with this issue, but I can relate to that mother and what this bill means to her and I ask you to support the Recede and Concur. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Mr. Speaker, Ladies and Gentlemen of the House. Some of you that I know well, know that I am an avid gun owner, gun collector for many years, probably around 30 years and have enjoyed competitive shooting and always have been exposed to firearms around my home and also growing up, my home where I live now. I enjoy reading about the weapons and as far as how they were developed, but I will be voting today to vote yes to Recede and Concur, primarily through the tenacity of Mrs. O'Brien. She is very effective. I was kidding with her earlier today and said that you may have found a new vocation. She is a very effective lobbyist.

Talking with fellow colleagues here and this body, I have done a lot of soul searching. I think it is the right thing to do. I

just want to mention this because I am an avid gun collector, I have a permit to carry in two states. I attend a lot of gun shows, so I would be meaningful coming from me. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. We all feel for victims, very much. I remember an incident in the Ellsworth area back in the early '60s, about the time that the good Representative from York, Representative Andrews, husband was murdered. A young woman was murdered by knife, by a man who had committed a sexual offense before. It was a life sentence and he served 10 years and was paroled and this outraged the community. I know where that person works under lifetime probation, still feels no remorse and the process, the people of the State of Maine were not served by the criminal justice system, but the criminal justice system did respond to that and did away with parole 25 years ago and the judges read the newspapers and although they are not elected, they are appointed and they do respond to society, what people want.

We may not agree with all their sentences, but you will hear these remarks in future debates, but they are in a position to have all the evidence. We don't have the position of the Bangor News and the editorial page and some antidotal evidence. So, what is happening here is legislation by emotion, I think, and I want to do the right thing and Debbie O'Brien is a welcome member of our committee, a lovely woman, passionate, kind and grieving and I don't take this position lightly. The system is responding to her, that handgun is going to be destroyed, and it will be destroyed in 20 years, it is not going to be destroyed next week, because it has to be held in evidence for a long time. I mean, that's the process, we don't want to destroy evidence that may have been used in another crime, who knows. It is not doing any harm right now in evidence. The State Police know and are sensitive to Debbie and want this to happen. The good Representative from Penobscot did say it, although I couldn't hear all of his remarks, he is to step up to the mike.

Let's get the emotion aside, the amendment says handgun, it does not say rifle, it does not say knife, it does not say throwing stars. It is an attempt by paid lobbyist to use this emotional interest for national purposes and I don't like that, ladies and gentlemen of the House. I want to do right by Debbie O'Brien, very much so, and the right thing to do is to make sure that weapon doesn't go anywhere. But the rifle is going to do someplace, because this amendment was drawn up carelessly with one purpose in mind. Let's get something passed. It is not going to do anything more. It may send a message, well, the message has been received, and these weapons aren't going anywhere. What have we done, ladies and gentlemen, we have done, I don't think the right thing by receding and concurring. This is a gun bill. I am going to oppose it. People can feel comfortable supporting it and I could feel comfortable supporting it, but it doesn't do anything different than current policy does and it doesn't take the rifles, the knives or the throwing stars out of the mix. Thank you. Please defeat the Motion.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. The good Representative from Ellsworth has said this is a gun bill, let's call it a gun bill then. Then if this is a gun bill, we know that we are polarized on that issue.

Some of us talked about a recent bill that we did a couple of weeks ago and it really bothered me to sit here and agonize through that debate, I knew where it was going, we were polarized on the issue, the left would not yield to the right, nor the right to the left. I talked with some of my colleagues about this

afterwards, folks on both sides and I asked the question, when are we going to start trying to meet each other? I bring that up because I had a unique experience one summer in trying to teach students about how to resolve polarized positions in the classroom or in society. Give them a skill to take into a town meeting or into their communities. What do you do when folks are polarized?

The people who were leading the workshop, drew the name of Martin Bubar, you know who he was, the great theologian, the philosopher. Bubar talks about walking the narrow ridge. He talks about when people are polarized trying to get out on that narrow ridge and reach out to the people on the other side and that is exactly what we did in abortion issues of the early 1990s. We said what can we agree on. We can agree that there is too much teen pregnancy. What can we do to lower it and we were able to talk and unbeknownst to a lot of us, people in this country are getting together secretly because they can't show themselves in public to talk about this issues. Trying to find common ground, not just on abortion, but on things like gun bills and gun issues. I think this is one place where we can get out there and walk the narrow ridge.

Symbols are important. Symbolic gestures are important. I think that we could both admit that some respect is due to the people who suffer because of handgun violence, rifle violence, whatever. You know I am sitting here wondering if there were problems about other types of guns, why we can't go ahead and include those as well? I have a feeling that even if those were included, the positions would remain the same and we would remain imbedded in where we are and we cannot move on that.

If society does not currently acknowledge respect and the sacredness of that happening, wherever it was, the objects that were used as being an important part of that discussion, something is wrong with our cultural attitudes. Do we regard the preservation of a medal or a machine or some invention more than we do human decency? Isn't it time that we could acknowledge that symbolism is important. We can walk the ridge. We can try to meet the people on the other side by saying we can agree on this. It is a symbol and we can acknowledge that symbol. I urge you to accept the Recede and Concur. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I would agree with the Representative from Wayne that this is, in fact, a polarizing issue and I would have hoped that throughout the debate on this legislation that we could come to some sort of understanding that reasonable minds can disagree on philosophical matters such as gun control.

I know that the amendment has narrowed this legislation considerably, but the title on the board, I think, tells a pretty substantial story about the beginnings of this bill. It did start out as a gun control bill. The title of this bill requires the destruction of all confiscated and forfeited handguns and it is still dealing with handguns.

My friend, the Representative from Ellsworth, Representative Povich, has I think alluded to a fairly legitimate complaint that it is so narrow in scope that it misses other firearms or implements used in homicides. I can probably assure my friend that if he were here in two years, he would see further legislation to expand the chaptered public law that would result in.

It seems like whenever we do something that is just a little tiny step, we need another step and another step and another step. I have always opposed gun control, that should not be a mystery to anyone that has examined my voting record in this Chamber.

I don't begrudge the paid lobbyist, the unpaid lobbyist or anyone on their beliefs on this issue. I do see the points that have been made on this bill and similar bills that have been before us and will come before us later on in this session. It is unfortunate that the polarization has been so strong that because of my votes on this legislation that I have been ridiculed, berated, made fun of and generally presumed that the reason why I vote the way I do is because I am stupid.

I have thought this through fairly considerably. The fact of the matter is that I think this would be a fairly attractive piece of legislation if it had begun where it claims to be now, which is some sort of a quest for justice for victims wherever they can find it and not simply something as a symbol to accomplish anything we possibly can agree on to get something passed so that in the future we can do more. That is essentially what we are voting on right now. I understand the feelings of those who have suffered violence and for that reason, if this came standing on its own the amended version of this legislation, I would agree, that it would be very difficult to vote against, I would not vote against it. I would vote for it. Having examined the path from whence it came, I cannot help but believe it will down the path and reverse later on. So, I would urge you to not accept the Recede and Concur motion and instead, let's do something about helping victims.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I have been a member of the Criminal Justice Committee in the past, Chairman of Legal Affairs, Chairman of the Fish and Wildlife Committee and I think I have a fairly long history in this body and at home of being a defender of the Second Amendment. I don't intend to vote any differently on those issues ever. I think it is a fundamental right of every citizen in this country to own a firearm that they chose, a constitutional right. But this issue has nothing to do with that. I want to talk a little bit about how legislation does evolve through this system. Many times we have bills that start out in one vein and get amended in the committee and amended on the floor and the final product is very different.

The good Gentleman from Kennebunk, Representative Murphy, I believe, has put forward a reasonable proposal. I pains me to have to differ with the good Chair of the committee, the gentleman from Ellsworth, Representative Povich, who I think has done a tremendous job in protecting our Second Amendment and also putting criminals behind bars. This issue deals with a narrow focus to take a handgun that was involved in a murder away and destroy it and nothing to do with my Second Amendment rights. I am going to support this bill today, this amended version. It is right. Yes it has some emotionalism with it, but there are many things, ladies and gentleman in this Legislature that we do to respond to the needs and concerns of the citizenry we represent. We are the peoples House. We are not the high court. We are the people's House. We debate from matters of mind and logic and emotion and heart and soul, each and every day on legislation all the time. I, as one person who hunts and fishes and loves the Constitution and the Second Amendment, will vote yes to this bill as amended for this lady and other victims out there. I will do so proudly when I walk out of this Chamber.

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

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I urge you to vote Recede and Concur. I view this vote to Recede and Concur to destroy handguns used to commit a homicide as part of our continuing victim's rights work. Six years ago this state had almost no victim's rights at all. Since

then we have written an entire chapter in our code devoted to victim's rights. Sometimes the law almost covered what we wanted to cover in victim rights, but we wrote the statute anyway to cover victims so that it would be really solid and clear.

Representative Povich is absolutely right that under current law a handgun used to commit a homicide, when there is a conviction, can be petitioned from the court and destroyed. He is absolutely correct under current law. One of the things that this amendment does is that it pertains to a handgun used in the commission of a homicide.

A family who has been the parent or family of a murder victim, in murder suicide, there is no conviction there. Therefore, under current law, that family would never have the closure of having that gun destroyed because it would never be in the possession of the State Police.

I hope you will support this Recede and Concur Motion.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. Many of us have suffered personal tragedies and I am sorry for this particular person. Representative Povich has brought up some very cogent points that make me ask a couple of questions. So Mr. Speaker may I pose a question through the Chair for anyone who would like to answer it.

The SPEAKER: The Representative may pose his question.

Representative **SHIELDS**: Thank you Mr. Speaker. The question is in two parts.

One, is not the gun evidence in the crime and is it not held for a period of time until it is considered its appeals and so forth are not available any more?

Two, I don't see anywhere in the bill where it says when they are going to destroy this gun.

The SPEAKER: The Representative from Auburn, Representative Shields has posed a question through the Chair to the Representative from Ellsworth, Representative Povich. The Chair recognizes that Representative.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I would be pleased to answer to the best of my knowledge, the two questions that the Representative from Auburn, Representative Shields has posed. It is evidence and the court has an interest in this evidence and this evidence will be reposed with the jurisdiction, Bangor or the State Police Crime Lab or Portland for a long time, a long time. I do quarrel with the amendment, not to be knit picky and to be obstinate, but it is incomplete, incomplete. It raises lots of questions.

In the committee process, the committee process has been sorely tested this session. We see unanimous reports defeated and I remember just last session that not one report out of Criminal Justice, not one was overturned. The good old days, and now we are fighting, fighting, fighting to preserve the committee process.

This amendment needed some work. It was like I used to do when I was in school, if I didn't know the formula, I would get the answer and try to work back. Trial and error, I might figure out the formula by working back and that's not the way to do it. We must work forward. Ladies and gentleman. We have the end result here which is clear, these weapons. I don't want to be the bad guy here, to say I am unfeeling that these weapons should be at the next gun show for some, I like the term some deluded collector, that's not going to happen. That deluded collector where they exist is not going to have that weapon in their collection. That weapon will not surface. We have already accomplished what we want to accomplish and I guess the debate is how shall we get there? We are there. We don't have to do anything. We don't have to expand the title, the criminal

code any further, we have done it. You know, I know when to hold them and when to fold them. I am not going to support the Recede and Concur message because I am not going to support a bad amendment, which in time will have to be improved, which won't do anything to further victim safety because we are sensitive to victim's safety. We are there and I hope that answers the gentleman's questions.

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

Representative **PEAVEY**: Thank you Mr. Speaker. I would like to finish answering Representative Shields question about the evidence. You actually raised a question for me, so I got out the bill, the amendment and the criminal code and when I put the amendment into the bill, you know where it has been amended? I fit that into my Criminal Code it's very specific that this weapon would not be destroyed. The Criminal Code lays out when evidence can be destroyed or taken out of the evidence procedure and it is not until after all the appeals have been made and it is all laid out so I do believe that this amendment fits into the Criminal Code in a way that is not going to be detrimental in terms of evidence.

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

Representative **LESSARD**: Thank you Mr. Speaker. I have to go back to my past life in working in the State Police Crime Laboratory. I have investigated homicides. I have been on the receiving end of a lot of evidence. To the point that State Police Headquarters and the Crime Lab in those days, we had to have storage at Camp Keyes to store the evidence. The weapons that were used were kept forever and ever and as witness in the State Police Crime Lab, you see a display of a lot of weapons that were used. In this day and age, and this happened after I left the State Police, you have the technology that has come into play where a fired weapon, rifle anything that has these striation marks inside the barrel, namely pistols, revolvers and rifles, not shotguns, that bullet can be retained forever and with the technology now, you can identify that the same way as you can a fingerprint. Any agency sending in the same kind of identify marks that are assigned to that particular bullet can be identified with the one in the possession of the Crime Laboratory. There is no need to keep the weapons as long now, that is the point that I want to make.

I have been involved in pistol shooting for most of my life. I hold a Masters Certificate in pistol shooting. I load ammunition I will be the first one to defend the rights to possess firearms. This one particular issue being on the front end of a lot of things that have happened in the past, I don't disagree with homicide handguns. Let's get rid of it. Thank you.

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

ROLL CALL NO. 243

YEA - Andrews, Annis, Bagley, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bowles, Bruno, Bull, Canavan, Chick, Chizmar, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duplessie, Duprey, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Heidrich, Hutton, Jodrey, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McKee, McKenney, McLaughlin, McNeil, Mitchell, Murphy E, Murphy T, Nass, Norbert, Norton, O'Brien JA, O'Neil, Paradis, Peavey, Perry, Quint, Richard, Richardson, Rines, Simpson, Sullivan, Tarazewich, Thomas, Trahan, Twomey, Usher, Volenik, Watson, Weston, Winsor, Mr. Speaker.

NAY - Ash, Belanger, Brooks, Bryant, Buck, Bumps, Bunker, Carr, Chase, Clark, Clough, Cressey, Dugay, Duncan, Dunlap, Estes, Foster, Glynn, Goodwin, Haskell, Hatch, Hawes, Honey, Jacobs, Kasprzak, Labrecque, Landry, Lundeen, MacDougall, McGlocklin, McGowan, Mendros, Michael, Michaud, Nutting, O'Brien LL, Patrick, Perkins, Pineau, Pinkham, Povich, Rosen, Savage, Schneider, Sherman, Shields, Skoglund, Smith, Snowe-Mello, Stanley, Tessier, Tobin D, Tobin J, Tracy, Treadwell, Tuttle, Waterhouse, Wheeler EM, Wheeler GJ, Young.

ABSENT - Bouffard, Brannigan, Marrache, Morrison, Muse C, Muse K, Stedman.

Yes, 84; No, 60; Absent, 7; Excused, 0.

84 having voted in the affirmative and 60 voted in the negative, with 7 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

On motion of Representative BRUNO of Raymond, the House **RECONSIDERED** its action whereby it voted to **CONCUR**.

Representative WHEELER of Bridgewater **PRESENTED House Amendment "A" (H-486) to Senate Amendment "A" (S-149)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I would like to read the summary of the amendment that I have proposed and wish that you would support the amendment. This amendment requires the destruction of a handgun used in the commission of a homicide unless the handgun was stolen and the rightful owner can be ascertained in which case the handgun must be returned to the rightful owner. This would protect those that may have their handguns stolen that had nothing to do with the homicide or it may be an heirloom. Thank you, ladies and gentlemen.

House Amendment "A" (H-486) to Senate Amendment "A" (S-149) was ADOPTED.

Senate Amendment "A" (S-149) as Amended by House Amendment "A" (H-486) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-96) and Senate Amendment "A" (S-149) as Amended by House Amendment "A" (H-486) thereto in NON-CONCURRENCE** and sent for concurrence.

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

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.

An Act to Ban Permanent Replacement Workers in a Labor Dispute

(H.P. 74) (L.D. 83)

TABLED – May 21, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – RECONSIDERATION. (Returned by the Governor without his approval)

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Shall this Bill become law notwithstanding the Objections of the governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 244V

YEA - Annis, Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Mendros, Michael, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Mayo, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Schneider, Shields, Snowe-Mello, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor, Young.

ABSENT - Brannigan, Marrache, Morrison, Muse C, Muse K, Stedman.

Yes, 96; No, 49; Absent, 6; Excused, 0.

96 having voted in the affirmative and 49 voted in the negative, with 6 being absent, and accordingly the Veto was **Sustained**.

The House recessed until 6:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-554) - Minority (6) Ought Not to Pass - Committee on TRANSPORTATION on Bill "An Act Creating a Pilot Project to Provide Video Camera Surveillance at Intersections in Ellsworth"

(H.P. 728) (L.D. 948)

Which was **TABLED** by Representative McNEIL of Rockland pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

On motion of Representative COLWELL of Gardiner, **TABLED** pending the motion of Representative McNEIL of Rockland to **ACCEPT** the Majority **Ought to Pass as Amended Report** and later today assigned.

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order – House Paper 1356)

An Act to Amend Certain Motor Vehicle Laws

(H.P. 1223) (L.D. 1664)

(C. "A" H-355)

- In House, **PASSED TO BE ENACTED** on May 14, 2001.

- In Senate, **PASSED TO BE ENACTED** on May 14, 2001.

On motion of Representative FISHER of Brewer, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative presented **House Amendment "A" (H-574)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. This is a simple housekeeping amendment, something that snuck by us before. We were unaware of it being left out of the package. It is a simple language changes to include Capital Security vehicles as emergency vehicles and also changing the title of fire inspector. Thank you.

House Amendment "A" (H-574) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-355) and House Amendment "A" (H-574) in NON-CONCURRENCE** and sent for concurrence.

UNFINISHED BUSINESS

The following matters, 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 (9) Ought to Pass as Amended by Committee Amendment "A" (H-549) – Minority (4) Ought Not to Pass – Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine (EMERGENCY)

(H.P. 1314) (L.D. 1778)

TABLED – May 22, 2001 (Till Later Today) by Representative **RICHARDSON** of Brunswick.

PENDING – Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark.

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

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

Representative **CLARK**: Mr. Speaker, Men and Women of the House. For anyone that may answer. Mr. Speaker, Ladies and Gentlemen of the House. Do we need a study committee to tell the citizens to pick up the trash that we left behind to have special organizations go out and clean up the roadways? Do we really need a study committee to do that?

The **SPEAKER**: The Representative from Millinocket, Representative Clark has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. The answer to the good Representative from Millinocket is yes, yes and yes. The fact is with this study report, this is not, and I am not sure I can say this word without essentially being admonished on the House floor, but this is not the cigarette butt redemption bill. I hope no one gets up to correct me here. In any event, what happened was, and I think you understood just what strong support there was against

cigarette redemption. In fact, I gave one of my best speeches on the House floor to defeat that bill. I actually said nothing and so, as a result I chalked that up as one of my better speeches on this floor.

The fact, however, is this, after we got through the chuckles and after we laughed about this a little bit, we found out that, in fact, the number one littering problem in the State of Maine is cigarette butts. They are not biodegradable, it is a bit of an environmental issue, it is a bit of a littering issue. So what we did was put our collective heads together in the committee and came up with a study. Just so you know, in looking at the study and if you have done so, then I apologize for repeating myself, but we have the Maine Innkeepers who are one of the leading proponents spearheading this effort to find a way to reduce down cigarette littering in the State of Maine.

We spend millions and millions of dollars in order to clean up our beaches, our roads, our parks and so forth. This has a fiscal note and I am sure I am going to hear from members of the other side of the isle who have already told me so that it has a fiscal note, which they cannot accept. It is \$4,700. I think that is a very small price to pay, in my opinion, to bring in the Maine Innkeepers, those who represent the convenience stores, the Maine Grocers, the environmental people, the State Planning Office and Phillip Morris and RJ Reynolds, who are actually getting them to come to the table and talk about ways in which we can reduce down cigarette littering and I think that is a good thing.

There are some pilot projects around the country. There are some things which other states are doing that we can look at while we study this problem and when you set aside for a moment the laughter about the good Representative's bill, which he sponsored and introduced and we all know he got his 15 minutes of fame, okay. In fact, he came up with a very good point and that is that cigarette littering is a real problem in the State of Maine. Just think about from the time in, which this came on the radar screen until now, how many times have you have seen cigarette butts being littered about?

You are also, I am sure, going to hear and I am going to anticipate some of the arguments that you'll hear about this is that we have law enforcement and we have laws on the books and all they need to be is enforced. Well, we don't have enough law enforcement officers to go around and trail everyone who smokes and fails to dispose of their cigarette butts in an orderly fashion. What we need to do is educate. We need to inform people about what is the proper way to get rid of cigarette butts. This study will enable us to do so. It will enable us to put some of our collective heads together and figure out the best way. So please join me and the Majority Ought to Pass Report. Thank you very much.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I am really pleased that the good Chairman of the committee has been able to lay out the precedent of using the word butts on the floor, because I have been talking with members of this House all day trying to find another word and I can't and probably others would hope that we would have been denied that word because it probably would have ended the debate.

It was very clear on returnable cigarette butts in dealing with that litter issue on how the House voted, it was either 28 or 28 votes I think the bill received. This bill is son of returnable butts. It still lives. The good chairman had talked about the humor and the giggles and so forth. My opposition to this goes much deeper because on the day that we dealt with this bill, and we really don't have the press come by our committee room that

often, but they kept coming by that afternoon. It was an afternoon that we were dealing with problems in the rural areas of Maine. I think Representative Carr and others had bills in dealing with economic development and we were talking about population loss, job loss, underpaid, talking about a need for a strategy to begin to address that. The press came in four time that day listened, found it wasn't interesting or newsworthy, ran to our clerk and kept asking when it will be work session be on the butt bill. They came back four times, cocked an ear four times, heard about problems in this state, found it wasn't important, but wanted to come back and find out what was going to happen with the butt bill.

I know that there are members of this body who where looking at, were just starting the budget process, but they were looking at layoffs of teachers in the classroom. They are looking at repercussions throughout the state in terms of the economy and we are starting to get glimpses of that budget and as we start to set our priorities, is this what would really be a top priority on the part of the Legislature? There was a lot of publicity on this. I have got to give the good Representative Brooks credit for that, but if this was a cow, and we are talking about publicity, that cow has been milked dry I think.

I would ask the members of the House to light up your red light tonight, extinguish this bill and dispose of it properly.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to take a lot of your time, but I would like to tell why I oppose this resolve.

First, we have limited resources and lots more important things to spend our time on right now and on a scale of one to ten, with one being our top priority, I don't believe this issue would even make a ten.

Second, this little problem, and I suspect we can all agree that the cigarette litter is a problem, can best be handled in different ways, by different business and community sectors.

Many businesses can make and enforce rules that work for them, but not for others. Other businesses may not want to attempt to make rules, but rather clean up themselves, rather than risk offending their good customers.

Certainly there is an opportunity in government institutions to regulate smoking areas and how butts are to be disposed of.

I promise not to take a lot of time and I haven't. I will finish by asking you to vote against the pending motion so that we may move on to more important matters.

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

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I am not going to mention that four-letter word on the House floor for respect of the body. I just want a roll call Mr. Speaker. May I ask for yeas and nays?

Representative **DUPREY** of Hampden **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: 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. 245

YEA - Baker, Bliss, Brooks, Bryant, Bull, Bunker, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dunlap, Estes, Etnier, Fisher, Gerzofsky, Hall, Hatch, Hutton, Jones, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, Matthews, McDonough, McGlocklin, McGowan, McKee,

McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Neil, Paradis, Patrick, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Skoglund, Smith, Sullivan, Tarazewich, Thomas, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Blanchette, Bouffard, Bowles, Bruno, Buck, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dudley, Duncan, Duplessie, Duprey, Foster, Fuller, Glynn, Gooley, Green, Haskell, Hawes, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, Mayo, McKenney, McNeil, Mendros, Michael, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, O'Brien LL, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Simpson, Snowe-Mello, Stanley, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Berry RL, Brannigan, Dugay, Gagne, Goodwin, Kane, Landry, Lundeen, Marrache, Morrison, Muse C, Povich, Stedman.

Yes, 57; No, 79; Absent, 15; Excused, 0.

57 having voted in the affirmative and 79 voted in the negative, with 15 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.

SENATE REPORT – **Ought to Pass as Amended by Committee Amendment "A" (S-144)** – Committee on **TRANSPORTATION** on Bill "An Act Regarding Uninsured Drivers"

(S.P. 425) (L.D. 1380)

TABLED – May 22, 2001 (Till Later Today) by Representative **QUINT** of Portland.

PENDING – Motion of same Representative to **RECONSIDER** whereby the Bill and accompanying papers were **INDEFINITELY POSTPONED.**

Representative **WHEELER** of Eliot **REQUESTED** a roll call on the motion to **RECONSIDER** whereby the Bill and accompanying papers were **INDEFINITELY POSTPONED.**

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 Bridgewater, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I do not want to prolong the debate on this bill, but to me this is a very important bill to our constituents and I would like to say a few words and if you will be patient with me, it won't take me very long I guarantee it.

You might ask why would we want to pass this bill? Well 6.9 percent of the accidents involved uninsured motorists. We'll all pay and we all suffer because of it. Right now we have the ability in the Secretary of State's Office to take care of this. They can handle this situation without too much of a problem. Also, let's not be fooled, the insurance companies can do it to. They do it every day. They notify people that insurance has run out. They notify people of all kinds of other things and this is just one more thing that they could do to take care of real serious problem, in my opinion.

Let's talk about those who forget to pay their insurance bill. Once they get a notice, I bet the next time they'll pay their insurance bills on time and they won't have that problem again. Those who buy insurance and the minute they walk out the door after they have got their card, they call back and cancel it. If the

finances are sufficient, you can bet your bottom dollar they won't do it again.

Even so, some insurance companies like this idea, because then it cuts down on their paperwork. They don't have to deal with these people that call in and cancel their insurances after they have made out all this paperwork. It takes quite a bit of paperwork to get an insurance policy through.

I would like to leave this with you. There are 94 percent of our people that obey the law. Why should we tolerate the 6 percent that cause heartbreak and financial problems for those of us who obey the law. Please vote red on this. Thank you.

Representative DUNLAP of Old Town assumed the Chair.
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Thank you Mr. Speaker. Parliamentary inquiry.

The SPEAKER PRO TEM: The Representative may proceed.

Representative WATERHOUSE: Thank you Mr. Speaker. The present motion is we're considering the reconsider motion and that's all at this time isn't it?

The SPEAKER PRO TEM: The Chair would answer in the affirmative.

Representative WATERHOUSE: Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Mr. Speaker, thank you. We are reconsidering the Indefinite Postponement, correct?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Men and Women of the House. I wish you would disregard the red light and vote green. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Reconsider whereby the Bill and Accompanying Papers were Indefinitely Postponed. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 246

YEA - Andrews, Baker, Blanchette, Bouffard, Bowles, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Collins, Colwell, Cowger, Crabtree, Cummings, Daigle, Davis, Desmond, Dudley, Dunlap, Duprey, Estes, Etnier, Fisher, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Jodrey, Jones, Koffman, LaVerdiere, Ledwin, Lemoine, Lessard, MacDougall, Mailhot, Marley, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Murphy E, Murphy T, Norbert, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Quint, Richard, Rines, Shields, Simpson, Skoglund, Tessier, Tobin J, Tracy, Tuttle, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ.

NAY - Annis, Belanger, Berry DP, Bliss, Buck, Bumps, Carr, Chase, Clough, Cote, Cressey, Dorr, Duncan, Duplessie, Foster, Fuller, Glynn, Hall, Honey, Hutton, Jacobs, Kasprzak, Labrecque, Laverriere-Boucher, Lovett, Madore, Matthews, Mayo, McGlocklin, Mendros, Michael, Michaud, Mitchell, Muse K, Nass, Norton, Nutting, O'Brien JA, Peavey, Perkins, Perry, Pinkham, Rosen, Savage, Schneider, Sherman, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tobin D, Trahan, Treadwell, Twomey, Waterhouse, Weston, Winsor, Young.

ABSENT - Ash, Bagley, Berry RL, Brannigan, Dugay, Gagne, Gerzofsky, Goodwin, Kane, Landry, Lundeen, Marrache,

Morrison, Muse C, Povich, Richardson, Stedman, Thomas, Mr. Speaker.

Yes, 73; No, 59; Absent, 19; Excused, 0.

73 having voted in the affirmative and 59 voted in the negative, with 19 being absent, and accordingly the House **RECONSIDERED** its action whereby the Bill and accompanying papers were **INDEFINITELY POSTPONED**.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Ladies and Gentlemen of the House. Now push red. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Thank you Mr. Speaker. I move Indefinite Postponement of this bill and ask for a roll call and would like to speak to my motion.

Representative O'NEIL of Saco **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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 Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I got a lot of funny looks on the procedural motion. I figured I would extend the courtesy and vote green on reconsider, but not this time. This is still a bill that I cannot live with and I think the 13 members of the Banking and Insurance Committee can't. Not to reopen the whole thing, but there were two committees that saw very similar issues two entirely different ways and since I have been here eight times, I will just say this, if this bill could guarantee that it could get the scoff laws the people who get insurance and cancel it right away, those same people that have habitually offend, they drive drunk, they operate after suspension, that don't register their vehicles, that drive without a license. If we could guarantee that we could stop these bad actors, then I would be inclined to support it. But it harshly penalizes thousands of people whose checks are in the mail.

We are the envy of 49 other states here in Maine. Let's wait until we get set up right to do it Mr. Speaker. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Men and Women of the House. I apologize, but the good Representative from Saco restarted the debate so I will continue on. This actually will not penalize the insurers that have a check in the mail. I think we stated that last night and I hope everybody is listening so they do understand that this does not penalize them.

It is funny, when I left here last night, I called a friend of mine and was talking to him and this is the truth, I told him what we were debating and he wondered why, how come it wouldn't pass? I said that I don't know. It is funny, I do that whenever I register my car. I said, "You do?" He goes "Oh ya, it is the cheapest way to get insurance, you get it for the month you need it to register your vehicle then you get rid of it." So the problem is closer than you think to some of us, actually.

Nothing has changed, this bill is a good bill, it was worked by the Transportation Committee. I won't ask the Clerk to read the report I will do it for her, it was a 13-0 Transportation Committee report. Banking and Insurance did not hear this bill presented by a member of the other body. The Transportation Committee heard it, it's unanimous and I can't believe we are debating it a second time, a unanimous committee report.

Some of the individuals that have been standing up debating this issue have said to me in the past they would go along with

this. It's a unanimous committee report. So you know, I am a man of my word and I stand behind the committee and my good friends and colleagues on Transportation and I will defend this all the way and as many avenues I can take, they will be taken. I would appreciate your red vote, not to Indefinitely Postpone this and to vote for your constituents and not for the members of the insurance lobby sitting in the gallery. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. The committee kind of got together and decided we were not all going to get up and speak tonight, you heard us all last night, but I did want to make a couple of quick comments.

First of all, the comment was made a few minutes ago about not worrying about that small percentage of people that don't follow the law. I can think of any number of laws we have on the books that are only broken by a small number of people, yet we still have them on the books. They are there for a reason.

The second thing I have to say is when this was all over last night, I got to thinking about what should have been said and I think of this bill as a responsibility act. I started recalling back into January when the gentleman from the second floor was up here giving his State of the State Address and he stood here and he talked about taking personal responsibility and large numbers of this body rose and cheered him. Keep that in mind tonight when you vote. Make sure that those who are not meeting their responsibilities either do or pay for it. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. We heard yesterday about this bill and we heard about the duel in committees, Banking and Insurance Committee, strong opinion on this, Transportation has a strong opinion on this. We all, as individual members, by this time have researched it and made our own decision. When I looked at the Roll Call I came out with something very interesting.

The committee I serve on, the Judiciary Committee, has the responsibility to make sure that laws that are passed actually target the criminal, aren't excessive, aren't draconian in nature and the laws we pass are fair. All 10 members of the Judiciary Committee in yesterday's vote opposed this bill. Now, you may think that is no big deal, Representative Waterhouse and Representative Mitchell vote together all the time, but if you ever look at the board that isn't true.

The one thing that all members of my committee agree on is we don't like to see people's rights being trampled. We want to make sure laws are good and fair and I think everyone agrees on that issue.

I think this bill clearly misses its target. It gets people, like the letter that was sent around, who drive their car seasonally and take the car off the insurance. These people are not subject to potential fines. A person who sends in a check late and was stated yesterday, the person who insures their car and then registers it, drops their insurance and if they pulled over, they are already going to get a ticket. A police officer isn't going to know that that car is not registered because the sticker that's on their license plate that says when their registration expires is not going to magically fall off. So no one is going to know that the car is unregistered until the car gets pulled over and if it's pulled over and it's uninsured, they are going to get a fine anyway. So this is not going to stop a single driver who is driving without insurance. It is only going to get those people that are late in sending in their payments or make a mistake or was too busy. If you want to hit those people with a \$1,000 fine and you don't care if those of your constituents that are going to get hit with this, then go right ahead and pass this bill.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. Last night I chose not to speak on this issue because there was enough floor debate and the hour was late and we are all tired and really testy. Tonight, I cannot pass up the opportunity.

I have a piece of paper that was distributed under Representative O'Neil from Saco, under his or over his name, that states that a lady had a problem where she has put up her car for the winter and she has dropped her full coverage on her Volvo and she is only covering comprehensive insurance. Is she going to get a letter from the Secretary of State? Maine law states that you only have to have liability insurance to put your car on the road, that's liability that covers the other driver. They don't really care whether you get your car is covered or not. Liability is the law. Having been the victim of some of these poor, poor people that couldn't afford their insurance and they managed to back into me and immobilize my car, so my insurance rates went up, I lost work because I didn't have a vehicle to go back and forth, but these people had money to put gas in their car, to go out and tool around uninsured.

This is another step that we need to take as a state to protect the law-abiding citizens that do comply with the insurance laws that do take their driving as a privilege. It is not a right. You were never born with the right to drive a car on a Maine road. We need to pass this law to protect the law-abiding citizens and I don't go for this, the poor person couldn't afford it. Most insurance companies, outside of what the lobbyists want to tell you, give you a 10-day grace period before they cancel your insurance on you. Believe me they can and they do notify you when this is coming up. So, I am not swallowing the hard sob stories that people are telling me that these poor people were too busy, they didn't have the money and they forgot about it. You don't forget about it when the insurance companies notify you. You have 10 days and if you put your check in the mail and it's not going to reach them, a telephone call will take care of the problem and they will extend that before they pull your insurance. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lemoine, Representative Pinkham.

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I normally don't stand on anything other than lobsters or crabs or something like that, but this bill really smells fishy to me.

I would like to make a couple points here, one of the first speakers that spoke said that the Secretary of State's Office could already do this, they are already set up to do it, so why couldn't the insurance companies do it? My question is if the Secretary of State can already do it, then why do they need 12 more positions to do this.

I have a problem knowing a little bit about law enforcement, to hire people and depend on their salaries in keeping them employed, but fines that you collect because, I think it makes for very poor law enforcement to have to pay people with the fines that you collect. It tends to make people a little greedy and do things that normally they may not do in law enforcement.

I think this bill has been presented, I have presented it twice in the last seven years and it hasn't gotten anywhere, but I think it is a money deal. It isn't about people operating uninsured, the statistics we had yesterday said there were about 4 percent of the people operating uninsured. Some of these people may be trying to get away with something, but some of these people are elderly people, some of them are poor people that have to depend on a car to maybe get to a part-time job or something like that just maybe don't have the money for the insurance.

They may even pay by check and the check bounced so that their insurance would be cancelled automatically.

There are some people that can't afford this and whether you are poor or elderly and forget to register your car, I think it is a bad bill, taking advantage of people who can't afford to do this. I ask you to vote for Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like also to comment on this letter from Mr. Day who puts his 19 or whatever year Volvo up for the winter. I have two vehicles that when the first snow comes, I take the insurance off and leave it off until spring when there isn't any more ice and snow and salt on the road.

What you do is remove all the insurance, the liability insurance and you retain the comprehensive, it's the comprehensive you need when it is sitting in the garage, that's your fire insurance or glass breakage in case something happens. So it is a practice that a lot of people in Maine do, we have some vehicles we don't drive in the wintertime. I can relate to that and I think that I would be pretty upset myself if I got a notice and a fine for not having my vehicle insured during the winter. I would also urge you to vote for this motion to Indefinitely Postpone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Thank you Mr. Speaker. Unless the laws and the rules in the Banking and Insurance Financial Regulation Department has changed, when a person removes their coverage on their car for the winter, for example, but retains the comprehensive, your not canceling out your policy. You have the same policy number that was there originally, all that they do is suspend your collision or your liability coverage for whatever amount of time that you are doing so. You still have the same policy, same policy number and it is still in force as long as you paid that premium to cover your car for comprehensive. I don't believe that the person who does this is going to get a letter from the Secretary of State's Office because they are not insured, because the insurance company will not send them a letter that they are not insured. You still have the same policy as what you had before. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

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

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who is willing to answer on the Transportation Committee or anyone in the body? I have a 1974 Dodge truck and an 1984 Dodge truck and I have no insurance on it whatsoever in the wintertime and they set on my property, so how am I going to be in violation of any law if I am not on the highways and byways of the State of Maine? Thank you.

The SPEAKER PRO TEM: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. To the good Representative from Rome, if you don't drive the vehicle on the road, then you won't be in any violation at all. May I continue Mr. Speaker?

The SPEAKER PRO TEM: The Representative may proceed.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I would just like to comment to on the orange paper that was sent out by the good Representative, Representative O'Neil from Saco, that the LD we are working right now is LD 1380 and this letter here is in regards to LD 112, so I know here in Augusta, the way things are written, you really have to make sure your numbers match what you are talking about, so if, Ladies and Gentlemen of the House, you would throw the orange piece of paper away, then we could get on and talk about LD 1380. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. During the debate we have heard about some parts of the population who cannot afford insurance on their vehicle because they don't have enough money or are in financial hardship, while I can assure you my constituents and several of yours can't afford the hardship when they are faced with a vehicle that they can't repair because they don't have the money because they are not made whole.

The fines on this bill are designed to put enough pain in the way. Once a few people are caught and nabbed for driving uninsured, and the fines are out there, the people begin to understand the repercussions of driving uninsured. Which there are not repercussions today. I think things will begin to change because it will be a lot cheaper and a lot easier to just get the insurance and keep it insured while you drive.

As you go to your vote, ladies and gentlemen, the Transportation Committee has dealt with this issue for many sessions, and this particular session they have crafted a piece of legislation with Democrats, Republicans, from people all over the state to present to this body. Please support them. Thank you.

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

Representative **LESSARD**: Mr. Speaker, Members of the House. I had occasion to submit a bill earlier this session dealing with this particular issue for this reason, an accident occurred, a pedestrian was involved, the driver of the vehicle was not insured, the officer saw fit not to summons the individual for not having insurance. I checked with the officer and there is not a requirement that that individual be summonsed because the vehicle operated was not at fault. That's the option the officer had. My bill definitely would have taken care of this in some respect in that when the officer submits his report to the State Police and the Department of Transportation. They don't necessarily report it to the Secretary of State.

In other words, something fell through the cracks here. By having the police report go directly to the Secretary of State when there is an accident involved, an uninsured motorist, that would have caught it. It wasn't until the parents of the young lady who was struck by the vehicle checked with the Secretary of State, they had no information in regards to any kind of insurance with the motorist, therefore, my bill probably would have helped. I was assured that parts of this legislation here, that we are dealing with would have corrected some of that, I believe it would. Therefore, I recommend that they kill the bill. Therefore, I believe this is a good bill and I believe we should go forward with it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Levant, Representative Chase.

Representative **CHASE**: Mr. Speaker, Ladies and Gentlemen of the House. I seem to have developed a habit of making a mark when a motion is made and on my calendar as to whether I am going to vote yes or no and I rarely change that from the time the motion is made until the vote is called. Being in favor of getting rid of the uninsured motorists, I marked a yes

when the motion was made and I see that I have changed my mind seven times as the debate went on and I ultimately voted against the thing.

It just seems to me that if an issue is as controversial, and has as many view points as this one does, it is not terribly appropriate to enact that until it has been worked over and the parties have agreed. Now we just a few minutes ago heard another loophole that we hadn't mentioned before, unless I have missed something in reading this the amendment. The LD don't seem to mention liability insurance, it just says insurance. So maybe the guy that doesn't have much money goes down and buys his insurance package and he gets liability and comprehensive and next week he cancels the liability part of it and he gets more than half of his premium back.

I think there are a lot of problems with this and I kind of think it will be too bad to enact something with that many problems.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. We had a long debate on this the other night or yesterday, 24 hours ago, and I will not keep this one going too long tonight. I think the good Representative from Levant has raised an excellent point. I would remind this body that we are dealing with two committees who have tackled this year and in previous years the same subject.

The good Representative from Eliot is correct with regard to the letter, which was distributed on, I believe it is orange, but I am slightly color blind, piece of paper, it does deal with LD 1112. LD 1112 was heard by the Banking and Insurance Committee in January and February of 1997 and if my memory serves me correctly that bill received, as did similar bills dealing with the similar topic, a unanimous Ought Not to Pass report.

As I stated yesterday, I believe that I have heard bills similar to what we have in front of us, at least 11 times since 1995. I personally wish, and I have been hit by an uninsured motorist, I was not physically hurt, it did cost me some money to fix my SUV, that this bill that we have in front of us would solve the problem, but I don't believe that is going to.

I went out of my way this week, knowing that it was on the docket to talk with two police chiefs in the mid-coast area about this particular problem. Both of these people said a strong majority of the uninsured motorists with whom they are dealing today are habitual offenders who, in no way, will ever pay the money that is mentioned in (S-144) the amendment to this particular bill that we are going to go ahead and hire 12 people to administer, assuming that we are going to get the payment through the fines and that we are also going to, as we indicated yesterday, and I was told again today from an Maine DOT official. It is going to give some money to the Maine Department of Transportation, the spillover. Ladies and gentlemen of the House, this is not going to happen because we are dealing with a segment of the population. We are down to the 4 percent and these people do not have by, in large, the wherewithal to pay fines that they are going to, if I read this correctly, in this biennium approach \$3 million dollars.

It is nice to pass legislation and it is nice to hope that it is going to solve a problem, but with Maine being in the I consider, the enviable position of having the lowest automobile insurance of the 50 states, and the best record on uninsured motorists, while I would like to see that number as a zero, I think realistically passing legislation such as this is not going to move us in that direction and I would urge that you support the Indefinite Postponement motion. Thank you.

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

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to prolong this for very long. There is just a point I would like to make here, the Representative from Levant made an excellent point just a few moments ago. He said that this bill has problems. I would agree that this bill may have some problems and the Representative hit it on the head. He said let's not pass this bill until we get all parties to agree that it is a good bill. That would be great, we would love to do that, but there is one party that won't come to the table and that's the insurance companies.

You have heard that we have had this bill before these bodies 11 times, probably more than that. Anything that has come before this Legislature this many times cries out for rectification. It cries out for correction.

The insurance companies won't play. They dig their heels in, they fill the halls with their high-powered lobbyists and they won't play the game.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Wheeler. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I apologize for rising, but this means a lot to me, a real lot when somebody that was not even at the public hearing or work sessions is telling us what it will or will not do.

We have committees here, folks, to look at issues that come in their jurisdiction and bring the message back to the body. We cannot go to every committee meeting that there is. This is why we have committees. The Transportation Committee was unanimous on this issue. There is a lot of problems with uninsured motorists.

I would be in favor of voting to Indefinitely Postpone if the Banking and Insurance Committee would guarantee me that this would not even get one uninsured motorist off the road. But the way I look at it, that one uninsured motorist may be one that causes a vehicle homicide.

This is for your constituents folks. We are not here for insurance lobbyists. We are here for constituents.

About the 12 positions, again, I will state what I stated last night, working within the budget in the transportation group. I am the most conservative Democrat you will ever find. I think my fellow colleagues would tell you the same. I would not be voting for 12 new positions. It is going to take 12 people to do the paperwork within the department. These 12 people will not be used more than the two years once the new computer system that we all voted for last year is put into place. I don't have a problem with that, I think anybody in this body that thought the paperwork would not need to be handled by somebody would be looking the wrong way.

This is a good bill for your constituents. Let's start voting for your constituents and not for the lobbyists. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Thank you Mr. Speaker. After today's debate with opt in, opt out, I have no love for insurance companies and I am here to work for my constituents and this is going to hurt the poorest of the poor. This is about \$1.6 million to the Highway Department and in order to get that kind of money, if the little old lady goes to the store and she happens not to have her insurance card in her car, I don't want her to be hauled off or fined and that is who it is going to hurt and the poorest of the poor are women. I truly believe that this is not, in order to get that money there will be harassment. Again, I want to tell you it happened in Connecticut and after three months they pulled it

out. It didn't work, they couldn't keep track of people who were insured because they had a set of computers here, the state had another set of computers, the numbers weren't matching. It was a nightmare for Connecticut.

I don't want it to happen here, this is not about our constituents. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House. I purposely avoided getting up on this bill, but I don't like it at all. I don't like it for a number of reasons and I would like to share with you those real quickly.

First of all, I have heard from a number of members today about the problems they have had being hurt or injured or struck by uninsured motorists and recovering money. I can tell you from personal experience that I have had exactly the same problems they have had recovering money from insured drivers. I think there is a problem, apparently, with our court system and how we collect money from people who owe us money or damages in some way.

The short of that is the reason I think just simply having insurance doesn't guarantee that you get paid fairly or in a timely manner by anybody. I will also say that no insurance company or insurance person has talked to me on this bill at all.

The second problem I have is that we seem to be setting up a strange, if anything, fining arrangement which we call additional fines and in the way that they have done it in the bill as amended is to set a new section of penalties called 5A and 5A is unusual in the statutes in the way it is written because it simply says in addition to any other fine or any other penalty for violation of this section, a person who has and it goes down through the three reasons that they might be fined, but those particular fines go to the highway fund versus the general fund. That is particularly unusual for this type of penalty. Usually penalties that go to the highway fund seem to involve things that damage highways like overweight fines and that type of thing.

I guess the bottom line is I see this bill as primarily extracting approximately \$5 million out of the citizens of the State of Maine for little benefit regardless of what people say. I have heard time and time again here that we enjoy the lowest in insurance rates in the nation. I assume that is because we have fewer claims or fewer accidents. We have the lowest number of uninsured motorists in the nation and looking at the list that we were given, it seems to me that states like New Jersey are very aggressive and New York about going after people who don't pay for their insurance and yet they seem to have 15 percent uninsured where we have 4 percent. I guess I certainly don't want to go where New Jersey and New York and those states are and I guess I am wondering why this bill will improve everything if our brother and sister states have had laws like this in effect for a number of years and seem to be doing a lot worse and paying more for it at the same time. That doesn't seem to help our constituents very much, from my point of view.

Again, I am also one of those individuals like the good Representative from Scarborough and the letter that was written from a person who has a seasonal vehicle. Now I do the same thing. I don't read the law that I am going to have to get a ticket, but I don't want to happen is to pay another \$35 to reinstate my plates or my right to drive when I get my insurance at the beginning of the summer. Certainly I don't know what I have done wrong to deserve paying an extra \$35 if that's the case, and it is not clear in the bill that that is.

Certainly for those reasons, I am not going to vote for this and I urge you to join me in voting for the motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil

Representative O'NEIL: Mr. Speaker, my fellow Representatives. I don't want to debate the bill any longer. A point of clarification, I am a bit of a detail freak and I save all my bill folders, this orange sheet that I distributed was from 1997 and the 118th. I think it was the first or the second time I have heard this bill and I remember asking Mr. Day about that. I remember making a point that a lot of these folks canceled their insurance on the seasonal vehicles and it would affect them to.

On process, Mr. Speaker in case anybody was not here when I made my initial mea culpa.

The SPEAKER PRO TEM: Would the Representative please defer. For what reason does the Representative rise?

Representative MARLEY: Point of order Mr. Speaker.

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

Representative MARLEY: Mr. Speaker, Men and Women of the House. Is it relevant that we discuss something from 1997? We have heard both sides of the argument and I would like to see the vote. Thank you.

The SPEAKER PRO TEM: It is appropriate to discuss past action of the Legislature. The Representative is out of order. The Representative from Saco may proceed.

Representative O'NEIL: Thank you Mr. Speaker. I was finished with that. The thing I was talking about was last night in the debate I led off by going out of my way and probably some people who were here tonight who were not here then to just let folks know that I serve on the Rules Committee, I did last session, last Legislature and I was a strong proponent of the two or three vote rule out of committee and I frankly thought that if you don't get three votes out of committee you don't deserve to debate it. There are certain situations where something new, a revelation or an enlightenment comes to being where the process allows us to back up a bill. Hence I backed up the bill, no offense to anybody who heard this bill and invested time in it.

The SPEAKER PRO TEM: Would the Representative defer? The Chair would request that members debating the legislation confine their comments to the legislation. The pending question is the Indefinite Postponement of the bill and its accompanying papers. The Representative from Saco may proceed.

Representative O'NEIL: That brings me to my conclusion, please support the pending motion.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 247

YEA - Annis, Belanger, Berry DP, Bliss, Brooks, Bryant, Buck, Bull, Bumps, Canavan, Carr, Chase, Clough, Cote, Cowger, Cressey, Cummings, Daigle, Davis, Dorr, Dudley, Duncan, Duplessie, Etnier, Foster, Fuller, Glynn, Gooley, Green, Hall, Haskell, Hatch, Hawes, Honey, Hutton, Jacobs, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Lemoine, Lovett, Madore, Mailhot, Matthews, Mayo, McGlocklin, McLaughlin, Mendros, Michael, Michaud, Muse K, Nass, Norton, Nutting, O'Brien JA, O'Neil, Peavey, Perkins, Perry, Pineau, Pinkham, Quint, Richard, Rosen, Savage, Sherman, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Treadwell, Twomey, Waterhouse, Weston, Winsor, Young.

NAY - Andrews, Baker, Berry RL, Blanchette, Bouffard, Bowles, Bunker, Chick, Chizmar, Clark, Collins, Crabtree, Desmond, Dunlap, Duprey, Estes, Fisher, Gerzofsky, Heidrich, Jodrey, Jones, Ledwin, Lessard, MacDougall, Marley, McDonough, McGowan, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Norbert, O'Brien LL, Paradis, Patrick, Rines, Shields, Skoglund, Snowe-Mello, Thomas, Tobin J, Tracy,

Trahan, Tuttle, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ.

ABSENT - Ash, Bagley, Brannigan, Bruno, Colwell, Dugay, Gagne, Goodwin, Kane, Landry, Lundeen, Marrache, Morrison, Muse C, Povich, Richardson, Schneider, Stedman, Mr. Speaker.

Yes, 81; No, 51; Absent, 19; Excused, 0.

81 having voted in the affirmative and 51 voted in the negative, with 19 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldoboro, Representative Trahan who wishes to address the House on the record.

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I stand to apologize to the body. There was a handout that went out under my name and one of the items on the handout, it was on a tan sheet, at the bottom it says, what is Maine doing about child abuse? The numbers in that paragraph are incorrect and I wish that you would accept my apology for that misinformation. Thank you.

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. 13) (L.D. 13) Bill "An Act to Amend the Definition of Agricultural Land for Taxation at its Current Use" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-571)**

(H.P. 963) (L.D. 1276) Bill "An Act to Allow County Corrections Personnel to Participate in the Same Retirement Plan as Other Corrections Personnel" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-568)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** 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. 1322) (L.D. 1783) Resolve, Regarding Legislative Review of Chapter 60: New School Siting Approval, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 1345) (L.D. 1802) Resolve, Regarding Legislative Review of Chapter 115, Part I, Section 8.5: Targeted Need Certificate, a Major Substantive Rule of the State Board of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 601) (L.D. 756) Bill "An Act to Ensure Quality Home Care Coordination Services and Improve Long-term Care Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-580)**

(H.P. 902) (L.D. 1194) Bill "An Act to Alleviate the Shortage of Pediatric Dentists in Maine" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-579)**

(H.P. 1160) (L.D. 1560) Bill "An Act Authorizing Patients to Designate Visitors" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-578)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** 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:

(S.P. 623) (L.D. 1805) Bill "An Act to Amend the Charter of Bates College" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(S.P. 441) (L.D. 1495) Bill "An Act to Establish the Maine Military Authority" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-246)**

(S.P. 612) (L.D. 1792) Resolve, Authorizing Certain Land Transactions by the Bureau of Parks and Lands Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-244)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** in concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-532)** on Bill "An Act to Authorize Release of Certain Information Pertaining to the Certification, Authorization and Approval of Educational Personnel" (EMERGENCY)

(H.P. 1295) (L.D. 1765)

Signed:

Senators:

MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
ESTES of Kittery
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York

WESTON of Montville
LEDWIN of Holden

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

Signed:

Representatives:

WATSON of Farmingdale
SKOGLUND of St. George

READ.

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

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. This bill is merely a bill to provide information regarding the number of people who work in the education field, who were fingerprinted and the number who were denied certification.

Before any other bills are passed it really would be, I think, to your advantage to know what this number is. We can't release it because of the way the law was written last year. We do have on hold, holding over until next year a bill that would address the repeal of the fingerprint law. It would seem to me that you need to know this figure before you take that action. Thank you very much.

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

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. The bill before you is not a good bill, but I am still asking you to vote for it. The reason is that when you put in a bad law you will spend the next two decades either patching it up or having the courage to repeal it.

According to last years bill, we never should have had to have this bill in front of us. What happened in January was the release of all the violations against school personnel, all the violations and that never should have happened. As a result, this bill is now before us and it is a shame.

For those of you who are hungry to find out how many child sexual predators exist in our schools, this bill will assure that you will never find that out, never, because the fingerprinting bill and this piece of legislation will ensure that the total aggregate number will be released, no others. So there will be in there, child sexual predators, people who have committed a felony within the last three years and those who committed misdemeanors in the last three years related to the crime, related to the job in schools.

There are serious weaknesses in this bill, but it does reinforce in law that we will have some security about what will be released to the public and to the press. I believe that our school personnel deserve that security. I know that there are those among us who cannot vote for anything related to what they see as a civil liberties violation and are philosophically opposed to voting for anything that could be connected with the law put in last year.

My hearts are with you. At the right time, my vote will be with you, but until then, I ask you to give this due consideration.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. I am not sure I understand this bill, perhaps I should pose a question through the Chair and we can go through hours of debate trying to figure it out. The only feeling I am left with is this is information that is collected under the fingerprinting bill, I am not going for it. If it is release of any

information under the fingerprinting bill, I don't know why we can't get that bill back in front of us, this year and last year. I hope I am not violating any of the Rules of the House Mr. Speaker by talking about previous years. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative HALL: Mr. Speaker, Ladies and Gentlemen of the House. I too rise as somebody who is a very concerned opponent of all things to do with teacher fingerprinting to urge all of you who are of the same mind as I am to quickly support this main motion so that we can get on to debate the real issues on an amendment afterwards.

Representative THOMAS of Orono **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. 248

YEA - Andrews, Annis, Baker, Belanger, Berry DP, Berry RL, Bliss, Bouffard, Bowles, Brooks, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Foster, Fuller, Gerzofsky, Glynn, Hall, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kasprzak, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, MacDougall, Madore, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Murphy T, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Pinkham, Quint, Richard, Rines, Rosen, Savage, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Green.

ABSENT - Ash, Bagley, Blanchette, Brannigan, Bruno, Colwell, Dugay, Fisher, Gagne, Goodwin, Gooley, Kane, Landry, Lundeen, Marrache, Morrison, Muse C, Povich, Richardson, Schneider, Stedman, Mr. Speaker.

Yes, 128; No, 1; Absent, 22; Excused, 0.

128 having voted in the affirmative and 1 voted in the negative, with 22 being absent, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-532)** 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**.

Representative PARADIS of Frenchville **PRESENTED House Amendment "A" (H-553)**, which was **READ** by the Clerk.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House. I wish to thank the Speaker and leadership for allowing me to present this amendment. I had hoped that this matter could have been dealt with through regular channels, that is a report out of the Education and Cultural Services Committee,

however, it was not to be for various reasons, I will not speak to today.

However, I must respect the growing clamor for action on this and I must also respect the constituents whom I represent. My amendment is essentially LD 1090, which I cosponsored with several Representatives and Senators from both parties. I must inform you that I have the blessing of Senator Davis, the sponsor of the bill to proceed in this manner this evening.

Mr. Speaker and distinguished colleagues, we are at a crisis point with present law mandating the fingerprinting of teachers and school personnel. We have turned on their heads. Some of the most revered principals of our democracy, the first has to do with education. Let me remind you that the foundation of American public education is embodied to the Latin phrase in loco parentis, in the place of the parent.

This is a sacred compact that has served this country well over the years. However, the very fabric of public education is threatened by the well intended but ill-conceived fingerprinting law. If you mandate the fingerprinting of teachers who are replacing the parents at school, don't you logically have to fingerprint the parents too? The second threatened principal of our great democracy is the off quoted legal phrase innocent until proven guilty. That basic tenant has now been knocked down to the canvas and might not survive the count.

In the misguided zeal to locate that statistically minute pedophile or sexual deviant. We are now operating under the ominous rule of guilty until proven innocent. Sounds like the former Soviet Union and Nazi Germany, doesn't it? The ever-growing crisis generated by the fingerprinting law also has had the unintended consequence of acerbating the serious teacher shortage.

As the enlightened school committees in Belfast and I was at that meeting, along with four of my colleagues from the House, the school committees in Belfast, Skowhegan and more recently in MSAD 40 and you have a hand out on that. Those people have recognized that we cannot afford to lose high quality teachers such as history teacher Stephen Smith whose only crime was to refuse to circum to the dictates of the Department of Education. For teachers like Smith, our Constitution is still very important and it's time proven principles need to be protected. Call him a rebel, a malcontent or whatever, he follows in the footsteps of Patrick Henry, John Adams and George Washington. Thank God for those patriots of old and Stephen Smith and the others who will insist on preservation of constitutional rights, even at the cost of losing a job he loved so much and are so good at.

I was at the Belfast School Board Meeting and I had the opportunity to talk with many so-called malcontents. Let me tell you that school committee and Stephen Smith's students do not think that they are malcontents. At latest count, Maine has now lost or is on the verge of losing over 70 quality teachers with a combined total of over 2,000 years of distinguished service to this state and its children. There is an ominous wave of criminalization that well intended, but misguided zealous are riding right now. I thought McCarthyism had died 45 years ago after our great Senator Margaret Chase Smith exposed this crusade for what it was in her famous declaration of conscience speech.

In presenting my amendment, Mr. Speaker, I appeal to your fairness, common sense and respect for our constitutional rights to emulate Senator Smith and utter a very firm collective declaration of conscience and return this state to sanity, respect and respect for our constitutional rights and gratitude to the 99.98 percent of teachers who faithfully educate and nurture our children in loco parentis, in the place of the parent. Please vote

for the total repeal of the law that has brought the education profession to its knees. Please vote green. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Mr. Speaker, Men and Women of the House. I rise tonight in support of the amendment that is before you that was presented by Representative Paradis from Frenchville. I have the utmost respect for my colleague, who has just spoken, having been an educator here in the State of Maine for many years.

As a member of the Education Committee, now in my third term, I was there at the very beginning of this initiative. I am not going to go into the details of how this began and how we arrived at where we are today. All I want the members of this body to know is that at this point in time given all of the information that we have and additional information that has been requested by the previous bill from the committee that we were asked to support. I want to let members of this body know that I feel enough is enough.

Last Saturday I voluntarily went to Monticello School in Lewiston and joined the other school personnel that were invited by appointment to be there to line up and to be fingerprinted so they could continue to be employed in the State of Maine. For me, it is optional. I substitute taught last fall and I would like to do it again this fall. I told the State Trooper who was registering people that I did not have an invitation, but I would like to go through the process. I wanted to be there and experience what others had to experience since this has been passed into law. Even though I have been fingerprinted before for employment, voluntarily, because I wanted the job, this felt very different to me. I was there in that school cafeteria with people who work in our school systems who I have always espoused to support to the best of my ability and had aspired to the Education Committee to do just that. I went through the process and I joined other educators and school staff people. I talked with some of them. I was confronted by a constituent who knew in July she was no longer going to be teaching in one of my schools in the alternative ed program. She asked, how can you do this to us, who only want to be the very best teachers that we can be for the students that we teach? I had answers. I had explanations. I had justification and we all do since this has passed.

We have all had good reasons why we supported the initial request for new hires only. We know that 38 states do new hires. That felt justifiable, but until each and every one of us stand in the line with the rest of the people that we all come here to say that we support wholeheartedly because we entrust to them every day the lives of our children until every one in this room can say that I have been here and I have walked in their shoes even though I didn't have to. Can you honestly say it is justifiable? I can't and I won't and will support the amendment that is before us. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative HALL: Mr. Speaker, Ladies and Gentlemen of the House. Many of us ran for election last year with the specific commitment to try to repeal teacher fingerprinting. As you can see, Mr. Speaker, many of us won. We ran on that commitment for many reasons, though I believe all of us did so in the hope that it is in the power of this body to right a considerable wrong.

Ladies and gentlemen, all too often people given a specific responsibility cannot see the wood for the trees. They go to extremes to protect against the specific danger or threat that they are paid to worry about without understanding a bigger picture. Many of us can fall into the trap. Mr. Speaker, if I were the State

Fire Marshall, we would never be meeting in this room. One hundred fifty or more people in a room that exits in only one direction, that is an unthinkable, intolerable danger. Mr. Speaker, if I were a Coast Guard inspector of vessel safety, I doubt that any cruise ship would ever sail from Portland. Think of the Titanic disasters that I might be made to blame for. Mr. Speaker, if I were the Commissioner of Education, perhaps I could end all possibility of child molestation in the schools by erecting glass barriers to separate teachers and their pupils or if that were too expensive, perhaps I could solve the problem by hiring only eunuchs. If these comparisons sound absurd, they are, of course, intended to be. I bring them out to illustrate one key point. We need a sense of balance here. In our job as legislators we are often called to balance the possibility, however remote, of great harm to a few with the certainty of a small harm or even an inconvenience to many. When we do that, we need to be very, very careful about the facts concerning the supposed great harm we are asked to move against.

We also need to look carefully at the unintended consequences of our actions. In this debate we need to weigh very carefully those three issues, the possible great harm, the certain lesser harm and the unintended consequences. I am convinced, Mr. Speaker, by all the weight of evidence that fingerprinting has prevented no great harm. It has caused pain or inconvenience to very many and it has done much unintended damage in the form of pushing good teachers out of teaching. I believe we may be in for a long debate tonight and I believe that others are going to talk about why fingerprinting is a failure, why it is irrelevant to protecting school children? Others will speak of the unintended consequences of fingerprinting, of losing good teachers we cannot afford to lose.

I just want to end briefly by talking about the hardest of my three criteria, the relatively small harm that is certainly done to all teachers whom we have required to be fingerprinted. Fingerprinting itself, Mr. Speaker, is a small, but it is a sorted and disrespectful act. Objectively it may not seem harmful, but in our culture it means only one thing. It means suspicion of criminal activity. Think about this logically, please. If you are not a suspect, however remote the suspicion may be, you do not need to be fingerprinted and your guilt or innocence proven. If you are a suspect, however remote the suspicion, then fingerprinting is clearly appropriate. What we have said to every teacher in Maine is that you are suspected of being a child molester. That is not the way, Mr. Speaker, that we should treat dedicated professionals. In our society fingerprinting is quite simply and properly the way we keep track of criminals. If we go beyond this and make it the way we track every person, we have taken a small step towards tyranny.

Concerns about privacy have colored many of debates in this session. Nobody should be surprised at this. We are in an era, thanks to technology, all of our non-cash purchases become part of commercial databases, all our e-mails and internet use can be tracked, recorded and sold and indeed when all of our long distance phone calls can be monitored, recorded and screened. These are not paranoid fantasies. We all know the reality of the databases that drive, for example, our great growth industry, telemarketing. This is an opportunity tonight to redress the balance with one small, but very proper step. It is time for us, for many reasons, to do the right thing and repeal fingerprinting. I urge you, ladies and gentlemen of the House, to vote to adopt this amendment. I thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I hear the words of the good Representative from Frenchville and the good Representative from Farmingdale and I

just want to point out that I agree that we are placing the schools in loco parentis by law. Parents who have very little choice if they don't have the resources to home school, must, by law, place their children in the trust of the school.

Before I decided to live the life of poverty, I mean work in the Legislature, I worked for a mutual fund company. That, like every other securities and exchange commission regulated industry business, requires fingerprinting of all of its employees. As the good Representative from Farmingdale talked about, I have walked in the shoes. I sat there and I thought about it for a good number of moments before I put my finger to that pad. I will tell you that when I hear this debate, it really kind of strikes me with a great deal of irony that we would spend all of this time arguing about whether we should fingerprint people to protect children when every single day we do it to protect people's money. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Montville, Representative Weston.

Representative WESTON: Mr. Speaker, Ladies and Gentlemen of the House. I agree with several things that have been spoken tonight. I believe in constitutional rights and I believe in balance. I believe those rights can best be balanced by taking our responsibilities. As has been said, parents send their children to school because we mandate it. We are asking them to place their children in the control of people with assurance that those people are going to take good care of them. We are saying to them at the same time, you have no right to know if that person who is taking care of your child has been convicted of harming a child. I teach. I do a lot of long-term substituting. I have spent literally years in the classroom. When the parent brings their child to my door, especially because I am there just for probably three months at a time, I look at them and I am more than willing to tell them that I cannot promise that your child is going to be absolutely safe today, but I can and am willing to tell you that I have not been convicted of harming a child. That is the very least that you should expect from me.

We can talk about our rights to our privacy and freedom, but when we ask people by law to entrust their children to us, we have some responsibilities. I would just ask for you to explain what we talked about so far tonight and I know what is coming. If you can explain these very same reasons to this young girl who found in Maine, just recently, that someone in the school district had been hired as a janitor had molested her 20 years earlier as a student out of state. She found out that he is being hired by a district here in Maine. You explain to her why if he had been fingerprinted, he would not be in a school today.

There are four stories here from Mr. Pringle who gave his testimony before our Education Committee last year. One story was an employee who in 1986 had a felony conviction for smuggling contraband into a penitentiary. He has also been convicted for possession of a firearm by a felon. He moved to Maine and got a job in our school. You explain to the victims of these situations that you and I have a right not to be fingerprinted, not to reveal any kind of conviction in our past. Those are the people that we should be protecting. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I will begin with a quote that I began this debate with last year from Benjamin Franklin. "Anyone who would sacrifice freedom for security deserves neither." Think about that.

I have heard a few points I would like to respond to. I, too, sold mutual funds and insurance when I first graduated from college and I had to be fingerprinted as well. However, I chose

to be going into that field and being fingerprinted. If I am not mistaken, this amendment includes new hires, which I was at the time. It allows the continuation of new hires being fingerprinted. We heard about parents have to send their kids to school. It sent up a little red flag for me, a personal issue. The state will go in and take a child and put that child in a foster home against your will, yet, to my knowledge, there is no requirement that foster parents have to be fingerprinted.

I passed around an article last year when we debated this about a person from Bath who had molested 17 children under the age of 10. That person got 60 days in jail. If we want to deal with child molesters, I have said it and I will continue to say it, put them in jail for a long period of time. Let's not fingerprint every teacher because we don't want to go after the real criminals. If that person had been in jail for 10 years, then they wouldn't be able to lie about their record and sneak through the cracks because it would be hard to explain a 10-year gap in their resume.

I am going to my high school reunion this year. It makes me think of back to school and my sister who just got elected president of her PTO. I see a lot of the teachers from my elementary school all the time now. I volunteer. I get roped into volunteering for things. I see them and I think of all the great things they taught me and how important they are. I see many of them when I am campaigning. They razz me for my political party, but they support me. They know me. They helped me grow up and become who I am and I thank them for it and I thank the teachers. I look in their eyes and I feel guilty that we see them as criminals. I look them in the eyes and I think when they are looking back at me, they think that I think that they are pedophiles. That is what this law tells every teacher in Maine. I think you are a pedophile, you had better prove to me you are not. That is not right. We should not, regardless of how you feel, I know the teacher's lobby is a powerful lobby and it causes some frustration for different groups, but regardless of how you feel, these people work very hard to educate our children. They are professionals. They deserve some respect. I can't look at them. I feel guilty looking at them and I fought this bill as hard as I could, but I failed them, because we didn't get rid of the law.

I want to leave you with another quote. Our Executive downstairs, the last three speeches I have heard him give, he said the same thing. He quotes the last line of the Star Spangled Banner. "Oh say does that star spangled banner yet wave over the land of the free and the home of the brave." He loves to quote that. Well, are we the land of the free? Are we the home of the brave? Are we brave and we trust people? Are we free? Do we believe in freedom or are we willing to take away the rights of every teacher because we are afraid of something that we are not even going to catch? I guess my answer to our Executive would be, if he vetoes this bill, he has answered his own question. No.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Mr. Speaker, Ladies and Gentlemen of the House. In all the time that I have addressed this body, there have been two occasions upon which it has been difficult for me to speak. The first time was when we debated this bill in the 119th Legislature and the second time is right now. I have a speech prepared and I am going to try to get it out.

I like to call this bill, the bill of unforeseen consequences. I would like to tell you a story to illustrate my reason. Teacher Julie was fingerprinted last spring and applied for re-certification before August 1 of the year 2000. By October her certification was set to go, but she did not have clearance. She said that 15 years ago she exhibited her constitutional rights to protest against government action in El Salvador. We do have the right,

as far as I know, still, to protest and petition our government, although who knows? She did that in front of the Bangor Post Office and as we all know, that is a federal building. She, along with the others, was, in fact, arrested and convicted of trespassing. That is misdemeanor. By February her certification was sitting on the desk of the people in charge of re-certification, whoever they may be, waiting for further FBI information. By March her application was on the way to the deputy commissioner. By mid April, close to a year after her humiliating experience, Julie asked for the policy and the timeline of the Department of Education for exactly when she would, in fact, receive the re-certification that she had paid so dearly for. She received no clear answers. The policy guidelines sent by the commissioner stated that there would be a five-year limit on convictions, unless a felony or a crime having to do with child welfare was uncovered. She then informed the Department of Education that her next call would be from her attorney. Amazingly, two weeks later, she had her certification. What a miracle.

Let's quote from a statement made by the commissioner on February 9, 2000. "Background checks will be used only to examine serious relevant crimes that could affect children and are within a specific time frame." Some opponents, whoever they may be, have created an atmosphere of fear and paranoia by raising the spectra that minor crimes from long ago, a Vietnam protest perhaps, will be used to keep people from teaching.

Let's return to teacher Julie. Her conviction was 15 years old and had nothing to do with children in any way. It had everything to do with her rights as an American citizen. I now would like to share with you a quotation from our same commissioner written in a letter dated May 14, 2001. "The background check requirement is applied in a balanced and appropriate manner. Convictions for child abuse or exploitation are disqualifying. There are guidelines for considering other felonies and misdemeanors." Ladies and gentlemen, I remember a person I went to college with and because of where he lived and the problems that he had with getting back and forth to school, he daily got parking tickets. When you get a certain number of parking tickets, you get misdemeanors and maybe even felonies. I don't think they harm children.

I have just provided you with one example of application of the background check, which is neither balanced nor appropriate. Had teacher Julie not threatened legal action, might she still be waiting? There is no answer to that question. There is no answer. Is the department holding other certificates? Are they being used to develop an aggregate number to publish, which has nothing to do with the safety of children and everything to do with another agenda?

Ladies and gentlemen of the House, this abrogation of constitutional rights promulgated on a class of citizens without cause has already proven to be ill advised and poorly administered. The original promise of confidentiality has been breached. What other promises shall be broken? There are mentions of people who have committed terrible crimes who are working in our schools and I would like to ask, who hired those people? Anyone who hires me to teach their children should absolutely do a background check. We know that there was a person just recently in Long Island, New York, who in the space of 18 months was in three different school systems. Who hired that person? Not the teachers in the classroom. The problem of sexual predators in our society is much larger than simply taking a group of people, lining them up, herding them up and saying you are suspect we will take care of. We will watch when all they have done is given their heart and their sole to children.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. I will make this very brief. Would the Representative defer?

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Is a quorum present?

Representative **WATSON** of Farmingdale inquired if a quorum was present.

The Chair ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

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

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. I will make this very brief. I know the hour is late. First, I do not question the motives of the people that passed this bill in the first place. I know their motives were good. They were trying to make the school system a better place to be. Now that we are into this policy, surely we can see this policy is not working. One of the best teachers at Falmouth High School, who happens to be a good friend of mine, and a former student, is resigning. He is 49 years old and he doesn't have a job. He will not be fingerprinted. I even tried to talk him out of it, but I could not. There are a lot of consequences to this bill that we didn't foresee. It also costs \$900,000. My fellow legislators, we are in a crisis. We need money for our programs and we don't have them. We all know that. We pass bills and they are sitting on the Appropriations Table and they probably will be killed because we have no money. Sometimes school systems, I was on a school board for six years and I was department chairman for 13 years and taught at Portland High School for 36 years and sometimes teachers are hired carelessly. Sometimes somebody dies in August and two days later they have somebody there. It is a mistake and 20 years later they retire. They are not a good teacher. We need a little more local discipline back in the school systems, but that is up to the local government. I don't think the state can impose that. In fact, the more mandates we have passed, perhaps the less discipline there will be in the school system.

Finally, why don't we repeal this? I would love to work with the people who thought this idea up in the first place to bring some discipline back into the public school system. When we started every morning we said the Lord's Prayer, saying the Star Spangled Banner and had a bible reading. Don't tell me that didn't do some good, because it did. I am not advocating that we do that and go back to that age, but we must bring some moral order back into the public school system. Fingerprinting teachers has not worked. Thank you very much.

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

Representative **MICHAUD**: Mr. Speaker, Men and Women of the House. I have taken your advice. I have not risen since I have been here. The reason why I elected to do so was because I decided that I would do it on an issue that I felt very strongly on, something that made a difference to me. This issue certainly does. It is quite difficult for me to get up and try to discredit the motives that some people might have had when this law was first passed. I think it was honorable. I know that in the

short time that I have been in this body I have learned to respect a lot of you, because I think that when you make a decision, you make it because you intend to do what is right. You intend to do what is best for the people that you represent. I know that when we make a decision, we make it on the information that we have at the time.

I don't fault you if you happen to have voted for this particular law. I would encourage you to listen and maybe learn of some of the problems that are associated with it so that as new information is provided, that you may exercise a change in your judgment and try to correct something that possibly was a mistake.

I need to tell you that I am a retired teacher of 35 years in the classroom. Already some of you are probably saying he has vested interest. Of course I do. I have vested interest in something I gave my life to. I don't think that is wrong. If someone were to ask who are the best parents in the world, we would all say ours. That is a vested interest. It isn't wrong. I know that an awful lot of you have said that you have been reluctant to resurrect this issue. It has been talked about before. Let me make an observation. I haven't really found too many issues that have been discussed here this year that have not been brought up before. The reason why this happens is because we make laws and we make laws based on a certain time and a certain point with certain available information. For those of us that think that this law served the purpose that it was intended to serve, you are wrong. The bill, as it was presented initially, was full of holes. It was rushed through. The very association that I belonged to, the very union that was supposed to represent my interest, did not. They failed me. They failed a lot of us. Today, I am not sure they are willing to correct it.

LD 1765, as amended, would have done only one thing different than what has already happened, nothing else. The only thing that it would have done is it would have released an aggregate number of people whose certification has been revoked or suspended, that is all. You would never have known any of the violations. You would not have known the category that the offenses reside in. You would know absolutely nothing else than that which has already been given to the public, leaked to the public.

I have looked at some research. In the process of doing research on this particular issue I discovered that when I first applied for certification, the question on the application was, have you ever been found guilty of a felony? Not being able to pin down exactly when the question was changed, a spokesperson from the Education Department said within the last 10 years that that question was still on the application. That is no longer the case. The question that is now on the application is, have you been found guilty of a crime other than a minor traffic violation? You might say, why is that germane to the discussion? You see, your certificate could last for as long as 10 years if you were under a professional system. If you are not, it is at least five years. If you were applying to certification during that window under which the questions had been changed, you would actually appear to be distrustful, dishonest because you have responded to the original question, which was, have you ever been found guilty of a felony? To which you would answer no if you hadn't. Your subsequent application, there are a universe of people that fall into the category where you honestly answered it under your first certification renewal, under the new law, you would now appear to have lied.

I broached this question to both the Attorney General and his staff and to the commissioner and designee and I was reassured that recently anyone that would fall in that category would automatically be advised that the department had information to

the contrary and that they could correct their application if they so desired.

I have also, finally, uncovered the part that I think is most troubling. All of you are probably quite familiar with what was in the original law and then again, maybe you are not. Do you know, for example, that this particular law is based on Title 4, Chapter 341, which is the law that covers all licenses of all boards that exist and all certifications that exist in the State of Maine? In addition to that, there is a reference to rules that were promulgated by the department that specifically apply to teachers and school personnel. In all of those instances, the references seem to be consistent with what the original intent of the law was, which was to keep people with violations of a sexual abuse nature away from the children in our schools.

However, what you might not know is that the certification requirement also fall under Title 17A, which is the Maine Criminal Code. Here is where part of the major problem starts. This particular title describes the crimes that are classified as Class A, B and C crimes. We know those generally as felonies. They require a period of incarceration that is generally longer than three years. In addition, it also includes the Class D and E crimes. These are the ones that are subject to a period of incarceration of up to three years. We generally classify these as misdemeanors. In addition to that, there is a Part II and it refers to substantive offenses. Under this category the following chapters apply, Chapter 11, Sex Offenses; Chapter 13, Kidnapping and Criminal Restraint; Chapter 15, Theft; Chapter 17, Burglary and Criminal Trespass; Chapter 19, Falsification in Official Matters; Chapter 21, Offenses against Public Order; Chapter 23, Offenses against the Family; Chapter 25, Bribery and Corrupt Practices; Chapter 27, Robbery; Chapter 29, Forgery and Related Offenses; Chapter 31, Offenses Against Public Administration; Chapter 33, Arson and other Property Destruction; Chapter 35, Prostitution and Public Indecency; Chapter 37, Fraud; Chapter 39, Unlawful Gambling; Chapter 41, Criminal Use of Explosives and Related Crimes; Chapter 43, Weapons; Chapter 45, Drugs.

It appears as though the original intent was to keep individuals from our children that had a prior record of sexual offenses. Ladies and gentlemen of the House, this is not what it has become. In addition to that, this body enacted laws that governed collective bargaining and under those laws you say, by law, that people have a right to discuss and bargain conditions of employment. That is a new one. You haven't heard this one. You failed to recognize that. If you are telling me that withholding my certification is not a condition of employment, I need to go back to school. Proponents of the law had said if this will save but one child, you will never know this. You will never know that it did. There is one thing that you do know. You do know that 60 people have virtually had the profession that they have worked hard at, they have had their right to practice their lifelong dream taken away.

If I were to hold in my hand a symmetrical object and as I showed it to you, you would see that it is white and if I were to ask you, is it safe to assume that it is all white? Most of you would say, white, of course. If I proceeded to turn it around and show you that the backside was really black, then, in a sense, you would say to me that I couldn't see all the way around. I didn't have the right angle. Men and women of the House, I think it is time for you to realize that the fingerprinting law was, in fact, such a container. At its face value it appeared to be white and it appeared to do what you thought it would do. It hasn't. It has, in fact, a dark side. For that reason, I would urge you to support this amendment and defeat this bill. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This is an honor. Suzanne Malice Anderson, Bernie Heidner and the Maine Educators Against Fingerprinting. This is about not just teachers, but cafeteria workers, bus drivers and many people who called me in the 119th Legislature when I came up here thinking that single-payor was going to be my number one issue. Many days have passed since we took this up in the 119th and many things have happened and many good teachers are now refusing to be fingerprinted and are no longer teaching. I did cosponsor with Senator Davis the repeal of the fingerprinting bill and for whatever reason, it is going to be held over. In the meantime, I think we have to get on with this. We have to send a message. Not to repeat myself, but in the 119th, I did my homework. My homework said the numbers weren't there. The pedophiles were not teachers. The statistics proved that it was parents, neighbors, people that children knew, not the teachers.

I asked a lot of questions and I went to a lot of hearings. It was not fun to go to the Civic Center and watch the teacher as they played music and came up and signed that black board, making an oath that they would not be treated like second-class citizens. Innocent until proven guilty, teachers who taught history and the Constitution who are now having to be forced to be fingerprinted. It was a somber occasion and there were many mistakes that were made. I remember having the commissioner of Education who came to our caucus and we got to ask questions. I was not satisfied with the answers he was giving us. I remember calling people and asking more questions. The bottom line was, I have to be sure. I have grandchildren. They are going to be in the school system. You better make sure you got your facts. You better not go up there and say you want to repeal this and then something would happen. Then, I got struck by lightning. We can't protect those children of every single second of every day. Can you protect them from cub scout leaders and priests and every other activity that they may join? That is when I got my facts and decided that I would stand up. It wasn't easy in the 119th, but it sure is nice to have a new freshman class who also supports this because it makes you feel like you are not alone in the fight.

So for Suzanne Malice Anderson who dared to say no. She was the first teacher who refused to be fingerprinted. She was the first teacher who stood up and said, something is wrong with this. For the cafeteria workers, little memeres, who have been working in the cafeteria for years called me and said, "Joanne, they are going to fingerprint me. I have been working in the school system for years. I love my job. I haven't done anything wrong, but I don't like the idea of having a background check." The little memeres who now want to quit the school system because they didn't want to work in the cafeteria, because they just didn't like the idea of the FBI doing a background check even though they had done nothing wrong. These are the people, the teachers, who protect your children, who are there to educate them. I wish you could have been in Belfast with Representatives Paradis, Skoglund, Michaud and myself to hear testimony from students. A young man got up. He was so eloquent in saying that this teacher had changed his life. This teacher was now resigning. We need to listen. We need to stand up because teachers first, cafeteria workers, bus driver, who is next? Line up and get your fingerprints, but it is not just your fingerprints, it is the integrity. It is everything it does. It destroys your moral being to be accused of something that you have not done. Not any one of us would want to go through that. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Mapleton, Representative Desmond.

Representative **DESMOND**: Mr. Speaker, Colleagues of the House. I was an educator for 44 years. At one time or another I have taught Kindergarten through college. At one time in teaching fifth grade, we were fingerprinted. My fifth grade was fingerprinted and I was fingerprinted. If I had said, my civil rights have been violated, I think I might have traumatized those children into thinking that it was something very wrong. We all found it to be a wonderful experience. I have seen nothing wrong with fingerprinting. I choose to be unselfish and think about the children. Regardless of what is being broadcast, there is no presumption of guilt about record checks. Conducting school personnel record checks based on fingerprinting is not a Fourth Amendment violation. Based on our Constitution, the ultimate decision on constitutional rights is with the courts, not with individual perceptions or individual interpretations of the law. Maine's Attorney General has confirmed the constitutionality of background checks.

My daughter-in-law runs a preschool. She has to undergo background checks along with everyone else in her house, my son, my grandsons, all must go through background checks and they don't mind this at all because they know the intent of the law is to protect the children. This law places a high value on children. The sole intent of the law is to protect children.

Before you vote, I hope you think about the impact. Be sure you have accurate information. One child scarred for life because he or she has been molested is one too many. Does it matter that we won't know this? I don't think so. It probably will mean that fingerprinting is working. Statistics show that long-time personnel are often identified as the perpetrators. Therefore, it is necessary to do checks on all. I want to be unselfish and think of our children. I would be willing to be fingerprinted again because I know the law covers all school personnel and it might uncover just one predator of children. This issue is about school personnel, not just teachers. I really do not like to hear just teachers. I was a teacher, so this law is not just about teachers. It is school personnel. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. It has been quite a night. I have listened to the Representatives from Frenchville, Falmouth, Fort Kent, Monmouth and Mapleton. There are a good number of others in here, my teaching colleague from Brewer, the gentlewoman from Turner where my grandfather got his start in education, an excellent administrator from Caribou. There is not one of us in here who would, as educators, have anything go wrong with our kids in school. We all have different approaches to it. I am glad I rose after the gentlewoman from Mapleton so she had an opportunity to speak on her side on the issue. Schools are second homes. I can't tell you how much being in Brewer High School meant to me over the years. I am quite passionate about it.

I want to start off by asking a rhetorical question. The janitor who is a felon that has molested somebody earlier and the other gentleman who was mentioned in the beginning of this debate, were they checked on when they were hired? The good Representative from Monmouth, Representative Green, mentioned somebody who had three jobs in Long Island in an 18 month period. Who wrote the positive recommendations to shuffle them from one school to another so they wouldn't have to face the issues themselves? The root of all these problems is in people not doing their jobs in the school. There is not a one of us that have taught school for any length of time who doesn't

know of a case where somebody was shuffled out of a school with a good recommendation so they didn't have to deal with the situation.

My wife is a teacher. I think the only reason she tolerates me down here is because it gives her an opportunity to devote more time to school and to her kids. Within the last year, I had to drive her over to have her fingerprints done. She had them done because she didn't want to do without her kids. It was a very hard thing for her to do. She still has a passion for her kids, but her passion for the school is gone. Let's do away with this.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. The beauty of the Legislature is that every two years you start anew and in many cases old chestnuts, even insurance bills, come back and sometimes become law and sometimes you take a fresh look at laws that have already been passed and the only thing that is etched in granite is the Maine Constitution. This is an emotional roller coaster for many of us from the last session. As interesting as this began to bubble underneath the surface about a week or a week and a half ago a new member had come up and asked me if I had taken a position yet, if I had a position on fingerprinting? I think I still carry scars of that last session.

I left the last session, I don't know if I can find the right word, hurt, angry. You have to understand that as a Republican in the minority, you usually have that feeling when you leave the Maine Legislature when it finishes, but this was different. This was much different. When I expressed to colleagues my concerns about fingerprinting, I had members of that last Legislature ask me, what are you hiding? What do you have to hide? They were colleagues and people I respected. I think in those debates I talked about that you would look at me or they would look at me and they would see a letter, not a scarlet one, but there was a giant P that they looked and saw me as a predator or as a potential predator. I had a label put on me and I think that is where the hurt and the concern came from.

As we look back at that last Legislature, this chamber repeatedly rejected the original bill and focused on a compromise area. The reason that compromise didn't take place is because of an action on the part of the Chief Executive. In the afternoon prior to that veto message coming up, Senator Murray, whose spouse is a teacher and myself, had met with the Governor and our goal was to try and convey to the Governor what it means to be a teacher. What goes into doing that? As you work with children, protecting them, opening up doors of opportunity, introducing them to the excitement of learning. If you are a long-time teacher, to see those youngsters succeed and then send their children to you. Every long-term teacher who is in this body has had the enjoyment of seeing a youngster come up and say that I signed up for your class because my mother or my father said that I need to be in your class. That is what we do with children.

I informed the Governor, if you do this action, in all likelihood it will probably be the end of my teaching career. I had told him that up front. I felt it is real important when you pass a law, even if you disagree with the law, that you go and observe the law. My certification was up shortly after the legislative session and I went and I had my fingerprinting done. I really have to compliment the State Police. They understood very clearly that there were a lot of people there that really were uncomfortable or that it was stressful. The sergeant had taken my hand and immediately he saw that my fingers and my palms were just sweat covered. There is always that story about the African Tribe, they always find the thief by putting a hot knife on their tongue because of the nervousness. It is an early lie detector

and I all I could think of was my sweaty palm and he was thinking, I got one of them. Instead of treating me that way, he went along. He set up a procedure to wipe and spray every single finger. It probably took me about 10 times longer than anyone else.

Three of my former students were there as teachers. They came up and talked to me afterwards. One of them said, "I am not sure who I am most embarrassed for today, you, as my former teacher, who inspired me to go into teacher or for myself, a young teacher who has dreams and aspirations of the differences I can make." I saw her about four months later and she was still extremely upset. I have been fingerprinted. I have been fingerprinted repeatedly. As a 17 year old, I wanted to go off to the Marine Corp., boot camp. As a 22 year old, so I could go to officer candidate school. In 1985, the FBI, White House appointment, which was not only the fingerprinting, but I had to give them two people working backwards every five years of my life. You can imagine getting called by your ex-neighbor when you were nine years old saying the FBI was here today. I knew you were going to turn out wrong. What have you done now? I have been through more extensive background checks, but that was one of the hardest ones that I had to go through.

What teaching means to me. This isn't a long essay. My father, like many of your parents, was depression era, who worked five jobs and scholarships to go to college. He carried that philosophy that all five of his children would pay their own way. We paid every single dollar of our college education. I made it through one year selling my blood. The problem though was I sold it to three hospitals. I remember that I wanted that teaching so badly that when I would sell that blood and I got the \$25, they allowed me every other day to cook a pound of hamburger and the other day was two packages of jello with a can of pears in it. My family still laughs about that and I still eat hamburger and I still eat jello, but I was willing to be a teacher to sell my blood. I ended up in the hospital because I did that. My family laughs. They said you never ever check to see what your teacher contract salary is, because you would do it for free. All my life I have lived to teach. I think in the previous Legislature, the middle ground that we moved toward, which maybe could have brought people together and dealt only with the new hires, got shanghaied by the bureaucracy and the leadership of the Department of Education. When Senator Murray and I met with the Chief Executive, I think without that pressure and some of those threats, that we would have come to a common ground. This crisis of teachers leaving the profession, school boards sending resolutions about a shortage and they are having to let go good teachers, I think came from that bureaucratic pressure and I hold them accountable for what has happened.

I don't know how many times I have addressed this Legislature with a great deal of pride of being a teacher. I have held a lot of offices. People have asked me what do you do for a living? What is your profession? I respond I am a teacher. I take a great deal of pride in that. To be looked at as a potential pedophile or predator flies in the face of what every one of us has aspired for and what we have tried to do in our communities all through our lives. Tonight I address you as retired teacher. It was one of the factors and terms of retiring December 31. I didn't think we would be able to address this, but it is a new Legislature and we have the opportunity to right wrongs. What happened because of bureaucratic pride, I think is a tragedy and has set back education. This is a brand new Legislature. We have an opportunity to make it right and to respect the men and women in our schools who give their life's blood and every energy they have for your children and my children. Let's make this right.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I just spent a few minutes in the past hour looking back through the record from last year and looking back at some of the old speeches that we all gave. They are as relevant tonight as they were then. I want to say at the outset though, although I am a veteran teacher of 22 years, that I respectfully disagree with many of the people who have spoken tonight. I started off feeling just the way they did and I went along with my union. I am a long-standing union member. My parents were mill workers and didn't have the advantage of a union so I grew up really appreciating the union and I can tell you that I am a fierce union supporter. I wanted to go along with my union last year, but as I learned more about why the department wanted to do this and why states across the United States are doing this and what the facts were and who supported this, I gradually came of the mind that it was time that we teachers also submitted to fingerprinting. I am a teacher and I am just as devoted to the profession as everyone else who has spoken is. I would never leave it. There is nothing so cataclysmic that I can think of at this point, other than tragedy, that I would leave teaching. It certainly would not be fingerprinting. Some of the most highly respected people I know have been printed. The Chief Executive in order to keep the children that he so desperately wanted to adopt submitted to fingerprinting. I am sure that he did not question whether or not it was more important for him to protect his privacy.

We have lawyers sitting here who because they deal with documents regarding properties and land transactions have to be fingerprinted. My son is a lawyer and had to be fingerprinted and he is a fine young man. My son is a teacher. My daughter in law is a teacher. They have both been fingerprinted. When they left Foxcroft Academy because they made so very little money and moved out west where the salaries were much better, the immediately got jobs because they had been fingerprinted. Most of the states, in which they inquired, required fingerprinting. My brother is a doctor and had to be fingerprinted.

All of these people love what they do and value what they do more than they do, perhaps, their privacy. Maybe I have a unique perspective on fingerprinting. My father, who couldn't read or write, left his fingerprint on a piece of paper that my mother signed for him every time a transaction had to be made. As a child, I often asked, why doesn't daddy sign like you mom? She never told me. It took me until I was a sophomore in high school that my father could neither read nor write. My mother had read the newspaper to him every single day of my childhood and I thought he was just lazy. I can tell you that my father would not only have given up his fingerprint, but my father would have given up his finger, his thumb, if the thought that it would have saved children. We say that the figures aren't there. The figures are there. In the past five years some 20 odd cases of child abuse involving teachers have been discovered.

This was not rushed through. It was the longest most deliberate debate that we had in the 119th Legislature. Yes, some teachers decided to resign over this and certainly I respect that. I am also troubled because teachers are resigning for other reasons. In my own school, young teachers are leaving just as my son and his wife did, because they can't make a living on the salaries of a first or second year teacher. Other people are resigning, veterans, because teaching is getting to be tougher and tougher. We have higher expectations, unfunded learning results, education reform, mainstreaming of almost all students with diverse abilities, new technologies and long, long hours. It is a tough job and many people are resigning.

I support fingerprinting also for another reason and it is because I represent more than the teachers in my school, although the teachers in my school were more concerned about who was going to pay for it, than being fingerprinted. Most of them said to me that if we can win back the confidence of the people of the State of Maine, we will be fingerprinted and let's get on to the really important conversations that we need to be having about education. My constituents told me over and over, what is the problem? Why can't you succumb to this just as people at Bath Iron Works and as I listed before, many, many other people who have had to be fingerprinted. I was also persuaded by the fact that the Maine PTA, the Maine State Board of Education, the Maine School Boards Association, the Superintendent's Association, the Maine Principal's Association and a half a dozen other groups from across the state supported this. My principal said it will make my job easier and I can sleep better at night if I am allowed to know this. My superintendent said the same thing. We cannot ignore our constituents. I have great respect for every teacher who is here and I know they have to be devoted in order to continue to teach and to do this job. I don't think that we are sacrificing something that does not have great benefits. Weighing the risk and the benefits, the benefits outweigh the risk for me.

I would also reject any sort of compromise regarding new hires because for me, folks, it is an up or down vote. You would either want to repeal it or you would want to stay with it. If it is good for a new hire, it is good for me. I will be fingerprinted along with new hires on June 16, because it isn't right to only look at new hires.

Mr. Speaker, before I sit down, I would like to pose a question to anyone who can answer it.

The SPEAKER: The Representative may pose her question.

Representative **MCKEE**: Mr. Speaker, Ladies and Gentlemen of the House. The question is, how many teachers have been fingerprinted as of May 2001?

The SPEAKER: The Representative from Wayne, Representative McKee has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Members of the House. I truly respect the teaching profession. Those individuals that teach our children deserve more than they are given credit to, especially in the salary bracket. There is no question about that. If I was here to debate law enforcement and the people that serve in law enforcement, everything you have heard interchanges with police officers. We don't have to go through this debate with police officers. Fingerprinting is required. Why? Psychological examination of a certified psychologist is required. Why? A polygraph is required. Why? The community expects those that serve in law enforcement to be the best that we have and are confronted with the serious problems that we encounter on the streets and the homes and everywhere in this country. I hold the law enforcement profession as high in esteem as I do the teaching profession. That is a survey that has come out. Yes, we were fingerprinted, long before, I think, most of you were here, I was fingerprinted. I can hold my head up high and indicate that the people that expected me to be what they want, I am. Make no mistake about it. When we require a background investigation on individuals, whether it be police officers or any other kind of profession, including the educational field, if you don't have a set of fingerprints, they cannot tell you that individual's background. The record will come back and say, unable to verify this information. I have worked in the State Bureau of Identification for many years and that is what happens. I can show you how

these predators and these criminals, I have more contact with them than you can imagine, can lie, deceive you and come out with information that is almost believable and they will find ways to get at those kids. Make no mistake about it. Yes, I will be fingerprinted anytime and I have been. Now I am retired. I sit back and I hear this debate and the teaching profession is at risk here because of the fingerprinting. It is the background. If you are looking for backgrounds, you need a set of fingerprints to verify what you are doing. Give the administration of schools and the departments that has that responsibility, give them the tools to work with to find this information out. If you don't, somebody is going to slip through the cracks and when it happens, I am not going to be on record to show, as a member of this Legislature, I could have done something and probably voted not to have this information or the tools at hand. I will not be on record to show that. I will be on record to show that a positive background investigation was made with those fingerprints. It is the background. It is not the fingerprints. We have held this fingerprint issue up to the point where it is getting ridiculous. It is the background. Those are your personal identification, your hands. Those digits are unique in themselves. I worked with them many years. I am a certified fingerprint examiner. Nobody is going to change them. That is your personal identification. You sign things everyday with your signature. You give away a little bit of yourself because you identify yourself through your signature. That signature can be forged and I can show a lot of ways how these deviant people can get around a lot of issues that we have talked about here tonight. It just bothers me when we just talk about fingerprinting when it is the background information that people have to work with. I apologize to the House for being a little lengthy, but I feel very strongly about this. More people have come to me, mothers and fathers, how can we ensure the protection for our kids? Isn't this one way? Yes, it is. I will fight for that. The teaching profession, I respect. Fingerprinting is nothing. That is your personal identification. Live with it. I live with it. Everybody else who has been fingerprinted here lives with it. You have doctors, lawyers and everybody else that is in a profession that the public and the people that you are going to serve expect you to have a higher standard and not be part of the criminal nature that some of our people are. With that, I will sit down Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. We are at the end, or very close to the end, I hope, of a long debate. When the vote is taken, I respectfully request the yeas and nays.

Representative **HALL** of Bristol **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-553)**.

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 Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. I am starting to slur, because I am starting to get very tired. I am very tempted to ask for a show of hands, I won't do so, but if there is anyone who is undecided. Just in case there is anyone undecided, I want to make a very few brief comments. Those of you who have been here in the past two legislative sessions know that this has been an issue that I have been very, very passionate about. I feel very strongly. I was a cosponsor of the original legislation and I haven't backed down from that and I don't intend to do so. Tonight, I have felt a different feel for the debate. I want to say up front that I have great respect for those who, obviously, feel very strongly, as strongly as I do. They feel very strongly that this is an

infringement of their privacy rights. I have to say that I don't understand that. I respect it. I understand that you feel that way, but I cannot make the step from choosing not to be fingerprinted, leaving a profession that you have gone into, not for the money, but for the very love of children. To go from doing that to saying I don't want to do it anymore and it is all for the safety of the children.

A couple hours ago I heard some very eloquent speeches about the line ups and the atmosphere and the Gestapo like atmosphere and how we are all speaking on behalf of our constituents, the teachers, the janitors and the school personnel. I have heard very few mention of the other group, the other constituency that we are here to represent and that is the children. I don't care to know how many. I need to know it we are capturing, I don't mean physically capturing, some people that shouldn't be in our school system. Even one, it sounds so tripe, but if we find one, I think I would do that.

I also wanted to say, those of you who have heard me say it before, I feel that the teaching profession is the most important profession that we have in this entire country. When I speak to school children, I do often, they seem to feel that it is the legislators who are important people. I assure them that, no, we are not important people. We have great responsibility, but we are not necessarily important people. I tell them their parents and their family are the most important and then their teachers are just as important. I have great regard and hold the teaching profession in the highest esteem. My in-laws, I believe, 50 years combined experience. I have a sister, you have heard me speak of, that is a national award winner in teaching. With five children I have seen and gone through a lot of teaching. The other point has been made though, it is not just the teachers. It is the janitors, the bus drivers and those others. I won't go into this evening. I did last year, but I won't. I have cited cases where I know for a fact that had this been in effect, there were two cases that would have prevented, not just two victims, but many, many more victims. They live with it a long, long, long time.

I am going to stop there. I just ask you, if you are undecided, to please think about that. We are not, as has been mentioned, this profession is not the only one being asked to fingerprint. I couldn't have said it better than Representative Savage. He hit the nail on the head. Why is it such an issue? We are putting more importance on the people that have our money than those who must, by state law, have our children for the most part of the day. Thank you.

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I just wanted to correct an error. Somebody said this bill was rushed through. This particular bill was started in the 117th Legislature. It was worked all through the 118th Legislature and it was finally passed in the second year of the 119th Legislature. It wasn't rushed through. A lot of legislators worked on it. In response to a question, how many people have been fingerprinted? You know from the orange sheet that has been passed around there are 46,000 school personnel affected. We cannot tell you how many have fingerprinted unless we have LD 1765.

Mr. Speaker, may I pose a question to the Chair?

The SPEAKER: The Representative may pose her question.

Representative **RICHARD**: Thank you Mr. Speaker. If this amendment is adopted, will it be amended to LD 1765 or will it erase LD 1765?

The SPEAKER: The Chair would answer that the amendment would replace the bill and, in fact, the Committee Amendment "A" would then need to be Indefinitely Postponed because it would be in conflict of the amendment.

Representative **RICHARD**: Thank you Mr. Speaker. You are saying Mr. Speaker that if the amendment passes, LD 1765 will no longer exist as it was originally written.

The SPEAKER: That is correct.

The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Mr. Speaker, Ladies and Gentlemen of the House. A little over a year ago I came to many education hearings on this issue. At one point I heard the head of the Maine State Troopers answer some questions that were posed to him. One of those questions was about how the fingerprints would be held and with what other fingerprints would they be held, that would be the database with all of those people with prior convictions. He was asked if any other fingerprints would be in that database? He responded no. Teachers will be held with people with prior convictions. I have this horrible reoccurring nightmare that sometime 100 years from now my great grandchildren for some reason will be doing some genealogy checking or some other kind of checking and they will find that my fingerprints are on file in a database with people with prior convictions. That bothers me a great deal. When asked then what about people that have to get fingerprinted for other jobs, all of the other people that I have heard spoken about tonight, I believe his response was, once the investigation is completed, those fingerprints are no longer kept on file.

I, too, have been fingerprinted three times in my life. As a child, believing it to be for identification purposes and things of that sort is certainly different from the fingerprinting that I went through to keep my teaching certificate.

I also have had the privilege of serving my superintendent internship for a year in the superintendent office. The gentlemen with whom I did my superintendence did a very thorough background check of the people he hired. It was possible for him to do that without fingerprints. It is also possible to get all kinds of recommendations from highly skilled people. I think that can be done and, in fact, should be done. My final comment is, of the 20 people that I heard the good Representative from Wayne respond about, I wonder how many of those 20 people would have been picked up with fingerprinting, since most of the people that I have known of in my life around schools who are pedophiles, don't have any prior convictions?

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Ledwin.

Representative **LEDWIN**: Mr. Speaker, Men and Women of the House. I, too, am a former teacher and I am a member of the Education Committee. I came to this esteemed Legislature with some preconceived notions and probably the many questions I have regarding fingerprinting of school personnel could be considered on the top of my list. The need to have some answers and the numbers before we move forward, there is a need to have some answers on numbers before we move forward. Let's see if a change should be made. Help us to move ahead and begin to put this controversy aside. It is my understanding that the Department of Education receives many calls asking if the State of Maine requires teachers to be fingerprinted. When an affirmative answer is given, there is a click on the other end of the phone. Laws should be black and white. If we pass this amendment this evening, the State of Maine will always have a gray mark. It will never know if the law worked. Thank you Mr. Speaker.

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. First of all, I hope to clear up a point that has been raised. This comes from the Department of Education that Maine educator fingerprints are not co-mingled with criminal

databases and are not stored in any national database. I think there has been some confusion about that.

First of all, to express my sort of interest in a curious reverence that I have heard expressed for teachers. Mind you, being a teacher myself, I don't think that is a bad thing. I find it puzzling in light of the fact that this very Legislature has not seen fit to improve the salaries of teachers. We have still and currently on our books a \$15,500 starting salary for new teachers in the State of Maine. That does not express reverence for teachers. We are in a state where we don't allow our teachers to draw social security upon retirement. They are required to pay exorbitant rates for their health insurance. I want us to revere teachers, but I want us to start putting our money where our mouths are and I hope that is one positive thing that will come out of this discussion.

I want to express even more curiosity at the absence of focus on children. The Representatives from Mapleton and Wayne have begun to talk about the children, but this is really who this legislation is for. In the past five years we know of 27 child abuse convictions. Those 27 convictions were found through pure luck. We didn't have fingerprinting. We found those anyway, but it is a mistake to think that those 27 convictions represent 27 children. Those convictions represent scores of children. Did each person only perpetrate only one child or two or four or six or eight? It is not only the children who could be the hundreds just from these convictions found through sheer accident, but the families and we are talking about thousands of people because if you live in a family where a child has been assaulted, you know that that family is never the same again, nor is anyone in that family. We are talking just from 27 convictions, hundreds and thousands of human lives affected.

For some strange reason the Maine Educators Against Fingerprinting find this number an acceptable risk. Frankly, I am shocked. I am shocked that 27 convictions in the past five years is an acceptable risk. I am angry. I would gladly be fingerprinted if it meant one child would be spared the awful imprint of sexual assault. Teaching is a noble profession, but that does not mean that every teacher is a saint. That does not mean that profession is absent people with convictions, anymore than it means the profession of clergy are saints or the profession of scoutmasters or parents. We cannot stop sexual assaults in this society, but we have to try. This is one place that we can make a difference.

Teachers work too hard for too little pay and too little societal respect, but that does not make them saints beyond reproach and we need start understanding that and stop the sentimentality that surrounds this idea that we revere teachers, but we don't have to pay them. We don't have to give them adequate retirement, but we can somehow do something about fingerprinting that is going to make it okay. That is not okay.

To repeal this law is to protect individuals with serious convictions allowing them to work with children in Maine schools since they are barred from a majority of states. These are the states that require fingerprinting of all certificate holders, Alabama, Alaska, Arizona, Arkansas, California, Colorado, Kentucky, Maine, Minnesota, Nevada, New Mexico, New York City, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Washington, Washington DC, Wisconsin and Wyoming. This bill that we passed last year brings us up to the licensure required in other states. Since that time, the number of states requiring fingerprinting has not lessened. It has grown and for good reason.

There have been many thoughts expressed tonight about the teachers and their feelings, the indignity of the process, the thought that one is suspect, if one is fingerprinted, the tyranny of control. I have heard little thought for the child and little concern for the feelings of the child. I want to focus instead on the stolen

dignity of a child who is molested. The lifelong suspicion that a victim feels that somehow he or she has caused this. The tyranny exerted over a child caught in a power imbalance of sexual abuse at the hands of a trusted adult, there is nothing worse. We cannot stop all sexual abuse, as I said, but we must not fail to try. Children are required by law to attend school, not scouts, not church. It is our responsibility as legislators, as elected Representatives of the people, to ensure that those in whose care our children are placed are in the hands of those with clean records. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. This was not passed in the 119th. What we did in the 119th was just the funding. We had another bill that went down to the Chief Executive that was vetoed for new hires. This was passed in the 118th Legislature, as a matter a fact, with no debate. It went under the hammer in both chambers and went down to the Governor's Office.

The SPEAKER: The Chair recognizes the Representative from Levant, Representative Chase.

Representative **CHASE**: Mr. Speaker, parliamentary question.

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

Representative **CHASE**: Thank you Mr. Speaker. The main bill is an emergency bill. Amendment (H-553), does that also require a two-thirds vote for a simple majority?

The SPEAKER: In answer to the Representative from Levant's question, our understanding of House Amendment "A" is that it strikes everything following the title, which would, in fact, strike the emergency. As a point of clarification, regardless, for the adoption of House Amendment "A" would require a 50 percent majority vote and for enactment then a 50 percent majority vote as well.

The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I don't want to delay this any longer, but two things have been said that do need to be clarified. We made many changes in this bill in the 119th Legislature. This was not the same thing that was passed in the 118th Legislature. There were changes made right up until the last minute. One of them was that there was a separate educator fingerprint file. The file is sealed from criminal investigations. When fingerprints are found at the scene of the crime, investigators cannot compare them to educator fingerprint files. Educator fingerprints are in a separate file and they are not in with all of the other criminal files. Thank you Mr. Speaker.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. I will also be brief. I won't address any of the previous testimony because it was so eloquently said, but there is something that really wasn't addressed. That was my concern from day one. For those of you that remember the debate from last year, I said on the floor that I was concerned that through history government has not kept its word in that under the guise that this bill was promoted was that information was not going to be released and that this would not damage the teaching profession. Ironically within less than a year, against state statue, information was released. I heard people say things like there were phone calls to people in this state and when we said we were a fingerprinting state, they hung up. That is to imply that there was a child molester on the other side of the line. That

is to strike fear in you, ladies and gentlemen, that these teachers are pedophiles. I think that is unfair. This bill, ladies and gentlemen, I said to you on the floor a year ago that this was going to damage the teaching profession to the point where I thought it might be irreparable. I am afraid, ladies and gentlemen, the people that support this bill are going to extreme lengths to save fingerprinting and they are doing at the expense of the teaching profession. That is why I rise today to tell you that sometimes the solution is worse than the problem.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. Tonight we are wrestling with the most difficult issue to face a democracy, the commitment to our basic civil rights. We tonight, as was asked of Representative Murphy, what do you have to hide? I submit to you that Representative Murphy has nothing to hide, but everything to lose. There is one hallmark of the greatness of our society that has given us a rise above all other nations and that is the ability to protect those civil rights even when it hurts. There may be disagreements in this chamber about what freedom is. I might say freedom from and someone else might say freedom to, but there is no disagreement in the American democracy about the importance of liberty. If we let that go, it is greater than any damage we will do to children by not doing so. Unfortunately those who have said I am fearful that one child will be hurt and that justifies this. Let me say that every day in our judicial system we let individuals go and it is painful, but we let them go because we know there is something greater at stake than the way we get criminals and getting the criminals. Tonight we have before us an opportunity not to affront the people in the 119th who passed this law, to say that wise men and wise women do make mistakes, but tonight we have to wrestle with the most difficult issue that a democracy will ever present you. Will you actually pay the price for our greatness? Tonight and now is your chance.

The SPEAKER: The Chair recognizes the Representative from Montville, Representative Weston.

Representative **WESTON**: Mr. Speaker, Ladies and Gentlemen of the House. We do have rights, but we have a right and a responsibility to help the most vulnerable. If giving my fingerprint is taking away my rights as a person, I have to admit I cannot understand that. I cannot understand how someone who is working in a classroom and sees these children every day can say to themselves, my right if I want to hide something or at least not reveal that I am not hiding something, that is my right and that right should come before the rights of these parents who entrust their children to me and the rights of the children to come and know that their teacher or the cook in their school or their bus driver has not already been convicted. I cannot understand that.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-553). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 249

YEA - Annis, Berry DP, Blanchette, Bliss, Brooks, Bryant, Buck, Canavan, Carr, Chase, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cressey, Cummings, Davis, Dorr, Duplessie, Duprey, Fisher, Fuller, Gerzofsky, Gooley, Green, Hall, Haskell, Hatch, Heidrich, Hutton, Jacobs, Jones, Kasprzak, Koffman, LaVerdiere, Laverriere-Boucher, MacDougall, Marley, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy T, Nass, Norton, O'Brien LL, Paradis, Patrick, Peavey, Perkins, Pineau, Pinkham, Rines, Sherman, Simpson, Skoglund, Smith, Snowe-

Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin J, Tracy, Trahan, Twomey, Volenik, Waterhouse, Watson.

NAY - Baker, Belanger, Bowles, Bruno, Bumps, Bull, Bumps, Bunker, Clough, Desmond, Dudley, Dunlap, Estes, Etnier, Foster, Glynn, Hawes, Honey, Jodrey, Labrecque, Ledwin, Lemoine, Lessard, Mailhot, Mayo, McKee, McKenney, Murphy E, Muse K, Norbert, Nutting, O'Brien JA, O'Neil, Quint, Richard, Rosen, Savage, Schneider, Shields, Tuttle, Usher, Weston, Winsor, Young, Mr. Speaker.

ABSENT - Andrews, Ash, Bagley, Bouffard, Brannigan, Crabtree, Daigle, Dugay, Duncan, Gagne, Goodwin, Kane, Landry, Lovett, Lundeen, Madore, Marrache, Morrison, Muse C, Perry, Povich, Richardson, Stedman, Tobin D, Treadwell, Wheeler EM, Wheeler GJ.

Yes, 79; No, 45; Absent, 27; Excused, 0.

79 having voted in the affirmative and 45 voted in the negative, with 27 being absent, and accordingly **House Amendment "A" (H-553) was ADOPTED.**

On motion of Representative PARADIS of Frenchville, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-532) was ADOPTED.**

On further motion on the same Representative, **Committee Amendment "A" (H-532) was INDEFINITELY POSTPONED.**

On motion of Representative SKOGLUND of St. George, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-553) was ADOPTED.**

The same Representative presented **House Amendment "A" (H-572) to House Amendment "A" (H-553) which was READ by the Clerk.**

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. It is with great pleasure I present this amendment, which would return the files and fingerprints already taken to their owners or if the owner should have passed away, to the next of kin. These files will be back and not kicking around somewhere. There is a slight fiscal note of \$30,000, but that is a mere pittance compared to what will be saved by the elimination of fingerprinting. Thank you.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-572) to House Amendment "A" (H-553).**

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 adoption of House Amendment "A" (H-572) to House Amendment "A" (H-553). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 250

YEA - Annis, Berry DP, Berry RL, Blanchette, Bliss, Brooks, Bryant, Buck, Bull, Canavan, Carr, Chase, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cressey, Cummings, Davis, Dorr, Dudley, Dunlap, Duplessie, Duprey, Fisher, Fuller, Gerzofsky, Gooley, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jacobs, Jones, Kasprzak, Koffman, Laverriere-Boucher, MacDougall, Marley, Matthews, McDonough, McGlocklin, McGowan, McLaughlin, Mendros, Michael, Michaud, Mitchell, Murphy T, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Pineau, Pinkham, Quint, Rines, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin J, Tracy, Trahan, Twomey, Volenik, Waterhouse, Watson.

NAY - Baker, Belanger, Bowles, Bruno, Bumps, Bunker, Clough, Collins, Desmond, Estes, Etnier, Foster, Glynn, Heidrich, Honey, Jodrey, Labrecque, LaVerdiere, Ledwin, Lemoine,

Lessard, Mailhot, Mayo, McKee, McKenney, McNeil, Murphy E, Muse K, O'Brien JA, Perkins, Richard, Rosen, Savage, Schneider, Shields, Tuttle, Usher, Weston, Winsor, Young, Mr. Speaker.

ABSENT - Andrews, Ash, Bagley, Bouffard, Brannigan, Crabtree, Daigle, Dugay, Duncan, Gagne, Goodwin, Kane, Landry, Lovett, Lundeen, Madore, Marrache, Morrison, Muse C, Perry, Povich, Richardson, Stedman, Tobin D, Treadwell, Wheeler EM, Wheeler GJ.

Yes, 83; No, 41; Absent, 27; Excused, 0.

83 having voted in the affirmative and 41 voted in the negative, with 27 being absent, and accordingly **House Amendment "A" (H-572) to House Amendment "A" (H-553) was ADOPTED.**

House Amendment "A" (H-553) as Amended by House Amendment "A" (H-572) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-553) as Amended by House**

Amendment "A" (H-572) thereto and sent for concurrence. ORDERED SENT FORTHWITH.

Reference was made to Bill "An Act to Enhance the Observance of Veterans' Holidays"

(H.P. 937) (L.D. 1251)

In reference to the action of the House on May 22, 2001, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative BOUFFARD of Lewiston
Representative MICHAUD of Fort Kent
Representative TOBIN of Windham

On motion of Representative JACOBS of Turner, the House adjourned at 10:37 p.m., until 10:00 a.m., Thursday, May 24, 2001.