MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of RepresentativesJanuary 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

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

UNFINISHED BUSINESS

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

The following items were taken up out of order by

unanimous consent:

Bill "An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien" (H.P. 1195) (L.D. 1639)

TABLED - March 26, 1996 (Till Later Today) by Representative STROUT of Corinth.

PENDING - Adoption of House Amendment "A" (H-852) to

Committee Amendment "A" (H-847)

Representative STROUT of Corinth moved that House Amendment "A" (H-852) to Committee Amendment "A" (H-847) be indefinitely postponed.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: This amendment that is being offered was presented to the committee earlier this session. The committee dealt with this issue and the committee, I feel confident that I can say today, is unanimous in our feelings that this amendment should not be adopted. This amendment amends the existing provision, L.D. 1639, that allows women who are in imminent danger of serious bodily injury or death to be allowed to file for confidential drivers license status, provided they demonstrate the need. Current law allows for certain law enforcement personnel and judges dealing with high profile cases to exercise that status. We have about 500 requests each year. As a result of the request from the Attorney General's Office, the Office of the Secretary of State met with the Commissioner of Public Safety and the Attorney General's Office to develop legislation to protect those individuals who have demonstrated such needs. This house paper goes much further than that. It allows any person through a written request, along with a protection order, to be allowed this status. The Secretary of State agreed with the Attorney General's Office and the Commissioner of Public Safety that these requests should be made very narrow and not just demonstrated by a protection order only. The Secretary of State's Office agreed to absorb this work and treat them similar to law enforcement personnel. This function is done by the secretary of the Motor Vehicle Department and the everyday duties and responsibilities. If this amendment should pass I believe that the department would not be able to absorb the workload associated with it. The crimes bill recently passed by Congress requires all motor vehicle agencies by August of 1997 to have developed and implemented a program to hold such information confidential. Language currently in L.D. 1639 was just a stop-gap measure until the federal requirements are implemented. I would also

suggest that the Attorney General's Office and the Department of Public Safety do not have the resources today to handle the number of potential requests. As I stated earlier, this was just for those, with or without a protection order, that could document the need and meet the requirements. As I said earlier, we looked at this issue when we put the provision in the motor vehicle bill that would tide us over until the federal requirements come out next year. That is why I am moving the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes Representative from Freeport, Representative Hartnett. Representative HARTNETT: Mr. Speaker, Men and Women of the House: The amendment that I have proposed to the transportation omnibus bill can be found in your binders. It has a filing number of H-852 and I would like to tell you a little bit about why I put this in and why I disagree with my colleague from the Transportation Committee, Representative Strout. In the first session of this Legislature I did submit a bill that would keep confidential motor vehicle records. Let me back up for a minute, for those of you who didn't know, our Motor Vehicle Bureau sells motor vehicle records, be they drivers licenses or registrations of automobiles. In the last 24 hours I have probably spoken to 50 or 60 of you and I thank all of you who have listened to me and for so many of you agreeing with me and my point here. What was also amazing was that so many people were surprised to hear that these records of theirs, their driving and ownership of a vehicle, were being sold. It's the goods that they sell over there for \$5 a pop. It makes a lot of money for the Secretary of State's Office and they provide information. I will tell you, when I presented a bill in the first session it was to keep all records private because I felt the citizens of Maine had a right to this privacy. I know that Representative Dore of Auburn had also put a bill in like this in the 115th. It was defeated. In the first session of the 117th she submitted a bill which would allow people to opt, yes or no, for having these records shared. In every case the Taxation Committee unanimously turned down our requests. I feel this is very important so I brought this to you as an amendment before this House because I thought all of you should hear the debate. I thought all of you should have a say whose records are confidential and why they might be so.

In my committee on the Judiciary, we deal with some of the real horrors of what happens in Maine society. People who are terrorized, people who are battered, abused, and we do a great number of things to try and protect these people so that they can live as normal as possible the lives that all of us want to live. People who are terrorized by perpetrators in our society may go to the court and obtain a protection order. It may be a protection from harrassment, protection from abuse, and none of us would argue about the right to have those orders. By the way, in Section A of my bill there is a lot of references to Maine statutes so the numbers can sometimes be confusing, that's just referencing the points in statute where we allow for these protective orders to be put out. Last night we debated the stalking bill, impressive numbers we put up on the board as we realized some people need extra protection. I would submit to you that this amendment is one more part of that protection.

Imagine, if you will, a woman abused and battered by someone she has been in a relationship with, seeks relief from the court to keep this perpetrator, I keep saying that but you know there are other words for these people, they are not kind and we do not want them on the record, but she goes to the court and seeks protection. The protective order is given, often saying the person must stay a certain distance away from them, not go to their place of work. I can imagine, in extreme cases, where this victim feels that the only way to really ensure their safety is to relocate, to move to someplace where the person who is terrorizing them doesn't know where they are. Can you imagine making such a move, making your new address confidential, perhaps an unlisted phone number, and then this perpetrator walks into the Secretary of State's office, lays down \$5 and says give me the records on Susie Smith, or whoever. For \$5 they just purchased the new location of their victim. In Judiciary, as I said, we work on this all of the time. Our courts handle these cases, hundreds of them. Think of all that effort, money, energy of state government that goes into protecting the bodies and lives of Maine's abused citizens. Think also then of another branch of this government for \$5 undoing that. It's unconscionable.

I thank the Transportation Committee for sitting down with me yesterday. We agreed to disagree. I think it's more because we serve on different committees of jurisdiction. I work on the Judiciary and deal with a lot of difficult problems in our society, and they deal with transportation. I hope they understood that by this amendment all I am trying to do is to lend perhaps some of the expertise that I gathered here in these two years to their duties and their jobs. That's all I'm trying to do. One of the members asked me if I had a constituent that needs this as a personal request. I said no, I don't know anyone who has a protective order, but I have met many of these people before our committee and I have said I have had women weeping before us, begging for changes in the law so that they can secure their life and their safety, and I felt compelled to do something about it, because as I said, we have government doing one thing on one hand and then completely negating those efforts with the other.

In August of 1997, because of an amendment passed in Washington, submitted by Senator Boxer of California, all citizens in this country who get drivers licenses and have motor vehicle registrations will be able to opt in or out of having information on them sold. You may say we can wait 18 months and have that relief. For some, 18 months may be too late. Also, looking at my drivers license, I ask any of you to do the same, mine expires March 4 of the year 2000. It's my understanding that opting in or out, allowing your records to be sold, will only happen as you renew your drivers licenses. In Maine, licenses are issued for ten years. So, imagine someone who at some point in this year has to renew their drivers license, they would not be able to avail themselves of the Boxer Amendment, the opting in or out, until the year 2006. I submit, for those who are terrorized and beaten that is a long, long way off. You have also heard that the system may not be able to handle these requests. About 7,000 protection orders are issued in the State of Maine every year. I don't think that that is going to generate 7,000 requests for privacy, because in many

cases the victim simply wants the order to keep the person away, and as many of these protection orders are issued during unseemly divorces, the time of their need sort of comes and goes. There will be a few people who will feel so unsafe that they will feel compelled to move, to relocate and keep that location secret, but I don't think that it is going to be a great number.

Finally this year the Bureau of Motor Vehicles and the Secretary of State's Office acknowledged that there are cases where we shouldn't be selling the location, also the weight, hair color, eye color of Maine citizens. So the bill coming out of the Transportation Committee, if you look at H-852, section B is in that bill. It allows confidentiality of records in a very narrowly defined case, but only if the victim first clears the hurdles of the Secretary of State's office, then goes to the Attorney General, then goes to the Commissioner of Public Safety. A lot of hoops to clear. A lot of bars to jump over, when, in fact, the courts have done this already. The courts have issued the protection orders and said you are an endangered person, you are threatened. For those of a fiscally conservative mind I would say my amendment streamlines government. It says you've got the protection order, we agree, your records are going to be confidential if you are relocating and you want that kept a secret. Why make a person go through all this. I wonder, when they are standing before the Secretary of State and the Attorney General or his designee or the Commissioner of Public Safety, what will they show? Blackened eyes, bruises, lacerations, broken bones. Will that be the testimony they need to be protected? It just seems like too much to put people through. I think this state is big enough and I think our computer systems are sophisticated enough to handle these requests.

On the issue of ability to handle it, we have been told that the motor vehicle computer system is one of the most sophisticated in state government. You know if the police officer pulls over a car, or sees a car parked suspiciously on the street, they can run the plate. In a matter of minutes they tell them the plate number and they have the information, it should be a blue Dodge, 1987. If any of you have gotten a speeding ticket for a traffic infraction, you know how quickly that shows up on your record. It's there right away and the insurance company knows about it and your rates are determined accordingly. So, I find it ironic that a system that can check the registration of a vehicle within minutes, that can give insurance companies your driving record within minutes, and can provide to the general public, including marketers, information about all the people in a certain town who own Chevrolets, that's what this is used for by the way, marketing, it's sophisticated enough to do all those things, yet it's not sophisticated enough to protect Maine citizens. If it isn't, we need a new system. I think it is. So, I'm asking all of you to vote against the indefinite postponement, to help these people, to support my amendment as we move to that. I thank you for your patience and I look forward to your vote.

The SPEAKER: The Chair recognizes the

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I think the amendment proposed by Representative Hartnett addresses a real problem

we have in this state, but I am concerned if this amendment passes we'll be passing a solution that will, in some ways, not be adequate and may, in fact, give people an idea that they are protected and I'm concerned that they may not be. The Transportation Committee, after hearing of this problem with the release of this information, did work with the Attorney General's Office and with the Secretary of State and the Bureau of Motor Vehicles to address this, as well as all those parties thought it could be addressed over the next year based on the technology they have and the human resources they have. The amendment in the bill as it stands, without this floor amendment, addresses it as well as can be done at this time, which as has been explained to you, if people in this position who are definitely threatened in terms of bodily harm address the Secretary of State and Motor Vehicles, and request that the information be withheld it will be withheld, and whether or not they have a protection order it will be withheld. They do have to make a case to the Secretary of State's Office in order to have that done, but it can be ensured that the information will not be released. If, however, we open this to anybody who has received a protection order, which could be in the thousands each year, there simply is not the technology available right now within the department to protect all those records. It's done right now basically by human beings, not by computer, and I think any of you have heard enough from constituents who have had problems with different state agencies where things don't happen when they should and they take longer than they should, even though people guarantee that they would have been done by a certain date. We all know the foibles of state agencies and I think if here we have a department telling us they will have trouble implementing it, and we somehow think by forcing them into it sooner than they can it will happen, I think we are second guessing those who really are going to be doing the work and I think it would be foolish of us to expect that they can do it because we want it to happen. What is happening is an order to address the requirements of the Boxer Amendment in 1997 and the department is making the transition to a system where anybody in any situation can have their motor vehicle information held privately, but to make that transition to have the adequate software in place by then will take some time and resources. It will be done by August 1997, but I think in the time between now and then the best that we can do is the situation that is in the bill as it stands. There is simply not enough resources and I think if we pass this today, and if everybody who requests it thinks that their records are protected, there certainly is the danger that it won't happen in time. It won't happen as effectively as we would like to think state computers can operate. That might be less of problem if somebody's check is late or if a form isn't issued on time, but in this kind of case where somebody is expecting adequate protection and it doesn't happen, I think it would be tragic simply because we felt we had to rush the time schedule that the department has set for themselves on this. Certainly the Secretary of State's Office, the Attorney General's Office, are committed to making this happen. They see the problem and they are addressing it in the timetable that makes sense to them. I think we should allow them to begin the orderly transition to making this information private, as it should be, rather than

jumping the gun and rushing it and expecting that something that is unrealistic can happen because we want it to. I hope you will join me in indefinitely postponing this amendment. Thank you.
The SPEAKER: The Chair re

recognizes Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Men and Women of the House: I rise in opposition of the motion and in favor of Representative Hartnett's amendment, and I hate to disagree with Representative Chartrand because he is usually right in most things. I guess I want to just disagree with something that we have heard, that DMV just won't be able to handle this. I want to share with you the experience I have had just in the last two years as a legislator with DMV. our Banking and Insurance Committee, one of our bills was involving trying to make sure more people had car insurance. It is required in this state, but our compliance level isn't as high as we had hoped, and so we had a bill in and we had the top bureaucrat from DMV in there and he dragged his feet the whole time, saying DMV is just going to break down if you ask them to fill out a form. If you ask them to do that they don't know what will happen but they can't I have had an opportunity to observe on the Criminal Justice Committee the same guy representing DMV every time that committee wanted to do something through DMV, dragging his feet on any requirement that DMV do some extra work. Now, once again, true to form they are dragging their feet again to do this very important thing. This is right in line with the stalking bill that we passed overwhelmingly last night. You know, not everyone who gets a protection from abuse order is going to ask for this. But even if they did, it's not that easy to get a protection from abuse order. The judges often have a hearing. It's a tough thing to get and you shouldn't make them go through more hoops, Representative Hartnett is correct on this. I think we need to tell DMV who is in charge. Yes, maybe they will have to do a little extra work. I say let them. It's important. Thank

SPEAKER: The The Chair recognizes Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House: My story today will be very similar to what Representative Gates has just talked about. The one instance that DMV appeared before the Judiciary Committee was a sorry appearance. Basically, they seem to be unwilling to do anything to deal with problems that are very easily within their grasp and very easy to do something about. It seems ironic to me that we are spending so many dollars in our court system, prosecuting and getting protection from abuse orders where they should go, and at the same time DMV is not willing to be supportive of this activity. think the time is now to do something about this. don't need to wait. They seem to have, or should have, within their grasp a ready and easy fix for All they have to do is recognize a protection from abuse order issued by a judge. The proposal as issued by the Transportation Committee sets up a more difficult situation with many more hoops to jump through. This is very easy, just one piece of paper from a judge to make this record change necessary to protect the people of Maine. Thank you.

Chair recognizes SPEAKER: The from Representative Rockland, Representative

Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: Just to give you an idea of the numbers in terms of abuse orders, there are about 6,000 issued now and that probably is going to rise toward 7,000 over the next year while this amendment would be in effect if it passes. We have heard a lot of criticism about the department, so I do question how a department who has had so much trouble satisfying these committees is expected to comply with this and do the job well with the obvious glitches in their system. They will drag their feet as you have implied on this issue too. The problem with that would be the protection we seek may not be affected unless it is done according to the proper time table for affecting it. I would ask you to question the belief that we can make them do it now because we want to when we are being told by a number of parties involved that it will be very difficult to implement. I think on an issue of this importance we should be careful in doing something that feels good here today and hoping that it will have the effect that we want. Thank you.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I don't think that any of the committee members on Transportation are opposed to what the proponents of this amendment have said today. Let me tell you that over the last year and three months we have looked at this issue, and again as recently as two weeks ago we reviewed this proposal again, and we just felt at this time that we couldn't implement what this amendment will do. I guess if you should adopt this amendment my guess is that you will have to have a fiscal note on this to take care of this between now and next year. I would ask any of the proponents of this amendment if they are willing to come forward and present us with the money to do this.

The SPEAKER: Chair The recognizes Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: First I would like to put a little bit of a face on it. I did have a constituent that I worked with, a young woman with three children, who not only had to move, give up her subsidized housing, but come up with a security deposit, sell her vehicle which was an easily recognizable vehicle and move, without telling any of the people where she lived or where she went. She went to these lengths to avoid being found again by person who almost killed her. She had a protection from abuse order and she went through a huge expense to move, not everybody who gets a protection from harrassment or abuse orders moves. If it's severe enough they move and they should be able to count on the fact that somebody, after they have spent \$1000 moving, that somebody with \$5 can find out where they went. I'm asking you to defeat the motion to indefinitely postpood. the motion to indefinitely postpone. I don't think it's going to be an overwhelming number of requests that come into the Secretary of State's Office but I do know that this mom didn't have time to trot around to three different agencies in order to receive that kind of protection. I'm sure the Secretary of State, in selling these lists, is making enough money selling it to Nutri-System. I always wondered how they got my address. They must have been put in a weight limit they wanted to see, but still, they are selling the lists. it is certainly worth it to

protect the number of people who need to get up and move away from the person who is trying to hurt them. Thank you for your support.
The SPEAKER: The Chair

recognizes Representative from Lewiston, Representative Bouffard. Representative BOUFFARD: Mr. Speaker, Ladies and Gentlemen of the House: The stalking bill that we passed yesterday, which was widely debated, and you know that in that stalking bill it came out that it would cost at least a quarter of a million dollars for the courts to upgrade the system in order to be effective. The Department of Motor Vehicles has the same computer that the Justice Department has. It is sophisticated but it is not up to snuff to be able to take care of every problem that exists, so, therefore, the Representative from Corinth is absolutely correct. If this amendment is tacked onto this, it will add a fiscal note, and unlike the stalking bill that we passed last night, the cost to pay for this upgrading of the system has been implemented with a \$2 surcharge on fines. I would assume that the fiscal note for the Department of Motor Vehicles is probably close to the same thing, a quarter of a million dollars, and therefore it might involve a surcharge in your license fees. If somebody is willing to up the license fees and didn't have the Governor veto the whole thing because he doesn't want any extra taxes or fees, then probably you should go along with Representative Hartnett's amendment. Otherwise, I think that the Department of Motor Vehicle has done their homework and are accommodating those who are in the strictest of consequences. The figure was thrown out to us in the committee hearing that there is approximately 500 people that they do protect the confidentiality for. You're increasing that from 500 to 6,000 or 7,000 and according to statistics there is an increase yearly of at least 500 extra, then I would have to say that the fiscal note that would be added on to this amendment will be quite a bit. Thank you.

The SPEAKER: The Chair recognizes Representative from Portland, Representative Townsend. Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I'll be brief. I'm looking at this amendment and I see no fiscal note. What I have come to learn in my year and a half on the Appropriations Committee is we don't have the resources means we don't want to, this is not a priority for us. I'm tired of that attitude and I think it's time that we send a message, just do it.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Men and Women of the House: We have a law in place now that will take care of 99 percent of all the inquiries now. They want to put a law into place which is going to take additional technology, additional computers, and additional help. By the time we get this all done the federal law will be in place and we will have spent a lot of money for nothing. Thank you.

The SPEAKER: The Chair recognizes the

Representative Rockland, Representative from Having spoken twice now requests Chartrand. unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the

Representative may proceed.
Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I just want to relate an example of the current system, because a good friend of mine

who sits in this chamber was recently doing a mailing, using a list of addresses from the famous DMV computer. One of those that came out has been dead 20 years. I hope they will become a lot more effective in implementing this if this passes than they are currently. I personally do question how soon that could happen. Thank you.

The SPEAKER: The Chair recognizes

Representative from Boothbay, Representative Heino.
Representative HEINO: Mr. Speaker, Ladies and Gentlemen of the House: There are those of us here in the House who may or may not agree with the state or other organizations selling names to businesses. This is not the issue. We are not going to take care of this today. Many of us here in the House believe in individual privacy. We believe that we shouldn't have our names around. This isn't the issue. The issue today is how do we best protect someone who might be battered, or someone who has a protection order out on an individual. I would ask you to support the indefinite postponement of this bill. comes from the Transportation Committee with a unanimous support. This problem will be taken care of to the best of our ability in due time. Thank you.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (H-852) to Committee Amendment "A" (H-847).

A vote of the House was taken. 24 voted in favor of the same and 76 against, the motion to indefinitely postpone House Amendment "A" (H-852) to

Committee Amendment "A" (H-847) was not accepted. Subsequently, House Amendment "A" (H-852) Committee Amendment "A" (H-847) was adopted. to

Representative STROUT of Corinth presented House Amendment "B" (H-850) to Committee Amendment "A"

(H-847) which was read by the Clerk and adopted.

Committee Amendment "A" (H-847) as amended by
House Amendments "A" (H-852) and "B" (H-850) thereto

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-847) as amended by House Amendments "A" (H-852) and "B" (H-850) thereto.

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-499) -Minority (4) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,500,000 for Major Improvements at State Park and Historic Site Facilities and for the Public Access to Maine Waters Fund and the Land for Maine's Future Fund" (S.P. 740) (L.D. 1848)
- In Senate, Reports read and

the Bill accompanying papers recommitted to the Committee on Appropriations and Financial Affairs.

TABLED - March 26, 1996 (Till Later Today) Representative JACQUES of Waterville.

PENDING - Acceptance of Either Report.

Subsequently, the Bill and all accompanying papers were recommitted to the Committee on Appropriations and Financial Affairs in concurrence.

On motion of Representative CARLETON of Wells, the House recessed until 2:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Communication: (H.C. 402) Maine State Senate State House Station 3 Augusta, Maine 04333 March 27, 1996

The Honorable Joseph W. Mavo Clerk of the House State House Station 2 Augusta, Maine 04333 Dear Clerk Mayo:

Please be advised that the Senate today Insisted and Joined in a Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting" (S.P. 719) (L.D. 1820). President Jeffrey H. Butland appointed the following conferees:

Senator HALL of Piscataguis Senator MICHAUD of Penobscot Senator MILLS of Somerset

> Sincerely, S/May M. Ross Secretary of the Senate

Was read and ordered placed on file.

Reference is made to Bill "An Act to Amend the Laws Concerning Commercial WI (EMERGENCY) (S.P. 719) (L.D. 1820) Whitewater

In reference to the action of the House on Tuesday, March 26, 1996, 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 MITCHELL of Vassalboro Representative KEANE of Old Town Representative PERKINS of Penobscot

Divided Report

Majority Report of the Committee on Legal and Veterans Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-517) on Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303)

Signed: Senators:

Representatives:

FERGUSON of Oxford STEVENS of Androscoggin CHIZMAR of Lisbon TRUE of Fryeburg CARR of Hermon GAMACHE of Lewiston **BUCK of Yarmouth** LEMONT of Kittery

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-518) on same Bill.

Signed: