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The Chair laid before the Senate the following Tabled and Later (5/31/01) Assigned matter:

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

Tabled - May 31, 2001, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **DAGGETT** of Kennebec to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-532), in concurrence (Roll Call Ordered)

(In House, May 23, 2001, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-553) AS AMENDED BY HOUSE AMENDMENT "A" (H-572)** thereto.)

(In Senate, May 31, 2001, on motion by Senator **ROTUNDO** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-532) **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President, may I pose a question to anyone who might be able to answer it?

THE PRESIDENT: The Senator may pose his question.

Senator **MILLS:** Could someone simply refresh my memory, just briefly, on the substance of Committee Amendment "A" that we are now seeking to strip and dispose of?

THE PRESIDENT: The Senator from Somerset, Senator Mills poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President, ladies and gentlemen of the Senate. Committee Amendment "A" with filing number H-532. The Education Committee spent quite a bit of time on this. At the beginning of the session we really didn't think we'd be in this position. Numbers and figures were illegally leaked and so that's why we're in this position. We put all the interested parties in a room and almost threw away the key. What Committee Amendment "A" does is call and says that it will be legal for the Commissioner of Education to release two numbers. One number is the number of people fingerprinted. The second number is the aggregate number of school personnel who are no longer qualified or approved to either teach or be the business manager or drive school buses, etc. Those are the only two numbers that will be released under this Committee Amendment. Thanks.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Mr. President, men and women of the Senate. If I understand the posture of the current motion, if we defeat this motion than we will be rehabilitating the work of the committee. It will then put the bill in a posture to authorize the release of these two elements of information that many of us regard as important facts for making an ultimate determination in the feasibility of fingerprinting generally. A vote of no on the pending motion would put us on the track towards a bill that would give us the information that we need. If anyone can respond, if they wish, to my question as to whether that is the case?

THE PRESIDENT: The Senator from Somerset, Senator Mills poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Mr. President, ladies and gentlemen of the Senate, yes, I would agree with the good Senator from Somerset, Senator Mills. The motion is to Indefinitely Postpone and so if we defeat that motion, than the Committee Amendment would go forward. Thank you.

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

Senator **MCALVEY:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would like to, for the record at least, get one point of view in. I'm not quarreling with the good Senator from Androscoggin, Senator Nutting. The figures were illegally released. If we're talking about the same instance, it was the Department of Public Safety who was asked and they released a figure. It wasn't until after that fact that the Department of Education went to the Attorney General to get a ruling. So to characterize these figures as being illegally leaked, they were asked a legitimate question during a legitimate public hearing. They answered that question in good faith. They were then later advised, after the ruling by the Attorney General, that the confidentiality law covered all of it. I'm very confident, had they known that, they would not have responded. That is, at least, a very limited perspective, from my point of view. I just wanted to set a portion of the record straight. In no way am I being critical of the good Senator. I'm just critical of a couple of the words that may have been used by him and some others.

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

Senator **MITCHELL:** Thank you, Mr. President, ladies and gentlemen of the Senate. I would encourage you to join us in voting against the pending motion. What we need is the information so that people will know the results of the existing fingerprinting and that's all this is going to do. So please vote for us to be able to release the information so that people will be able to understand and determine whether or not it is necessary to repeal fingerprinting. Without this information, we are unable to make sound decisions on going forward. So please join me in voting against the Indefinite Postponement of the Committee Amendment "A".

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING**: Mr. President, ladies and gentlemen of the Senate, in response to the good Senator from York, Senator McAleve, from my experience with this bill when it was originally passed, everyone was at the table when this bill was originally passed. There was a very clear understanding that at no time was anyone ever supposed to release any information. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN**: Thank you very much. Let me attempt to draw more confusion or less confusion of this process. There has been some discussion about trying to give people an opportunity to offer an amendment. The amendment conflicts with the committee amendment. Senator Longley would like to offer that amendment. The two options are to adopt Committee Amendment "A" and then for the Senator to offer her amendment. If her amendment were to be adopted, then we could go back and reconsider adoption of Committee Amendment "A". It's just a process. For lack of trying to prevent getting ourselves out of this mess, let me suggest that we vote against Indefinite Postponement, which will adopt Committee Amendment "A". If the Senator offers her amendment and that should prevail, then we can go back and reconsider adoption of Committee Amendment "A".

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL**: Thank you, Mr. President, men and women of the Senate. I just have to make a clarification on some of the discussion that has been going on about the confidentiality. I think I'm the only member here that served on the Education Committee the entire time that this issue has been discussed. Each and every session it was never my understanding that this information and the aggregate was confidential. I think if you talk with the other members of the committee, at least from the most previous session when we dealt with this issue, we put in language to ensure that individuals had absolute confidentiality. We did not want the release of names. We did not want the release of schools. We did not want in any way it to be tied back to the individual who might come up against this. But it was never my understanding, and I don't believe anybody else on the committee who supported the legislation would say it was their understanding, that we were not going to have access to the information in the aggregate that was non-identifying so that we'd know how effective this bill was. If anyone in the other body has got information to the contrary, than I would be happy to listen to that. But in all the times that I was dealing with this, I never had the understanding that this information in the aggregate would not be available and would not be released. I believe that is why the Department of Public Safety was also misguided in their release of the information. I don't believe they had ever heard anything in our committee during our deliberations that would lead them to believe that this information, in the aggregate, was not going to be available to the public. Thank you.

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

Senator **GAGNON**: Thank you, Mr. President, men and women of the Senate. I did not serve on the Education Committee

during this time but I certainly have heard a lot about this issue. My position hasn't changed since we originally had the choice on how we vote on this issue about fingerprinting. My fears at the time, I think, have come to fruition. Information is being released that is giving some impression about what is going on in our schools. Whether it is accurate or not we don't know. We will never know whether we release this information or not. Not having served on the committee, but just sort of sitting on the outside and sort of absorbing what the general public has received, I feel as though most people feel that the reason we are fingerprinting, the reason we are putting teachers through this process, is because we didn't want our children to be exposed to criminals who have committed some crime, sexual crime, against children. But I understand now, with fingerprinting, and I have a little bit better understanding of the law, that if, for example, a person lives in Arizona or some other state and they've committed some white-collar crime in which they might have served a year or so in prison, having to do with bank bonds or something, whatever the white-collar crimes are, and they came to Maine and began teaching, let it be the best teacher in your district, and then is fingerprinted, that teacher would be automatically be denied certification. That's my understanding and if that's not correct, than I hope someone will correct me.

So what we're in the position of doing is now releasing this information and saying that X number of teachers and others were fingerprinted and Y number of people have been denied their certification without a lot of the other details. Just these numbers. I think what that will do is give the impression that, whatever that Y number is, that is the number of sex abusers in our schools when, in fact, some percent of that Y number is going to be people convicted of some white-collar crimes who have served their time, paid their debt, and have now been automatically denied. I suspect that probably in the Education Committee somewhere along the way they said, 'well, if they really are posing no real threat to children, than they can have a right to appeal and that the appeal will probably take that into consideration and then they will be able to get their certification and then continue teaching.' But the bottom line is that we're dealing with a very emotional issue when it comes to our children. I have three small daughters in public schools right now. I'm not sure if even releasing the data is in the best interest of what we're trying to accomplish.

The amount of money we're spending on this project and the information that is being generated and put out there, particularly without a whole lot of detail and to allow people to come to their own conclusions about why Mr. Jones, or whoever it might be, was denied a certification. Some years ago, at the institution I currently work at, I was responsible for the security department. I always heard the expression when people wanted to begin certain programs that if we could prevent just one whatever it might be, one bike theft, one crime of whatever the nature is, than we ought to do it, it's worth the money and we ought to do it. Usually, when things got so emotional and got to that point, you found that the solution wasn't always the best solution and use of money wasn't always the best use of money. I could give you some examples, but I still work for that institution. My fear in all of this is that I'm not sure if are really getting to the heart of what people feel the problem is. We've clearly identified what the problem is and how to best solve the problem. What we have instead is somebody's best attempt to come up with this, maybe done in other states, approach of fingerprinting.

What we have today is mess. Clearly a huge mess. We've got some teachers who have been fingerprinted and are on 'the

list'. We've got people releasing numbers who weren't supposed to release numbers, creating sensationalism. We've got a mess. Here we are to sort it all out. Frankly, I don't know where we are or where we are going in this mess. But I think that when you start suspending people's civil rights, which is how I view this issue, and granted there are many people who have been fingerprinted for other jobs as they enter that job, whether they be attorneys, or whether they work for law enforcement, understanding that has been the standard procedure and must work then, I think that when we decided to do that, what we were saying to a group that is not in law enforcement, not in the military, that does not work for the CIA, or the irregular standards, but just a group of teachers. I don't mean just a group of teachers, I mean a group of teachers. Teachers who have spent their whole lives, by in large, and you all know the majority of these teachers, 99%, committing themselves to children, who probably could work someplace else for more money. I got my teaching license. I didn't go into teaching. Their honesty, their years of service, their integrity, they feel, is called into question. Now we can sit here and say that their integrity is not being called. That's not our intent. But it is the way it is perceived. There were warnings throughout the whole thing that information was going to leak, who was going to use the information. Guess what? It happened.

So clearly you know what my position is on this issue and how I think that we have taken a group within the state and have done everything we can, in my mind, to humiliate them, to make some quit their lifelong careers, or to simply just buck up and go get their fingers black and be done with it. Not liking it, but hey, gotta do it, gotta pay the bills. We're making policy for the State of Maine. They don't take our finger prints. In that example of how much is enough to save one person or to save one situation, I had a bill a few years ago that I got a lot of grief from concerning dog bites. I tried to put some money in the budget that would help teachers teach children about dog bites. Did you know dog bites is the number one injury to children in this country? Number one according to the National Center for Disease Control. But we couldn't find \$15,000 to \$20,000 to teach about it. But we're finding all this money to deal with something that people are finding just abhorring to think that something could be happening in the schools.

Let's back off and figure out how we're going to solve this problem. Try to work with teachers as part of the team. Got to mend those fences and go after the problem instead of going after teachers. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, ladies and gentlemen of the Senate. I was thinking about moving that we place this on the Special Appropriations Table so we could have some time to figure it out, but that's not a good idea. If you would turn to page 14 of the hymnal, here is what I think. If somebody could tell me if I'm right or wrong that would be helpful. Committee Amendment "A" is a fairly small refinement of the original bill that tightens some language, makes some modest improvements in terms of protection by clarifying that it is the Commissioner who would determine the ineligibility of the applicant, and it clarifies that we're talking about aggregate information and not individual information. So that, in my opinion, is an important but relatively modest adjustment to the original bill. If this motion prevails, we have lost that modest

improvement. So I'm not sure I see a value to that. In addition, it says 'in concurrence' but I can't identify that from the actions taken in both bodies. It appears to me it would put us in 'non-concurrence' since the House adopted that amendment. That's the piece that I don't get. H-553 is the piece that repeals fingerprinting. H-572 is the part that says the records have to go back to the person who was fingerprinted and not be kept on file, etc. So it seems to me that we are in as strong a position supporting Committee Amendment "A" and working from there as we would be by repealing Committee Amendment "A" and ending up with the original bill, which is not as good a version, and having to work from there. So I would encourage you to oppose the pending motion to Indefinitely Postpone Committee Amendment "A".

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President, men and women of the Senate. There has been some reference as to what the violations would have been to have caused the Commissioner to have denied certification. I just wanted to point out to people that they have a yellow hand-out. That actually lists what they are. It's not the prior crime that may have been committed ten or fifteen years ago and it's not the youthful transgressions that we may have all committed back many, many years ago for some us, longer for others. But it's very recent violations or violations that directly effect children. I won't go through it, I won't take your time up. But please look at that so that we're all understanding exactly what the record has to have been for someone to have their certification pulled. That's the number of people who will be disclosed. Not everyone who happened to have a violation in their past. Thank you, Mr. President.

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

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I hope I can try to bring some clarity to this very dynamic issue. I think there are two pieces to the dynamics of this issue. We need to bifurcate them. Let's set aside the merits thereof or not thereof for fingerprinting. Let's look at why this initial bill is before us. Initially, the Department of Public Safety came to the Criminal Justice Committee with the Part I Budget and wanted almost a million dollars to continue this program. The committee of jurisdiction has some responsibilities, so we said all right. How many have you fingerprinted? Legally we can't tell you. How many more do you have left to finger print? Legally we can't tell you. How many more years are we going to have to do this? Legally we can't tell you. We asked both the Department of Education and the Department of Public Safety, is there anything you can tell us about this procedure that you're asking us to spend almost a million dollars on? They said no, we can't discuss any of it. Regardless of how individual members felt in the Criminal Justice Committee, some wanted a whole lot of information and some were kind of chagrined that we couldn't even get some basic information, our duty as policy makers is to decide if the program is needed. Based on that, does it warrant the amount of money that we appropriate. To do otherwise would not be doing our job properly. So we asked the Education Committee to work with the Department of Education and the Department of Public Safety to see if they could come up with some language that would allow

us to get some basic numbers. That's why we are where we are today.

Confidentiality. I sponsored the original finger print bill in the 118th Legislature, which passed both bodies. It laid on the Appropriations Table and was not funded. NEA supported it then. There was no opposition. The second bill came up last session. I was a co-sponsor. Probably that bill had the most debate or acrimony of discussion of any piece of legislation I've ever experienced in my short tenure here. The last minute, the last hour, an amendment which was offered in the other body, which afforded individual people who would be fingerprinted more protection of confidentiality. It was my understanding that the aggregate numbers could be released but not the specific numbers by district or by individual.

Now the reality, going back to this first point that I talked about in the bifurcation of these issues. We should not be spending money on any program that we can't talk about to measure its progress or lack of progress. Forget about where you stand on the merits of fingerprinting. The issue is do we want to get some legitimate based data to make a further decision later on about whether this program should continue or not? I'd rather look at some base data to see how much more it's going to cost, how much longer we're going to be doing this.

Let's switch gears and go back to the merits of fingerprinting. I won't belabor you with this. Thirty years ago this month I graduated from the University of Maine. I've been an educator most of my life. Public school, teaching through the police academy, now teaching part-time at the university. I've many good friends that are educators. Yes, I have a bias. I investigated child abuse as a police investigator most of my police career. But I tell you, 99.9% of our educators, and when I say the work educators I'm talking about support staff as well as our teachers, they are all role models, are there for the right reasons. They do a good job. They are there because they have a tremendous talent to impart knowledge, to get our youngsters to want to learn, to grow. But unfortunately there is only 1/10th of 1 percent of the people that are there, and I won't call them an educator because they are not, they are there for all the wrong reasons. They are there for one reason and that is to find children to befriend, compromise, and exploit. Masquerading as support staff or educators. That is the 1 percent I want to prevent from continuing in this profession or coming into it. Not one educator that I know would allow a child to run into a burning building for fear of death or permanent scarring for life. If we were losing 10, 12, 14 children a year to bad burns because of improperly sprinkled schoolrooms and rashes of fires, we would be incensed, we would be doing something about it. Well I put to you, as both a survivor of abuse and an investigator of abuse, sexual exploitation leaves a person scarred for life. We have it within our ability to prevent anyone from having that happen again. I don't want to put our educators in a tough spot where they feel put upon, but I don't know of any educator who would stand by and let a child run into a burning building. This is the same equation. In the last 15 years, a number of teachers, educators, and support staff have lost their license because of disclosures to the department through Superintendents to the Department of Human Services, through parents for inappropriate behavior. Since the advent of this program, up until yesterday, and I can't tell you why up until yesterday and not today, not one individual has lost their license in the last year and a half because of disclosures. There haven't been any disclosures. I submit to you it's working. I don't care how many

children we save, 1, 10, 40, or 50, the reality is our children are safer today in our schools than they were two years ago.

That's my pitch on the necessity of this law. Let's go back to the reality. What we choose to do as an institution is up to us. The more information that we're armed with, the better decisions we can make. To make decisions about the merits of a program by being unwilling or afraid to look at raw data that the department will present to us in a meaningful and non-threatening manner to the profession is nothing that we should fear. It is nothing that we should fear. What we should fear is who is out there abusing our children or our child today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President, men and women of the Senate, the situation is really extremely simple, in my view. We spent well over \$2 million, we fingerprinted probably nearly half of the people in the public school system. As a wild guess, we may have fingerprinted 30,000 to 35,000 people by now. We know pretty much for a fact that some number of these folks have been denied certification, probably for a host of reasons. But they've been denied certification under a set of objective standards that the department has issued, clearly and unequivocally. For all that we know, they've done a good job at adhering to their standards and of rejecting certifications only where it is clearly appropriate based on objective data, based on records, not based on innuendo or speculation. Now we, as a sort of board of directors for this very large educational system, are tempted to say, 'oh, we don't want to know, we just want to spend.' We want to have spent the \$2 or \$3 million on this project, repeal it, and then never know what the results are. I think that is not a mess, that's the height of irresponsibility. If we were a private corporation, the stock holders would fire everyone of us. Thank you.

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

Senator **GAGNON:** Thank you, Mr. President, men and women of the Senate. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **GAGNON:** Under my hypothetical situation, Mr. Jones, who possibly served a year in prison in Arizona for some white-collar crime less than three years ago, is now teaching and if fingerprinted, is denied certification. Number one, is that correct? Number two, would that then appear as that number of people who were denied certification?

THE PRESIDENT: The Senator from Kennebec, Senator Gagnon poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Small.

Senator **SMALL:** Thank you, Mr. President. Under that hypothetical question, Mr. Jones would have a right to appeal and so it would depend on whether or not the appeal was in his favor or not. I think some of that might depend on the nature of the white-collar crime. If that person were working in the office of the school, that might be something that would be of concern and

that might be a reason to deny the certificate or the school approval or whichever category they come under because this isn't just for teachers. I think we would all guess that driving violations of an extreme nature might not be a problem for someone that was in a classroom or someone that worked in the cafeteria, but it certainly would be of concern if it was someone driving a school bus or would at any time be driving children to and from. That would be one of the instances that the denial would be, only if it was related to the position held and they would have a right to appeal. If they lost the appeal, yes that would be one of the numbers that would be in that aggregate.

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

Senator EDMONDS: Thank you, Mr. President, men and women of the Senate. I just want to speak to the issue of fingerprinting in general. I just want us to be clear that if your goal is to prevent child abuse, this will not do it. Pure and simple. What will prevent child abuse is us spending that kind of money on actually giving young people the information they need and the support they need to make decent decisions and to have the support to report something. That's what is going to deal with child abuse. Fingerprinting people is going to give everybody the impression that just because somebody has been fingerprinted, everything is hunky-dory. I think that is an unfortunate result. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator WOODCOCK: Mr. President, ladies and gentlemen of the Senate, I am, as the good Senator from Kennebec, Senator Gagnon, referred to earlier, just a teacher. I have been fingerprinted, but I have not been fingerprinted for recertification. I have been fingerprinted as a young soldier going off to Vietnam. I was more than a little surprised to understand that they wouldn't accept those fingerprints as part of this process. Over 30 years ago, I went off to war. For the last 23 years, I've been at war in the classroom on a regular basis. They won't except my fingerprints to verify that, for some reason, I have not committed any sexual acts against young people. I was bothered by that. I can understand the reasoning because I was told that I could have altered those fingerprints. I suppose somehow I could have crawled into the St. Louis military collection agency of the Department of Defense on a quiet Saturday night when no one was guarding it and changed my finger prints on the record. I suppose I could have altered my fingers as they stand today. I hope that is not a problem, Mr. President. However, I'm offended by that. I have been from the beginning. This law, has from the start, I feel, been a poor application of good intentions. No one in this body, no one here today, would ever seek to place someone in a classroom who is going to sexually abuse a child. No one would seek to do that. We differ on this issue. Should we or should we not continue this program? Has it worked? Has its intent been followed? I was not here as part and parcel of a decision that was made earlier. I would share with you very briefly, if we are to accurately identify and accurately use the fingerprints, if we continue with this process, we should, first of all, if possible, prosecute those people found in violation of abusing children. We do not do that currently. Many are simply asked to depart the school and not have their contract renewed, thereby nullifying their fingerprints, fingerprint from here until eternity. That person, you have not identified that offender who

was caught in the act as being a sexual offender. We must eliminate the atmosphere of guilt which surrounds the members of my profession. I can assure you, that when this fingerprint law was first put into effect, in the teachers' rooms in Maine there was much discussion about what, suddenly, we had become in the eyes of the general public. We had become violators. The figure which has been leaked, inappropriately I maintain, now again causes people in the State of Maine in the teaching profession to be inappropriately perceived as offenders. So today, this legislator feels an extra burden on his shoulders. The burden of the teaching profession. I do not feel the law has been applied appropriately. I do not feel that we should not release the figure. It's already been released in some sense. The time has come to release the figure. Don't hide anything when it comes to the figure and take a closer look at a better application for this law. My profession has not had its civil rights violated. I do not believe that and I would disagree with the good Senator from Kennebec, Senator Gagnon. But we have been burdened. We have been discolored. A profession as honorable as any profession in this land. The time has come, I feel very strongly, to do some justice to this law. A bad application of good intentions. A long time ago in New England we started a tradition which we uphold today through the mismanagement of this fingerprinting law. The New England witch hunt continues. Thank you.

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

Senator MITCHELL: Thank you, Mr. President, ladies and gentlemen of the Senate. The original intent of this bill was to get the information back on the fingerprinting and not to embarrass or cause pain to any of our existing teachers. But what it is trying to do is to protect our children and our people in Maine from sexual predators coming here from other states who have been convicted of child abuse and assault and have been from a state that required fingerprinting. If by us requiring fingerprinting, they will not be allowed in this state because we would be able to stop them from coming into our schools. By us repealing this, what it is going to do is open the doors to these predators from other states, know that Maine is a state that does not require fingerprinting, there is a place for them to go. Last week, or two weeks ago now I believe, when the House acted on this, and it was in the Bangor Daily News, in the upper left hand corner. In the lower right hand corner was the court case of a person from the teaching profession who had been convicted of assaulting many young boys and who will go to prison. Without the fingerprinting law, when this young man comes out of prison, he will be able to go anywhere and get a job because there will be no record of what he has done. Just this past week, there have been cases that we've been reading about in the paper where people in the teaching profession and in our schools have been convicted, of again, sexually assaulting young people. The fingerprinting will keep those people from obtaining jobs when they come out of prison and it will keep them from coming into our schools and being active around our children. No, it is not going to prevent child abuse. That is not the intent in its entirety. But if it can effect a small fraction of these sexual predators that are harming our children and ruining their lives mentally, then we need and we owe it to ourselves to at least look at the information, of the numbers that have been fingerprinted, so that we, as legislators, and the people can better understand if we need this or don't we. To answer your question, yes. Anybody who has had a felony within the last three years would be denied.

However, they are entitled to an appeal, as the good Senator from Sagadahoc, Senator Small, has told you. But it would prevent any conviction involving child abuse, assault, or exploitation from receiving recertification or certification. What we need to do is to look at the numbers and it will tell us whether or not we need to repeal this law or not to repeal it. Without doing that, we have got the guilt on our shoulders of opening the door for these predators coming in here from other states, from existing people who are serving sentences coming out of jail, and going back into our school systems. Their intent is not to provide good education to our children. There is only one thing on their minds. So I would ask you, please, not to vote for the Indefinite Postponement. What is wrong with us looking at the information? Why can't we look at the information and make a legislative decision on whether or not we need to repeal this law? Without the information in front of us, we're making a decision without really having full access to all of the information necessary to make a sound decision on behalf of our children in this state. So please join me in voting against the Indefinite Postponement.

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

Senator **SAWYER:** Thank you, Mr. President, ladies and gentlemen of the Senate. All students of ethics sooner or later study the, I guess it's several decades old now, case of Tylenol. When, in the stores, Tylenol packages were vandalized and a foreign substance, I don't know if it was poison, was added. Tylenol, early on in the case, publicized the problem, and recalled the Tylenol at great short term expense to the company. But as the students will study, the argument is over the long term benefit of the reputation of the manufacturer. It seems to me, obviously, the bill before us has to do with the release of information. We're not really debating, I don't believe, whether fingerprinting is good or bad. Clearly the results will be debated and discussed irrespective of what we do. We have two choices. We can destroy the data. But I predict the response will be 'what are they hiding?' I would propose that the better course is to provide the numbers. That would allow the people who are effected to own the numbers, control the numbers, and as a recent successful President was so successful at, to put the numbers behind you. Sitting here in the front row because we're not allowed to look around too much, I have regularly assumed the position in my chair and I tend to focus on that center window. I must tell you, during the course of the debate I keep envisioning, from my childhood days, three little monkeys sitting on that ledge. One of them has their hand over their mouth, speak no evil. One of them has their hand over their ears, hear no evil. The third, obviously, has their hand over their eyes, see no evil. I fear if we don't publish this information, we will metaphorically be assuming that position as well. Thank you.

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

Senator **MCALLEVEY:** Thank you, Mr. President, men and women of the Senate. I find the analogy of the three monkeys very interesting. I won't tell you where the fourth monkey is sitting or what he is doing. That is what we are trying to eliminate. There is another issue here that goes beyond, and it is an unintended consequence. I will not mention the number that was quoted earlier that some people think was leaked because I don't

want to be party to violating the state's confidentiality law. But those of you who have certificates or had certificates or had licenses to work in a school district recall the application you filled out. It asks, 'do you have a criminal history?' On the bottom it says, 'any fraud, falsity, or omission may result in denial of a license or revocation of a license.' Now let's put this into perspective. Somewhere between 1,000 and 2,000 educators, probably on the lower side, either lied or forgot, or conveniently forgot that they had been convicted of a criminal offense when they applied for a certificate or a license. They are the culprits here. Does that make them a bad person? No. Are they guilty of anything? Aside from their offense, no matter what it is, it could be something minor or something heinous, they are guilty of bad judgment by not disclosing the full truth. Probably 99% of these people will not fall into the category of the people that we are looking for, to keep away from our children. People make mistakes when they are younger. People make mistakes and learn from them. The defense that is 20 years old or 10 years old certainly, from someone who has a good track record from that period of time on, it should not be held against them. But if we have an individual who is convicted of selling drugs last year, do you want them in your school system? I don't think so. That is a separate issue the department has to deal with in terms of whether they are going to extend or renew or cancel certificates and licenses for those who forgot to list on their application of their license their criminal history. But the reality is, I'm not going to let that small number influence the respect and the admiration I have for the majority of people in that profession. They are there for the right reasons, they are doing a good job. Our children are safer today than they were yesterday. If I had, in my wildest dreams, thought that people would take this big of offense to this issue when I submitted the legislation, I probably wouldn't have submitted it six years ago. Until someone comes up with a better method to keep people from away from coming in here for one reason and one reason only, to find where children live and reside or work and learn. For one reason and one reason only, which I will not mention, then this is what we have. Is it perfect? No. Has it alienated the profession? It probably has. I feel bad about that. I really do. But has it protected our children? It sure has. Do I feel bad about that? No. I gather some comfort from that. If you are going to replace this, find something better to replace it with. To those who feel put upon, to those that feel like they've been made criminals, please don't feel that way. Please feel that you, in your very small part, by putting your finger on that piece of paper with a piece of ink attached to it, has made some child somewhere in this state safer than they were before you did that.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Daggett to Indefinitely Postpone Committee Amendment "A" (H-532). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#122)

YEAS: Senators: CATHCART, EDMONDS, GAGNON, RAND, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD

NAYS: Senators: ABROMSON, BENNETT, BROMLEY, CARPENTER, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, KILKELLY, KNEELAND, LAFOUNTAIN, LEMONT, LONGLEY, MARTIN, MCALEVEY, MILLS, MITCHELL, NUTTING, O'GARA, PENDLETON, ROTUNDO, SAVAGE, SAWYER, SHOREY, SMALL, TURNER, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: DAGGETT

6 Senators having voted in the affirmative and 28 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAGGETT** of Kennebec to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-532), in concurrence, **FAILED**.

Committee Amendment "A" (H-532) **ADOPTED**, in **NON-CONCURRENCE**.

House Amendment "A" (H-553) **READ**.

On motion by Senator **MARTIN** of Aroostook, House Amendment "A" (H-553) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **LONGLEY** of Waldo, Senate Amendment "A" (S-330) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President, colleagues in the Senate. Thank you for being patient as I try to figure out these procedural issues on this complicated bill. This amendment does two things. It's very simple. Basically, the first thing it does is says that for the dissemination of information related to conviction data, it is illegal to disseminate that information. That is confidential. It's a Class C crime. The second piece of this amendment says that when the Committee on Education meets and gets a report back from the Department of Education, add to that report back a report back from the State Bureau of Investigation, the SBI, on what delays were happening and why. The reason for that is that we've heard, from various constituents, that they were tagged. That they went for their finger prints and then they were tagged. There are very, very specific types of conviction data that the SBI and DOE are supposed to be looking at. Sometimes they go beyond that, I think. This is an attempt to keep everyone on focus. So again, summarized, this amendment does two things. It says this information is not to be disseminated. If it is disseminated, it is a Class C crime. It's not okay to disseminate, it was meant to be confidential. Secondly, when the DOE and SBI report back to the Committee of Education, the committee of jurisdiction, and gives their report, in that report, account for those delays and explain. This is an attempt to keep them focused on this precise conviction data that they are supposed to be looking at and not anything more. Again, that is my reaction to the words we're hearing about teachers being tagged somehow by suggesting they are bad

people and have done something wrong. That's not at all what we want to convey to them. Thank you.

At the request of Senator **MILLS** of Somerset a Division was had. 12 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo to **ADOPT** Senate Amendment "A" (S-330), **FAILED**.

At the request of Senator **DOUGLASS** of Androscoggin a Division was had. 25 Senators having voted in the affirmative and 6 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Repeal the Presidential Preference Primary Elections"

H.P. 960 L.D. 1273

Majority - **Ought to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-556)** (2 members)

Tabled - June 7, 2001, by President Pro Tem **BENNETT** of Oxford

Pending - motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**

(In House, May 29, 2001, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, June 5, 2001, Reports **READ** and on motion by Senator **DAGGETT** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

(In House, June 6, 2001, Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in **NON-CONCURRENCE**.)

Senator **DOUGLASS** of Androscoggin requested and received leave of the Senate to withdraw her motion to **RECEDE** and **CONCUR**.

On motion by Senator **DOUGLASS** of Androscoggin, the Senate **ADHERED**.

The Chair laid before the Senate the following Tabled and Later (6/4/01) Assigned matter: