

MAINE STATE LEGISLATURE

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the future and try to make a decision over a period of time, rather than trying to do it in the last few minutes of our session. Thank you Mr. Speaker.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I share that concern and that will happen. In January the Criminal Justice Committee will undertake a review of many areas of the Department of Public Safety. That is a mandated audit that we will undertake. This will be there. What this Indefinite Postponement will do is require the Department of Public Safety to bring in sworn law enforcement officers to do the job and to secure this facility. We will leave Capitol Security to do the other tasks that they are trained to do. We are not making this facility less secure. We are sending a message to the Department of Public Safety that if you are going to have law enforcement officers, we want law enforcement officers who are sworn to be providing security here in the Capitol.

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. 455

YEA - Annis, Baker, Belanger, Berry DP, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bull, Bumps, Chizmar, Clough, Collins, Colwell, Cowger, Cressey, Cummings, Desmond, Duncan, Etnier, Foster, Fuller, Goodwin, Green, Heidrich, Jacobs, Jodrey, Kane, Kasprzak, Koffman, LaVerdiere, Ledwin, Lessard, Lundeen, MacDougall, Mailhot, Marrache, McDonough, McGowan, McKee, McKenney, McLaughlin, McNeil, Michael, Murphy T, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Rosen, Savage, Schneider, Shields, Skoglund, Snowe-Mello, Stedman, Sullivan, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Usher, Volenik, Waterhouse, Weston, Winsor, Mr. Speaker.

NAY - Ash, Brooks, Carr, Chase, Chick, Clark, Davis, Dorr, Dudley, Dunlap, Duplessie, Duprey, Fisher, Gerzofsky, Glynn, Hall, Hatch, Honey, Hutton, Jones, Madore, Marley, Matthews, Mayo, McGlocklin, Mendros, Michaud, Mitchell, Quint, Richardson, Rines, Sherman, Simpson, Stanley, Tarazewich, Tessier, Tracy, Tuttle, Wheeler EM.

ABSENT - Andrews, Bagley, Berry RL, Bryant, Buck, Bunker, Canavan, Cote, Crabtree, Daigle, Dugay, Estes, Gagne, Gooley, Haskell, Hawes, Labrecque, Landry, Laverriere-Boucher, Lemoine, Lovett, Morrison, Murphy E, Muse C, Muse K, Peavey, Pinkham, Richard, Smith, Twomey, Watson, Wheeler GJ, Young.

Yes, 79; No, 39; Absent, 33; Excused, 0.

79 having voted in the affirmative and 39 voted in the negative, with 33 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

ORDERS

On motion of Speaker SAXL of Portland, the following Joint Order: (H.P. 1394)

ORDERED, the Senate concurring, that Bill, "An Act to Increase Access to Health Care," H.P. 979, L.D. 1303, and all its accompanying papers, be recalled from the Governor's desk to the House.

READ.

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

Representative **BRUNO**: Point of order. I ask for a ruling on recalling from the Governor's desk on a simple majority or two-thirds vote. Could I have a reference to see it?

Representative BRUNO of Raymond asked the chair to **RULE** if the Joint Order required a simple majority vote or a two-thirds majority vote for **PASSAGE**.

The SPEAKER: The Chair will make the ruling in reference to the Representative's request, Section 1 of *Mason's Rules of Parliamentary Procedure*, "A fundamental and seemingly universal principal is that at least a majority of the vote cast is required to make decisions for a group." The rule requires that if, and only if, the rules state specifically for a super majority is that required at any time. Within our rules in this body, it does not require a two-thirds majority vote at any time for an order to recall a bill from the Governor's desk.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I just want to thank you for that ruling.

Subsequently, the Chair **RULED** that pursuant to Section 1 of Mason's Manual, a two-thirds majority is not required for **PASSAGE**.

Subsequently, the Joint Order was **PASSED**.
Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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
ROTUNDO of Androscoggin

Representatives:

DESMOND of Mapleton
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-755)** on same Bill.

Signed:

Representative:

SKOGLUND of St. George

READ.

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

Representative LaVERDIERE of Wilton moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

The same Representative **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

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 Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. In the past three years, two years during the 119th and so far this year, I have sat and I have endured 20 plus hours of discussion on the fingerprinting bill. I have never stood to speak on that issue. I am standing tonight because frankly I am angry. I want to tell you why. There was a Committee of Conference that was agreed to in both bodies. That Committee of Conference consisted of three members of this body, myself, Representative Madore of Augusta and Representative Richardson of Brunswick. We met with the members from the other body and we agreed in that Committee of Conference on three things. Number one, this bill would be committed back to the committee. Number two, that commitment was conditional upon the bill being carried over into the next session. Number three, that a letter would go to the Department of Public Safety and to the Department of Education with a copy to the Governor saying that no further information was to be released until next year when the committee had an opportunity to look at this information and look at this bill again. That was unanimously agreed to by all six members of that Committee of Conference.

The bill is now before us because the Education Committee met today, without notice to this body, in violation directly of the agreement that was made in the Committee of Conference. They are reporting this bill out now in an effort to make sure it did not get carried over. Regardless of how you feel about the fingerprinting issue, the fact of the matter is, when you make a deal, you make a deal. Would you say that I give my word that I will allow it to be recommitted on the condition that it would be carried over. That is the deal. Am I angry? You bet I am. You bet I am because someone gave me their word and then went back on it and that makes me angry. As far as I am concerned, it is no longer about the issue of fingerprinting and the release of information. It is about the integrity of this body and it is about the integrity of the other body. I would ask you to join me in sending this bill back to the committee so that they can fulfill their obligation, the obligation that was agreed to in the Committee of Conference.

I want to make sure that every member of this body understands that this happened to the three of us and unless we uphold the integrity of this institution, it will happen to you next time. This is improper, in my opinion, and it deserves to go back to the committee, for no other reason than to uphold the integrity of an agreement. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I am not angry about this. I am very sad. I am sad for this institution and I am said for members who sat on that particular committee. I have, at times, committed bills back to my committee in order to help out the process. I have even done it when I didn't want to do it. I did it because that was the word that I gave for people to do and I followed through with it.

I learned a long time ago that your word is your bond. To me, it is not about the release of this information or disseminating it. It is about our word being our bond here in this institution. I don't know what happened. I don't know how the disconnect

occurred. All I know is that it did in fact happen. It is a kind word to say that we were misled, because something else happened. When your word is not your bond in this institution, then we have nothing. When I sat down in that Committee of Conference, I promised the other side of this issue, those who wanted the release of this information, that I would work in good faith with them in January, after the scab had healed a bit on this particular issue, and that I wasn't closing the door to the release of this information, but I wanted to see whether we could fashion a better remedy in January and that didn't happen.

I am not blaming the Education Committee altogether because I am aware of the fact that many on the Education Committee were not made aware of this deal. There were members of the Education Committee who were in this Committee of Conference. They owed us, this House, this institution, an obligation to tell their fellow members of that committee what had, in fact, occurred. I am not angry. I won't be angry about the outcome here on this vote. I will just be disappointed for this House and for this institution and for the process here. That is what will trouble me the most. I am asking you to commit this bill, as the good Representative from Wilton has suggested here. I am asking you to do that because sometimes it is more important than winning. Sometimes it is more important than just winning the game here. It is about whether our integrity means anything. I am asking you to back us up, those members, both Democrat and Republican, who sat on this Committee of Conference, back us up so that our word means something in this institution and we are not bullied around, not by the other body, not by the process and certainly not by the Committee of Conference. As I said to you, I learned a long time ago that your word is your bond. I make mistakes too sometimes, but I learn from them. I try not to repeat them. This would be a terrible mistake if we made it. I am imploring you not to vote against this bill to commit. I think it is the appropriate proper thing to do when, in fact, the rug has been pulled out from underneath us. I have no more to say here. I wish you would search your hearts and souls and determine whether or not if you were placed in my position, a position of operating in good faith and a Committee of Conference, wouldn't you want my support? I am asking for yours.

The **SPEAKER**: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. In response to some of the items that have been mentioned, we had no instructions in writing or otherwise as to how to deal with this when it came back to committee. The assumption was that the committee had it in their hands and they would deal with as they saw fit. There was an expression of concern by a member of the other body about the feelings of the members of the Committee of Conference, but it was our assumption that when it got back to our committee, it was our process to handle it and deal with it as we saw fit. The majority of the committee felt that it was proper to bring this before the body tonight. We had no intention of keeping any meetings private or secret. I got a written notice that the meeting was going to take place. The meeting this morning was deferred until later in the afternoon and another notice went out. It was obviously not a notice that everyone got, but there were representatives from the public there who knew about it so we assumed that this was not a private meeting. The matters under consideration were discussed openly at the meeting. The vote was taken and the results of the vote you can see on this report. We had no intention of violating the faith of the Committee of Conference and the process. We only handled the matter as we thought was proper once the bill was turned over to us to handle. That is the way the process worked today. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Members of the House. I would like to thank the members of the committee that met and worked out this agreement. I have heard your concerns and I will support you. I ask you to commit this for another reason. Every one of you are physically and mentally exhausted. This issue, from my perspective, has seen mistakes all along this process. When people are tired and they are exhausted they make mistakes. I urge you to commit this so that the next time we come out with a bill we can be sure that it is a bill that this Legislature can support and pass, but more importantly, we need to make sure that we don't make any more mistakes with this issue. Too many people are being hurt. I ask you, ladies and gentlemen, support our Committee of Conference, but also support our teaching and our non-teaching personnel that work in our schools. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. Like my friend from Wilton, the good Representative LaVerdiere, believe it or not I have not spoken on this issue either in four years, not because I didn't care about it and not because I didn't think it was important, I do. I think people know I have opposed the fingerprinting, but I think it is time to commit this back, but it is time for us to step back from this. I agree with the good Representative from Waldoboro. It is time to take a real careful look at it, whether you are in favor of fingerprinting or you are opposed to fingerprinting, the simple fact is in this body very good men and women are on different sides of this issue. I respect my colleagues in this House. I respect whichever side of this issue they are on. I may not agree with them, but I respect them. I think their opinion is valid.

My mom was a teacher, you know, that like the teachers I know, many times if there was a kid in school that came from a tough family and didn't have boots or a coat or whatever, just like my neighbor who is a teacher, my mom would buy boots for the poor child or a coat or maybe pay for their school lunch or whatever. The simple fact is good people are on both sides of this issue. This bill before us right now, whether or not fingerprinting goes on or whether or not it is eventually removed, whichever side that the good people of this body are on, whichever way that comes out, this is about the release of the information. That information has been gathered. This year the Department of Public Safety made a terrible, unforgivable mistake, early on in this session and released some of that information without a clear policy or clear guidelines or without frankly, in my mind, any thoughtfulness. I think we need to get it right. This motion to commit will allow us to step back, take a careful look at it and come up with a way that the good people on both sides of this issue, the good people on the Education Committee and the good people here in this body can get it right. I urge you to support the motion to commit. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Someone sent me a note asking who the public members were that were at the meeting today. There was a representative from the Maine School Board Association, a representative from the Maine School Management Association, a representative from this body, at least one, there were about five or six members of the public, whom I would call the public at the meeting. I would assume that the word was out that there was something going on and that we had to deal with

this issue today since it was assumed that this was going to be our last day.

The history of this, a little bit, was that the Education Committee received a directive, basically, that we should come draft a bill that would allow for the release of information in the manner in which we felt was proper. We felt it was as important that this information get out that we put an emergency preamble on this so it could be released as soon as the bill passed. The only information that is called for in this bill is the aggregate number of teachers and other school personnel who have been fingerprinted and the aggregate number of people who have been found to have some problem on their record that would warrant the commissioner to disqualify them from the profession or the related work fields that go along with education. This is all that is in this bill. I don't know how if it comes back to committee another year, how we can make it any simpler or any more direct than that unless people want more information than what this bill calls for. It was the assumption that when we got the charge from the Criminal Justice Committee to come up with a bill that what you wanted was very basic information, not a lot of detail, but to justify the expense of having the fingerprinting process go forward. That is what we came up with, a very simple bill with very few numbers to be released other than the total number that were fingerprinted and the total number that have been disqualified. That is it. That is all the bill calls for. I don't understand why we can't just vote on this tonight to either accept or reject this bill at this point in time. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I am absolutely amazed. I am one of those old pieces of furniture, as I have said many times before, that has been around here forever. Usually the Committee of Conference does not work. Sometimes we kind of chuckle when there is a Committee of Conference, we say it will die in la la land between bodies. Lo and behold, somewhere along the line six people concurred that this should be held over, not for tonight, not for June 21, 2001, but somewhere in the future in January 2002. I have learned over the years here that when one gives one's word, one should stand by one's word, because if you can't give your word and your word is not accepted, then you might as well not give your word at all and you might as well pack a bag up and go home. I will be voting to commit this. It is not because I personally don't think that tonight is the night that we should be doing anything with this, but six members, ladies and gentlemen, gave their word. They worked on this and if their word is not acceptable to commit until January 2002, I would dare say that we might as well do away with the Committee of Conference. Thank you.

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

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

The SPEAKER: The Representative may pose his question.
Representative **HALL**: Mr. Speaker, Men and Women of the House. I simply wish to know, is this a 30-minute fingerprinting debate or is this the full three hours?

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman. 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 **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. In response to the previous speaker, the message from the Committee of Conference was not conveyed in a form that led us to believe that we had instructions

from that committee to do a particular bill thing when we got the bill back to committee. Without the word, we can't be blamed for not hearing the word. Thank you.

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

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the good Representative Hall, we have the material before me for a good three-hour discussion, but still there is not a person here who wants it, but if this is not committed, I shall have to present my amendment on additional information on fingerprinting because this is the only chance we will have to discuss it unless we carry it over. I am hoping that you will commit this, carry it over and be done with it now.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Madore.

Representative **MADORE**: Mr. Speaker, Ladies and Gentlemen of the House. As the third member of the Committee of Conference from this body, I did want to weigh in very briefly. The word trust keeps coming to mind here. When I walked into that meeting yesterday, I can tell you that it was not my intent to do what we did as a group. As the discussion went on, I felt it warranted that this bill go back to committee and have a discussion over information. We were very specific about what we wanted done in order to make sure that was done. I find it rather disheartening when I hear from members of the Education Committee that five members of the public were invited to this meeting, yet knowing full well how concerned we were about this bill and not one member of the Committee of Conference was notified. I found out in the halls later on this afternoon what had happened. I can tell you right now, as far as I am concerned, it needs to go back to committee, after all the information that we heard yesterday, all of my colleagues reluctantly, all agreed this was the best thing to do. I think this is what we should do considering the late hour and the hour of the pending adjournment, I hope, that this bill be committed. I urge you to support that motion. Thank you.

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

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

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

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Didn't that come back across our desk as a supplement or something after the Committee of Conference met? In other words, didn't that one come here and didn't we do something with it? If the answer is yes, what does that mean?

The **SPEAKER**: The chair would answer in the affirmative. The Committee of Conference Report was returned to this chamber. This chamber did accept the Committee of Conference Report. This chamber at that time Receded and Committed this bill and all accompanying papers to the Committee on Education. Subsequent to that, the Committee on Education having the bill in its possession, reported it out. The pending motion before this body prior to the motion to commit was acceptance of the Majority Ought to Pass as Amended Report. The subsequent action by the Representative from Wilton, Representative LaVerdiere, was to move that this bill and all accompanying papers be committed, again, to the Joint Standing Committee on Education and Cultural Affairs.

The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. That is clear and I understand that part of it. When we say we accept the report, was it written in what we accepted, that we would hold it over? How detailed is what we accepted?

The **SPEAKER**: The chair would answer that when we accept the committee report, we are accepting into our formal files the actions of the committee. Subsequent to that the motion to Recede and the subsequent motion to commit were the actions of this House. Those actions were agreed upon in the other body. Subsequent to that agreement the Joint Standing Committee on Education and Cultural Affairs, again, met and reported out a divided report, which is before us today. The pending motion is the motion to commit. The prior motion is the motion to accept the Majority Ought to Pass as Amended Report.

Upon clarification from the Clerk, I believe the Representative's question was whether it was specified within the Committee of Conference report that this bill be carried over. The chair apologizes for not understanding immediately. That was not specified within the Committee of Conference report. It is subject to a Joint Order of this chamber to carry over a piece of legislation. In addition, the Clerk reminds me, those requests for carryovers needed to be presented to the presiding officers that subsequently those carryover items do appear on orders and there is an order with this legislation pending in the other body. However, they have not presented that order because this piece of legislation is not, in fact, in the committee to be carried over. It is active between the bodies.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Commit the Bill and all Accompanying Papers to the Committee on Education and Cultural Affairs. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 456

YEA - Annis, Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bull, Bumps, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cowger, Cummings, Davis, Dorr, Dudley, Dugay, Duncan, Duplessie, Duprey, Etnier, Fisher, Fuller, Gerzofsky, Green, Hall, Hatch, Heidrich, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, LaVerdiere, Lessard, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy T, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Quint, Richardson, Rines, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Volenik, Waterhouse, Wheeler EM, Winsor.

NAY - Baker, Cressey, Desmond, Dunlap, Foster, Glynn, Honey, Kasprzak, Ledwin, Nutting, Rosen, Stedman, Tuttle, Weston.

ABSENT - Andrews, Bagley, Bryant, Buck, Bunker, Cote, Crabtree, Daigle, Estes, Gagne, Goodwin, Gooley, Haskell, Hawes, Labrecque, Landry, Laverriere-Boucher, Lemoine, Lovett, Morrison, Murphy E, Muse C, Muse K, Peavey, Pinkham, Richard, Smith, Twomey, Watson, Wheeler GJ, Young, Mr. Speaker.

Yes, 105; No, 14; Absent, 32; Excused, 0.

105 having voted in the affirmative and 14 voted in the negative, with 32 being absent, and accordingly the Bill and all accompanying papers were **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and sent for concurrence.