

**Testimony of Matthew Dunlap, Secretary of State**  
**In Opposition to LD 2309, *An Act to Enhance the Security of State Credentials***

I wish only to make a few brief remarks. As you know, I was a member of the Negotiated Rulemaking Committee to Establish Minimum Standards for the Issuance of State Driver's Licenses and Identity Cards under the Intelligence Reform and Terrorism Prevention Act of 2004, sponsored by Senator Susan Collins. I have worked on these issues since before I even took the oath as Maine's 47<sup>th</sup> Secretary of State. I have seen few issues galvanize the Legislature as Real ID did a year ago. The Legislature addressed its every concern about the Act with a determined commitment to liberty, and in the end, rejected the Act with authority. I supported that then, I have carried out my commitment under the law since, and thus speak to you today in respectful opposition to LD 2309. I believe it represents a complete abdication of the state's sovereign authority to serve the public in the spirit of respect of the citizen that is commanded by both our national and state constitutions.

The issues of identity security, border security, and terrorism prevention are enormously complex. I think we understand that; consider the amount of work you put in this year alone to carefully craft the proposed residency requirement. This committee did extraordinary service to the state on that one proposal, but it was not easy. It took agonizing work and time that we were all willing to put in. LD 2309 has no tolerance for that. The timelines and commitments of resources demanded in the bill brook no opportunity for the type of careful examination and thoughtful resolution carried forward in the residency requirement.

No single section of the bill carries with it the type of onus that would warrant strong opposition. The lawful presence issue has already been discussed in this committee, and in anticipation of future action we are ready to prepare the groundwork for that policy discussion. SAVE, coterminous expiration, and enhanced security features all have been discussed before. But taken together, they represent an extraordinary undertaking to be executed in such a short time frame. But those are the merest practical considerations. This bill is not about enhancing our security, however. It is about complying with Real ID, and thus I believe it is mis-titled. Further, you should know that if Maine takes these steps forward, more will be expected in the future. Completion of these milestones only leads to more milestones, and more expensive requirements, until Real ID compliance is entirely executed. This bill, prompted as it is as an instrument to prevent our neighbors from being inconvenienced this summer, only offers a reprieve. Real ID remains an unfunded, undebated and growing mandate.

Remember, Real ID won't work. Under full implementation, the 9/11 hijackers could still obtain state driver licenses. Additionally, if illegal immigration poses the threat that supporters of this legislation claim, then why haven't the lawful presence requirements of 43 states been effective? New security measures must be carefully crafted, as you did with the residency requirement.

The Maine Legislature rejected Real ID not because of cost or time constraints. It rejected Real ID because it is an affront to our most basic liberties. Why should the Federal government have the ability to name you? To define you as a citizen, or scrutinize your image against a database of others? They claim they are trying to protect us from terrorists. But if we submit to the practice and theory of a police state, can we really say the terrorists have not won? The Department of Homeland Security's treatment of the State of Maine is so bizarre and surreal it defies explanation—but if you believe in Maine State Government, the absolute centralization of authority that this action represents can be only shyly referred to as an act of anti-Federalism.

I understand the Governor's concerns that led to the introduction of this bill. I do not agree with the reasoning of the Executive; and while he is concerned about a family being inconvenienced on its way to Disney Land, I am more concerned about a federal investigator reviewing a case file against a future suspect—perhaps a political operative—and observing, “I see that in 2008 you went to Disney Land. What was the purpose of that trip?”

If you think I'm being alarmist, and I hope I am, consider the tampering with passport records that very recently was perpetrated by State Department contractors. During the 2004 Presidential campaign, newly released Nixon White House tapes reveal President Nixon asking after one of the young leaders of the Veterans for Peace movement; “Who is that John Kerry kid, anyway? Find out about him.” More ominously, read the released meeting minutes of senior FBI officials reviewing wiretaps of Martin Luther King, Jr., where those FBI officials openly contemplated how they could undermine the credibility of Rev. King as an effective leader of the African-American community. Those are our federal officials, and all of that has occurred *before* Real ID. Whether or not you ascribe to conspiracy theories about the specter of oppression, the tools this bill establishes and contemplates in the future makes the manifestation of such concerns much more possible now than a week ago.

If there are alternatives, and I believe there must be, the first thing we should do is slow down. We can and must enhance our security; but will *notwithstanding* our liberty out of existence finally avail to us the tools to capture terrorists? I doubt it. Somehow, we should not forget that most solemn of charges imposed upon all of us as servants of the public trust: Mainers are not enemies of the Republic; they are citizens of it, and deserve to be treated that way.

*April 10<sup>th</sup>, 2008*