

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

ROLL CALL (#136)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, DAVIS, GILMAN, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, **ADOPTED**, in concurrence.

Senator **PENDLETON** of Cumberland requested and received leave of the Senate for members and staff to remove their jackets for the remainder of this Session.

Senator **BENNETT** of Oxford was granted unanimous consent to address the Senate on the Record.

Senator **BENNETT**: Thank you, Madame President, and fellow members of the Senate. It's a little unconventional for me to rise in the middle of our proceedings and ask for this, but I couldn't help but notice during the previous debate, as lengthy as it was, that some members' eyes were moved to items on their desk. One of those items is a book that had been distributed by Senator Pendleton of Cumberland and myself.

Forgive a son's pride in his father's work, but this book was the brainchild of my father, Dean Bennett, as well as Phyllis Austin and Robert Kimber. As you can see, it is called On Wilderness, Voices from Maine.

The word 'wilderness' uttered in this building obviously comes somewhat charged with political overtones. I can assure you that the use of the word 'wilderness' is deliberate in this book. This book has been given to each of us to help stimulate our own thinking, as public policy makers and as stewards of Maine's future. I recommend it for your reading today and over the weekend. Thank you.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Restrict Fingerprinting of Educational Personnel to New Hires"

H.P. 667 L.D. 890

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-520)** (9 members)

Minority - **Ought Not to Pass** (4 members)

In House, May 28, 2003, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520)**.

In Senate, May 28, 2003, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

Senator **DOUGLASS** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

Senator **MITCHELL** of Penobscot requested a Roll Call.

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

Senator **BRENNAN**: Thank you, Madame President, men and women of the Senate. I hope that you will vote against the pending motion so we can finally put this issue behind us and move on to other very important issues that are facing this legislative body. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Hall.

Senator **HALL**: Thank you, Madame President, men and women of the Senate. I don't like fingerprinting. I also don't like debating fingerprinting. I don't intend to do so at great length. I do want to say a brief word to those of my colleagues whose tender consciences did not allow them to vote for this bill yesterday, because this bill clearly does permit fingerprinting for all new hires. I would urge you to consider that a half a loaf is better than nothing. If you want to be on record here today in opposition to any form of fingerprinting, I'm afraid this is the best that we can do. I would urge those of you who are opposed to fingerprinting in its entirety to join me in supporting the recede and concur motion. Thank you.

On motion by Senator **MITCHELL** of Penobscot, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **TURNER**: Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TURNER**: If this particular piece of legislation was to become law, what happens to the teachers currently in the system that have not yet been fingerprinted? It is my understanding that approximately 80% of our school personnel

have been fingerprinted to date, leaving 1 in 5 yet uncovered. Is there a provision in this legislation that once we have done the entire inventory, we would then only go to new hires? Could someone explain to me how this would work? Thank you, Madame President.

THE PRESIDENT: The Senator from Cumberland, Senator Turner poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Thank you, Madame President. I believe this bill uses the date of August 15, 2003 as the date on which new hires would be required to be fingerprinted. That is anyone applying for a certificate or to be approved to teach or do other work in a school. What the bill also does is it effectively repeals fingerprinting at that point. Because I don't believe we have an emergency enactor on the bill, there is also the question of when we adjourn in 90 days. It leaves pending or frees those people who haven't been fingerprinted from that. It addresses those individuals who have not yet been fingerprinted by effectively repealing the fingerprinting bill other than for new hires or newly certificated or approved school personnel.

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I would urge you to vote against the recede and concur motion. To add to the good Senator from Androscoggin, Senator Douglass's answer to the question posed by the good Senator from Cumberland, Senator Turner, it would leave approximately 15% to 20% of the teachers not fingerprinted. It also would eliminate or remove the database that we currently have. By removing that database, we are no longer eligible to obtain any fingerprinting information from the national FBI records for anyone coming into this state. It would mean fingerprinting would be done within the current state, and we would have to go to each individual state to obtain those. This would be a costly item, but we would no longer have access to those FBI files. If you missed yesterday's testimony given by the good Senator from Cumberland, Senator Brennan, it was said that we would be the first state in this nation to repeal part of a fingerprinting law that had been put into effect. The fact that it would be the new hires only sets a precedent. We already fingerprinted 80% of the teachers in this state. You are currently going to lift the bar and not allow the fingerprinting or mandate the fingerprinting of the remaining 20%. This would mean that anyone who had been fingerprinted in this database would be removed. If they had been charged with a crime of child abuse or was a pedophile, they could go anywhere in the United States for rehire. Their record would not be there. I would encourage you to please vote against this current motion so we can go on and move to adhere. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Douglass to Recede and Concur. 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 (#137)

YEAS: Senators: BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, MAYO, NASS, PENDLETON, SAVAGE, STRIMLING, TREAT, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

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19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **DOUGLASS** of Androscoggin to **RECEDE** and **CONCUR**, **PREVAILED**.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/16/03) Assigned matter:

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Department of Audit To Perform Other Audits and Reviews"

H.P. 1048 L.D. 1429

Report - Ought to Pass as Amended by Committee Amendment "A" (H-369)

Tabled - May 16, 2003, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, May 15, 2003, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369).**)

(In Senate, May 16, 2003, Report **READ.**)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-369) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-246) **READ.**