

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-927) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Consent Calendar First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H. P. 1771) (L. D. 1891) Bill "An Act to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses"—Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-928)

No objections having been noted, under suspension of the rules, the House Paper was given Consent Calendar Second Day notification, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Engrossed Amended Bill

Bill, "An Act to Align Mortgage Loan Authority for Maine Thrift Institutions with Federal Regulation and to Adjust Interest Rate ceilings in Certain Consumer Credit Transactions" (Emergency) (S. P. 800) (L. D. 2004) (S. "A" S-463)

Was reported by the Committee on Bills in the Second Reading, read the second time, and passed to be engrossed as amended in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Enactor Later Today Assigned

An Act to Provide for County Self-government (H. P. 831) (L. D. 1038) (H. "B" H-886 to C. "B" H-805)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. Mr. Tarbell of Bangor requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-fifth of the member present having expressed a desire for a roll call, a roll call was ordered.

Whereupon, on motion of Mr. Strout of Corinth, tabled pending passage to be enacted and later today assigned.

The following Enactors appearing on Supplement No. 1 were taken up out of order by unanimous consent.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Referendum and Initiative Provisions (H. P. 1638) (L. D. 1747) (C. "A" H-881)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to anyone on the Committee who dealt with this bill. I am looking at Section 18, No. 3, under timing of elections which, if you have the engrossed copy, is at the bottom of Page 6-2 and at the top

of Page 6-3. The amendment that we are adopting here eliminates a couple of words that are not put back in, and I guess those words are in the written petition, and I think it is somewhat cloudy as to the Governor's action in this matter. If he or she does not choose to call the election, the Secretary of State can do so within 10 days.

I would just pose the question, I guess—the first sentence reads, or will read—"The Governor shall, by proclamation...." Then it goes on in the next sentence to say "if the Governor fails to order a measure proposed." That seems contradictory to me if it says that the Governor 'shall', then the Governor shall and I don't think we need—I wonder if that makes sense later on in that section. That is part of the matter that I would like cleared up.

Then the bottom of that section, as I said, it has repealed or it has written out, stricken out, rather, the words 'written petition' and I think that at the bottom it should be clearly stated that the Secretary of State shall, by proclamation, order such measure to be submitted to the people in election as requested. I would pose the question—election as requested by whom? I assume that that means in the written petitions, as it did previously in that section, which has now been stricken out. Perhaps I am confusing the House even more, but I am not a constitutional lawyer and don't intend to be one, and that obviously will show here today, but I think that that section needs to be, at least on the record, cleared up as to how the process will work and whether or not that election, as requested, is, in fact, because of what was asked for in the written petitions.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I would like to refer Representative Higgins to a case called Kelly v. Curtis in which, although the Governor at that time was required to call an election, a Governor chose not to do so. That is really why we have even left the Secretary of State's involvement under both sections.

I am really glad that somebody has finally asked about this legislation because I am mighty proud of it, to tell you the truth, both as a sponsor and as the chairman of the State Government Committee. We worked long and hard over each individual word and did consult with the Attorney General's Office and many attorneys throughout the state.

What we attempted to do was not to totally rewrite the initiative and referendum sections at all, but basically to just clarify. For instance, this is the people's legislative power, that section of the Constitution, and many people are not aware, or at least were not until last Tuesday, that we had two sections, basically, two different concepts within that part of the Constitution, on which is suspension of laws that the legislature has passed, and that we have renamed the people's veto in here, which is the way it is referred to just once now in the Constitution.

Secondly, the initiative, which is really a direct initiative on being able to change the statutes.

I do think the wording was very carefully conceived and that section does refer to petition procedure under the directive initiative legislation, the referral to electors, unless enacted by the legislature without change, and the timing of such elections, so we are talking about those petitions and it should be clear to everyone just what was so conceived.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, then there is no problem with anyone who is submitting petitions. Right now, they have the ability, as I understand it, to write on the petition that should the legislature fail to act on this matter, the referendum will be held on such and such a date, notwithstanding what we have done here

or what we intend to do here. We are not in any way infringing on that ability. I, personally, have some problems with — I know we are trying to save money in putting elections off until the fall, but this in no way would infringe on their ability to still be able to petition the legislature as to what particular date, if they wanted to have a particular date, then they can still do that with this law. Is that correct?

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: This will change and will consolidate the election dates. The direct initiatives will be acted upon by the legislature, basically, a little more than half through a legislative session and would go to the voters in a November election. Those would be consolidated at that time.

Now, the people's veto portion, which is the suspension portion, they would be held at any statewide election because, remember, the legislature took action, the legislature has decided something was worthwhile passing, and those were laws that are being suspended temporarily.

That election, that referendum on the suspension of some law will be held at the next statewide election unless it appears that there is more of an emergency, and then the Governor could call a special election for that purpose.

So, the idea is to consolidate; this is something that I have heard from many many people throughout the state, editorials, legislators and certainly municipalities throughout the state very much favor these consolidations. It cost about \$60,000 from the state to put on a special election just to deal with one issue and perhaps another \$200,000 for the municipalities. It is not only the idea of saving all that money, it is the idea that people get tired of having to go day after day, time after time, to the polls. So this does have broad support, and I think that you will find that this language was very carefully conceived.

The SPEAKER: This being a Constitutional Amendment, it requires the affirmative vote of two-thirds of the members present and voting. All those in favor of final passage will vote yes; those opposed will vote no.

A vote of the House was taken.

125 having voted in the affirmative and 5 having voted in the negative, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1980 (H. P. 1947) (L. D. 1995)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Enactor Later Today Assigned

An Act Concerning Revisions in Maine's Juvenile Code and other Statutes Relating to Juveniles (H. P. 1847) (L. D. 1951) (C. "A" H-888)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Members of the House: I haven't had an opportunity to review this particular bill until this morning, but I am going through the engrossed copy of it and there may be other things in here that should be called to the attention of this body. If you have an engrossed copy of this bill, I would