

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**

"Ought to Pass" as amended by Committee Amendment "A" (S-462)

There being no objections, the Senate Papers were ordered to appear on the Consent Calendar Second Day later in today's session.

(Off Record Remarks)

On motion of Mr. Nelson of Roque Bluffs, Recessed until four o'clock in the afternoon.

After Recess
4:00 P.M.

The House was called to order by the Speaker.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

The following Communication:

March 18, 1980

The Honorable Edwin H. Pert
Clerk of the House
109th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it voted to accept the Ought Not to Pass report on Bill, "An Act to Establish an Environmental Health Program", (S. P. 698) (L. D. 1834)

Respectfully,
S/MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

Consent Calendar
Second Day

(S. P. 684) (L. D. 1807) Bill, "An Act to Revise the Small Claims Law" (C. "A" S-470) (S. P. 737) (L. D. 1916) Bill, "An Act Relating to the Licensing of School Bus Operators within 60 Days of Examination and the Timing of Inspections of School Buses by the State Police" (C. "A" S-462)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in-concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Passed to Be Engrossed

Resolution, Proposing an Amendment to the Constitution Allowing Either the Constitution or Statutes to Determine the Manner of Selection of Judges of Probate and Justices of the Peace" (S. P. 804) (L. D. 2007)

Was reported by the Committee on Bills in the Second Reading, and read a second time.

Mr. Gray of Thomaston offered House Amendment "A" and moved its adoption. House Amendment "A" (H-931) was read by the Clerk.

Mr. GRAY: Mr. Speaker, Men and Women of the House: I will attempt to explain the present Constitutional Amendment and my amendment to that amendment; it is rather complicated. I wish I had had an opportunity to talk with a few of you individually but, in any event, Section 6, Article 6, of the State Constitution was repealed in 1967, but with a condition.

I am going to take just a moment and read the amendment so you will have some idea what I am talking about. It reads: "Section 6 of Article 6 has been repealed by amendment, which by virtue of Chapter 77 of the Resolves of the 103rd Legislature, of 1967 shall become effective at such time the Legislature, by proper enactment, shall establish a different probate court system with full-time judges." That was 13 years ago and this amendment has never taken effect.

This, however, did leave a conflict, because

in the 1967 amendment, they did not address Article 5, Section 8, under executive power, which allows the Governor to nominate judicial officers, except judges of probate.

One of my problems is that I feel that by leaving this 1967 provision in the Constitution, which has never been used in the 13 years that it has been on the books, it leaves the door open to a lot of mischief. If other words, by passing a simple statute, they can change the selection method of the judges of probate. Now they are elected, but this can be turned over to appointment. In other words, it can be taken out of the Constitution and can be made an appointive office either by the Governor or some other method. I believe if we are going to make drastic changes like that, we should not rely upon some provision that was enacted 13 years ago.

In other words, this would put us back to square one and, if in the future, the Legislature chooses to change the method of the selection of the judges of probate, I think it should be done with a Constitutional Amendment, not a statute.

I hope you will go along with my amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, I would like to pose a question to the Chair.

I would like to know if this amendment is germane to the bill?

The SPEAKER: The Chair would rule that the amendment proposed by the gentleman from Thomaston, Mr. Gray, is not germane, based on the fact that the question to be answered is whether the question is appropriate and in a natural and logical sequence of subject matter of the original proposal, and the Chair would rule that it is not.

Mr. GRAY: Mr. Speaker, while we are talking about germaneness, perhaps another question ought to be posed to the original Constitutional Amendment, which includes judges of probate and justices of the peace.

The SPEAKER: Would the gentleman restate that: The question was what?

Mr. GRAY: Mr. Speaker, I am wondering if the original Constitutional Amendment, in other words, L. D. 2007, is germane where it includes judges of probate and justices of the peace?

The SPEAKER: Is the gentleman from Thomaston, Mr. Gray, asking for a ruling from the Chair as to whether or not the redraft of L. D. 1969, which is now L. D. 2007, would be germane with the original intent of the L. D., which is 1969?

Mr. GRAY: Yes.

The SPEAKER: The Chair would advise the gentleman and members of the House that the Chair is not in a position to rule on the germaneness on that question. The matter is not before this body, since this body accepted the Committee Report this morning. The only way that the Chair could rule on the germaneness of it is if we were to reconsider our action whereby Committee Amendment "A" was adopted, which was accepted earlier today.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 6 were taken up out of order by unanimous consent:

Non-Concurrent Matter
Later Today Assigned

Bill, "An Act Appropriating Funds to the Department of Human Services, the Department of Mental Health and Corrections and the Department of Educational and Cultural Services for Insufficient Payments for Placement of Emotionally Disturbed Children in Residential Treatment Centers for the Fiscal Year Ending June 30, 1981" (H. P. 1868) (L. D. 1958) which was passed to be engrossed as amended by Committee Amendment "A" (H-915) in the

House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-915) as amended by Senate Amendment "A" (S-475) thereto in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, a point of information, please. I intend to attempt to remove the Senate Amendment from this bill and substitute a House Amendment, which has been submitted an hour or so ago but it hasn't been printed yet. I have a number and a letter for it, but would it be proper at this point in time to move later in the day?

The SPEAKER: The Chair would answer in the affirmative, it would be in a position to be tabled by some other member of this body.

Thereupon, on motion of Mr. Peterson of Caribou, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill, "An Act to License Users of Ionizing and Nonionizing Radiation Equipment" (H. P. 1682) (L. D. 1791) which was passed to be Enacted in the House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (H-855) as amended by Senate Amendment "A" (S-477) thereto in non-concurrence.

In the House: On motion of Mr. Blodgett of Waldoboro, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

Second Readers
Later Today Assigned

Bill, "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012)

Was reported by the Committee on Bills in the Second Reading and read a second time.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I have an amendment being prepared and I guess it hasn't arrived yet. I would appreciate it if someone would table this until later in the session, until we get the amendment.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed and later today assigned.

Bill, "An Act to Improve Governmental Remedies for Violations of the Antitrust Laws" (H. P. 1975) (L. D. 2014)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take just a minute to talk to you about this bill. This is a very difficult bill to explain because of the complexities to the antitrust laws, so I would like to give you an example of how this works.

Picture a matrix on the top where the manufacturer sells a product to a dealer. The dealer, in return, sells the product to the State of Maine. If the manufacturer set an unfair price and passed it down the chain to the State of Maine, the state's recourse is to sue not the dealer but the manufacturer to cover the damages.

There can be an unlimited number of people in this chain and the state must prove everyone's cost and profit figures in order to sue the manufacturer at the top.

If the state can prove antitrust violations, the