

# 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**

STATE OF MAINE  
One Hundred and Ninth Legislature  
Second Regular Session  
JOURNAL OF THE SENATE

April 3, 1980

Senate called to Order by the President.

Prayer by the Honorable Louis Jalbert of Lewiston.

Representative JALBERT: Thank you. On this week, which is the observance week for Passover in the Jewish world, and the observance of Easter week for the Christian world, it reminded me this morning that this body would finally pass on legislation of national significance.

The eyes of the nation are upon you. The President, all candidates for President, the Congress, all those eyes are upon you, on the measure that you are about ready to act on.

On a more personal basis, looking around the Senate I see a great many members that it has been my privilege to serve with, over my nearly 4 decades in office, I never chose to come under this hallowed hall, but I see many, many friends, the widow of one of my dearest friends, who is in the Senate. On my very far left, the senator with whose father I served with, this body and several loyal friends of mine.

This body has been very very good to me over the years. It's my pleasure to stand in the back and look over what's going on, deciding that I'm going to stay where I belong.

I'm most appreciative of this day, the last day of the session to be given the honor to say the prayer. Of course, I would be remiss if I didn't mention the fact that on my right is what I consider a blood brother, whom I love very very dearly.

God bless you in our deliberations today, and God speed on your way home. Amen.

Reading of the Journal of yesterday.

**Paper from the House  
House Paper**

RESOLVE, Authorizing an Appropriation of \$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related to Certain Transitional Indian Services for the Period from July 1, 1980 to January 31, 1981. (Emergency) (H. P. 2052) (L. D. 2038)

Reference to the Committee on Appropriations and Financial Affairs is suggested.

Comes from the House, Passed to be Engrossed without Reference to Committee.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I do not wish to interrupt proceedings. I got up a little too quickly. But as the Senator from Penobscot indicated the other day, when we went home the other night we felt we had \$151,000 in our Treasury, an inadequate amount of money to do anything for cost of living increase for our employees and retirees.

Here is a bill for \$285,000 for expenses relating to certain transitional Indian services. I don't recognize that figure of \$285,000. I do recognize a figure of \$1.9 million that presumably was being held in escrow aside just in case we required it if the Fed's didn't step in.

I am mystified as to first where this figure comes from and second, where we got the money to appropriate it.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President and Members of the Senate: This \$285,000 would provide transitional expenditures in the areas still covered by the Department of Indian Affairs. It would provide 6 transitional employees and shortly I will present an amendment which insures that these employees are temporary for a 7 month period only, to cover the transition during the period when the Federal Government presumably is picking up the expenses,

which in 1980, including education, amounted to \$1,728,000.

The other amount in this bill of \$225,000 is primarily in the general area of what would amount to general assistance. The other funds presumably would be picked July 1 by the Federal Government.

If these functions were performed at their past rate the amount would have been \$450,000. This has been paired down according to the administration as closely as possible to the current figure of \$285,000.

The funding I will discuss and not necessarily justify. The Department of Finance and Administration informs us that there has been repayment from the Washington County VTI of a working capital advance which they had not counted in their balance. That's what we are told.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I wish I had a sense of personal confidence that all this happened within the last couple of days. But I have a sinking feeling it might not have. I cannot do business with people in whom I do not have confidence.

I would like to know when the Department of Finance and Administration found out about that repayment. I would like to know what other financial facts the Department of Finance and Administration is not sharing with this Legislature in good faith.

Those of us in the Senate wanted to give a cost of living increase to our State retirees. I wonder what's going to come up the day after we go home.

I notice that this is not effective until the second year of the biennium. I'm a long way from voting for it today, unless I get a little bit more candor and a little bit more information. I don't like surprises.

Under Suspension of the Rules, the Bill Read twice, without Reference to Committee.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President, I now present Senate Amendment "A" to the bill under Filing S-539 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to L. D. 2038 and moves its adoption.

Senate Amendment "A" (S-539) Read and Adopted.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Just to clarify my position I intend to oppose enactment of this bill, until I have some good faith answers to some questions that I think this Senate needs answered. Not only where this money came from, but when it came, what else is in the offing and what might happen the week after we go home to our finances.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, and Members of the Senate: I would stand hopefully on the closing day of this session to agree with the good Majority Floorleader, perhaps the second time in 2 days that I have agreed with him in the entire session.

Last Thursday night we stood here rather late in the evening. I saw a number of good programs go down the chute, because there wasn't any money available. Now we've been gone not quite a week and we come up with some additional revenues over a quarter of a million dollars.

Perhaps an alternative to voting on this today or to ending the session today is that we recess for another week or 2 weeks we might then come up with enough money to fund the retirees. Seemingly every time we turn around there are new figures coming before us, more money and more money.

My priority this session which all of you and I

thank all of you for sitting through it last Thursday night as we ran a series of Roll Calls and votes was the retirement issue. It was something that was close to me. I appreciate the patience that you all have shown, at that time.

I cannot, when it comes up for Enactment, support this proposal here today when the Attorney General and the Representative of the Indian Tribes stood before us yesterday in a caucus and told us that the Federal Government has already recognized the responsibility that it has. If it has already recognized it then I think that the financial obligations should go along with that and it should no longer be State expenditures in relationship to the State's relationship with the tribes. So when it does come up for Enactment I will not be supporting this measure.

The Bill, as amended, Passed to be Engrossed, without Reference to Committee.

Sent down forthwith for concurrence.

**Joint Order**

WHEREAS, this Legislature has before it Senate Paper No. 827, Legislative Document No. 2037, "AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory," and is presently considering its passage; and

WHEREAS, this bill is the foundation for the future relationship of the State and its citizens and Maine's Indians; and

WHEREAS, this bill is of unusual significance and importance because of the basic principles it establishes and its future ratification by the United States Congress; and

WHEREAS, the significance of this bill warrants preservation of certain documents in an accessible manner to aid in explaining the Legislature's understanding and intent in considering this legislation; now, therefore, be it

ORDERED, the Senate concurring, that the following documents relating to Senate Paper No. 827, Legislative Document No. 2037, "AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory" be placed in the Legislative Files:

1. The report of the Joint Select Committee on Indian Land Claims; and

2. The transcript of the hearing of the Joint Select Committee on Indian Land Claims, including the statement of the Honorable James B. Longley and the memorandum to the committee from Maine Attorney General Richard S. Cohen, dated March 28, 1980; and be it further

ORDERED, that each of the documents specified in this Order be prepared and printed in the Legislative Record under the direction of the Director of Legislative Research. (H. P. 2055)

Comes from the House, Read and Passed. Which was Read and Passed, in concurrence.

**Enactor**

The Committee on Engrossed Bills reports as truly and strictly engrossed the following:

AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory. (S. P. 827) (L. D. 2037)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President this is the bill that we have worked on diligently for the past 5 or 6 days. I call to the attention of the Senate the report on every desk entitled 'Report of the Joint Select Committee on Indian Land Claims,' to which is attached a letter dated April 2, 1980 to the Joint Select Committee on Indian Land Claims from Richard S. Cohen, Attorney General, regarding the

proposed Indian Land Claims Settlement.

The Order that we have just passed was presented and passed for the purpose of creating more legislative history than we normally attach to our proceedings. This report and the memorandum of the Attorney General reflect material that has been quite thoroughly discussed, not only in debate but in informational caucuses within the Senate, and within the House of Representatives, during this period when we have considered L. D. 2037.

I think that all of us have had a chance to read and understand and discuss the materials that are contained in these reports, as I reviewed the reports last night and this morning, I felt that I had heard all of these items in one form or another in the discussion. Should there be any questions remaining in anyone's mind that are not answered in these materials, I hope they will be raised at this time.

I hope Mr. President, that with this material before us and with all the materials that we have digested in this process that we are now ready to vote on this important issue. I would request we have it by Roll Call. I urge the Senate to vote Yes for Enactment.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, and Ladies and Gentlemen of the Senate: I opposed this bill yesterday and I haven't changed my mind any today.

I think that each one of us knows that if we pass this bill in a matter of 2 days we're just rubber stamping something to send it to Washington and not act responsibly here in the Senate.

Now we have the very large possibility of having the taxpayers of the Nation pay billions of dollars to settle these claims, not millions, but billions of dollars. I've heard, statements in the Senate, yesterday, I heard statements here, that it's not State of Maine money, it's coming out of Washington. Well, as far as, I know every person in the State of Maine is a taxpayer, they pay taxes to Washington.

If you have several billions of dollars of claims in Washington we are going to pay the bill, the taxpayers are going to pay the bill.

Now under this legislation we're setting up a select class of people which we're not supposed to do under our Constitution, the State of Maine Constitution, or the Federal Constitution. But we're setting up a select class of people. I haven't found anyone in my district that wanted to do that. Why should we discriminate against the majority of the people in this country? Why should we discriminate against the taxpayers, other than to say send it to Washington, they're going to pay the bill, or the taxpayers will pay the bill?

We've had 2 Attorneys General say that we had a solid case. Governor Brennan, when he was Attorney General, he said we had a solid case, we could take to court. Attorney General Cohen has said we have a solid case we can take to court. What's happened?

Yesterday this body denied the good Senator from Penobscot, Senator Trotzky putting a referendum on this bill and sending it to the people. Which is in my estimation the highest court in the land. Not this elected body, but the people of the State of Maine, the highest elected court. Somehow or for some reason the people here feared that. They didn't fear it because it was going to slow down this Legislation because as I understand it, it doesn't go into effect until 90 days after we adjourn. If we had put the referendum out in June that would have been passed before the July 3rd date, when this becomes effective, and it would have been in Washington.

Now if this has to be in Washington by May, why wasn't there an emergency on it, so that it would be in effect immediately? This is not going to be in effect until July.

If a bill like this won't stand on its own merits before the people why should we think

that we have so much more power than the people, and that we can go ahead and pass something contrary to the people's thinking, contrary to what they want.

I think you're setting a real dangerous precedent here to pass this out. You're putting obligations on your children and your grandchildren. For years this country has tried to get rid of discrimination. Here you are discriminating against the majority of the people in our country.

There isn't any free money. I think you all know that. The good Senator from Androscoggin, Senator Minkowsky, said yesterday there were 9,500 claims now before Washington. That's going to cost billions and billions and billions of dollars.

I think we're being short-sighted. This thing is being ramrodded through this Senate and the House. I've seen things like this happen before, if you want to get something passed, make out there is a real emergency, a crisis situation, emergency, and even put an emergency title on the bill. Then it has that sense of emergency that you have to pass it, because something drastic is going to happen.

Well I don't think anything drastic is going to happen whether you pass this bill or not. I think even the Supreme Court has got to realize what the mood of the people is. We're not just considering the State of Maine on this bill. You're setting a precedent for the whole United States, all the western States. So I would urge the Senate to vote against enactment of this bill.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Thank you Mr. President. Members of the Senate. Each Legislature is faced with the job of correcting mistakes of the previous Legislature, because we always make mistakes. We have Errors Bills from Education, from the Judiciary Committee, from Inland Fish and Game. I think that we are making a mistake today. If we are it is a mistake that cannot be corrected by the 110th Legislature or the 111th Legislature, or any other Legislature, with just a routine passage of a simple L. D. It's impossible.

We have done everything possible to increase the chance of error. We rushed a committee hearing. We are rushing this bill. We have said No to a referendum. We have reduced our safeguards. Now we are being asked to vote on the Enactment. Now I say No, a thousand times No. No, to a Nation within a Nation! No, to 2 kinds of citizens and No to this bill!

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: Yesterday the Minority Leader of the Senate made reference to my home town, the Town of Millinocket, which does have a problem under the existing situation that we are in. The Town of Millinocket and East Millinocket have had some problems in tax participation notes and bonding issues. I have received a letter from the town manager that I would just like to have the people of this Chamber, the Members of this Chamber understand exactly what perhaps may be a crisis situation, in a parochial sense to some people.

The ability of the town to raise money to operate the town and provide capital improvement is constantly under pressure of a cloudy legal opinion. That cloud is the Indian Land Claims which is written into financial legal opinions and restricts the market ability of their securities. It affects their ability to get favorable interest rates.

For example, this year the town attempted to float \$3,000,000 in tax participation notes, which is quite common for the Town of Millinocket. After seeking the out-of-state market without any success they had to turn to the banks in the State of Maine. One of the local banks picked \$1.5 million of those tax participation notes. The remaining \$1.5 million was

not picked up at all. So the town itself is suffering due to the fact that they were unable to float those tax participation notes. If anybody knows Millinocket, if anybody knows the Great Northern Paper Company, the size, the State's largest private employer, a payroll of over \$1,000,000 a week, and have any doubt as to their security, as to the fact that the town is good for the \$3,000,000, then I think there is something wrong with them.

I'm very disturbed at other Maine banks, as in the past, a year ago, some other Maine banks picked up the additional \$1.5 million but they failed to do so at this time. I believe that more than the Indian Land Claim issue the banking industry of this State for some unknown reason, is not willing to stand behind the State and its municipalities and the communities of this State. If you want to interpret that as a slap on the wrist to Maine banks then I would consider it so, because I believe that they could have solved that problem.

Since they have not and I am faced with the towns in my areas that are suffering at this time and that they would suffer a continuing long period of time if this thing was not solved, I am not completely happy with the proposal that's before us. I have raised many questions, stayed very close to the issue, stayed very close to it since its conception a few years ago.

I was on the phone yesterday to Washington talking to the Banking Commission in Washington, talking to Senator Muskie's Office, trying to find a solution for these municipalities. Seemingly the only solution is a settlement of some sort. I do believe that we have very little margin to interpret what we consider to be fair and equitable.

I feel as if the State is giving up some things that it should not be giving up, but in the spirit of compromise each bill that comes before us that reaches that stage in the process where we have to negotiate we all give up something.

I do believe that it may come back to haunt us some day. Even with those grave reservations I will be supporting the enactment of that proposal today. I think it's the best that we can get at. I believe that in that same light that the \$81,000,000 is not there in Washington. I think that anybody that feels as if they are passing this with a price of \$81,000,000 has a misconception of that fact. The actions in Washington did not tend to be funding those levels of settlements, historically they have not with New York just being turned down with a settlement of \$8,000,000, just a short while ago.

I guess it's something that each one of us have to wrestle with. View the views of our constituents and try to interpret what is best for them in the long run, as to whether or not if we are going to accept this or not today. It's something that I have wrestled with for the last week or so. I was down at the hearing and have been attending the work sessions, and been carrying on the debate not only in this Chamber, but in caucuses and private conversations in the hallways, with a number of people involved on the committee, a number of people involved in the negotiations for the Attorney General's Office, from the other side. I feel that there have been a lot of compromises given on both sides.

I do feel personally that the State would be victorious in a court suit. But the expense of that court suit may be more expensive to the State. So I would urge the people with even the reservations that they have in reference to the bill to give it a vote to send it to Washington to allow Congress to see that the State, even though there is a lot of dialogue into the Legislative Record, showing that we are not completely happy with it, but that we do feel that we need a solution and that we are at this time turning to Washington for their assistance.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, and Members of the Senate: I always find it very

difficult to get up and speak in opposition to my very good friend and colleague, Senator Shute, because usually our opinions run along together very well, but I would have to answer some of the questions that he has brought up today. Some of the statements which he has made.

First regarding discrimination. He said if we pass this we are discriminating against the majority. I think by passing this we are helping to eliminate the discrimination that the Indians have had for years and years and years, a problem which should have been settled by our forefathers when this State became a State over 150 years ago, even before that when we were under the sovereignty of Massachusetts. Something that should have been taken care of long before this 109th Legislative Session, but it wasn't taken care of so we have to face it today.

He also suggests that we did wrong by not sending it out to the people in a referendum. If we do not fully understand in here within these halls after hearing the discussion, after hearing the report from the Judiciary Committee, from our Attorney General in caucus yesterday. How in the world are the people as a whole going to understand it? They naturally have the feeling that something is being taken away from them. I have the feeling that we are giving back something that rightfully belongs to the people who owned it in the first place.

They would say well, they were a conquered nation, so we have to treat them as a conquered nation. I do not agree. I feel that we should treat them in a fair and meaningful way.

Our Attorney General has stated that it will cost a great deal more if we do not pass this today and we let it go to the courts, even though we may win the court case. I would take his opinion. I have all wholehearted trust in the opinion of our Attorney General.

This goes on to Congress. They have to make the final decision as to payment for these claims. So I will vote for this bill today and hope that it may be the best decision that I have made.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: We have sat here for 2 days and listened to the various arguments for and against this bill. I sent a note to a friend of mine yesterday who happened to be an attorney who was in the Chamber. I said is this a good bill? He came back and said Yes. Then he said. Well, not really, but it's the best we're going to get.

Now I think today is day 152 of the hostage situation in Iran. We've got hostages in South America. Sort of in a way the Senate feels as if it's being held hostage, the Legislature feels as if it's being held hostage. Talk about being between a rock and a hard place. You look at this bill and if you did poll your constituents there probably would be a lot of opposition to a settlement. This settlement, or the one that had been advanced before or the one that might have come but didn't.

I've looked at that and I've looked at the bill. I'm not an attorney, but I listened to the words of the good Senator from Knox, Senator Collins, and my good colleagues Senator Conley, Senator Devoe, James Sinclair, looked at the court record of this bill, the times we have gone to court and said hey, this is a frivolous thing, let's throw it out and get it over with. The court has said No. The best option we have heard yet is 60-40.

I think the analogy that the good Senator from Knox, Senator Collins gave yesterday is a pretty accurate one and one I intend to use when I talk about this bill to my people back home. That is if you've got a 60-40 chance of dying if you don't have your appendix removed, 40% really wouldn't give you much comfort. You probably would go ahead and have it done.

Look at the options. I'm going to vote for this bill today reluctantly. The people who are

voting against the bill, I haven't heard them say yet what they would rather have us do, except the good Senator, my good friend from Waldo, Senator Shute, who does prefer that we go to court. If that's what they want the opponents of this bill want to go to court, then they want us not to take a chance on the State being in the situation that Millinocket's in, guaranteeing that we're going to be in that situation.

I've heard the figure from very good sources, sources that we have to trust \$24, \$25 billion. That's billion with a B. Look at the settlement of \$81.5 million.

I don't think it creates a nation within a nation. That was one of my initial concerns. I don't think it does. I look at it and I say what are the alternatives. Is there going to be another negotiated settlement down the road? It seems to me that there was a proposal before us a year or so ago that was a little bit cheaper than this one. It seems to me that the pricetag is going up.

I just don't see what the viable alternatives are. You can play politics. We're going to pay for this bill. We're going to pay \$81.5 million. There are some of us in this Chamber and in the other Chamber who will probably pay with their political lives for this bill.

Somebody here has talked about the children and the grandchildren, and the great grandchildren. Where are they going to be if you go to court, if the ultimate cost in damages to the State of Maine \$24 billion.

Nothing will make this Chamber jump any faster than a promise of new jobs. Be it Pratt and Whitney, be it a company moving in here, Digital. Be it a company moving in there. Nothing will make this Chamber any happier than a promise, of 2, 3, 400, 1,000 new jobs. How many companies are going to take a serious look at the State of Maine, if they can't get good title to their land? I know what it does to my area. I know what it would do to my area.

I talked to a lady in Aroostook County yesterday. She called me on another issue. She said by the way, on the Indian thing, don't vote for it. Don't give them anything. Fine, go to court, \$25 billion. Oh my god, I didn't know that! Alright, so let's be responsible. Let's take a look at this bill.

It doesn't mean we like the bill. Doesn't mean we feel any guilt. I don't feel any guilt. For my grandparents, I'm sorry for what happened 200 years ago. But I'm here in the 109th Legislature and I'm charged with doing what is supposed to be the responsible thing. I think today to look at this settlement. As the good Senator from Knox, Senator Collins, has mentioned it isn't an ordinary L. D. This is a Resolution of a lawsuit, to look at this and say if we don't do this then we have got to go to court. I don't like the option of going to court. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaarty.

Senator MCBREARTY: Mr. President, Honorable Members of the Senate. I don't think any amount of debate here today will change one vote. I think the votes are already here to pass the bill.

I do think it's important for some of us that are going to vote against it to tell you why. Last Sunday I was 65 years old. I've served in public office nearly every year since I was in my early twenties. Any time during that time that any important issue was forced and hurried and people left out, I've always found that we were in trouble.

My town was SAD #2. The people were hurried. They were forced. They were told that if you don't join this district, you won't get your State subsidy, so we joined in a hurry. We spent 3 years in 3 sessions breaking that district, but we broke it because people weren't given the time to realize what they were doing.

Yesterday some of us asked about this go out to referendum which could have been done June 10.

Personally I have 2 spare rooms in my house. Any of my Indian friends if they had wanted to come up to my house and stay I would have gone out with them and tried to encourage my people to vote for this bill. But I didn't get that chance. So I'm going to vote against it today because I don't think we're giving the people a fair shake on this. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: My good colleague from Aroostook, Senator Carpenter, has asked those who opposed this bill why don't they state what do they propose to do. I thought that question had been answered. However, for myself and for the benefit of those who are interested, I think that when we settle a lawsuit, it's for the entire State of Maine, I don't think there is any rhyme or reason why they should spread out the problem into the 2 counties that I serve in Franklin and Somerset. We don't have any of those problems there. The mortgage or the clear titles that are affected in the State are not in that area.

Secondly, I have very much respect and admiration for the people that have negotiated. I don't criticize them. I don't find any faults with them. However, I have found in my days that a decision as important as this should be kicked around a little bit.

I am a bank President. We have a Board of Directors. We make some substantial loans. We make loans that it's scary to think that a bank our size will make. However, we go to our participants, those other larger banks who are going to contribute, the medium sized banks, the individuals. We discuss it with them, until we are all in accordance.

This here is just going too fast! I've also learned over the years that people oppose what they do not understand. I think wholeheartedly that all you members of the Senate here share my belief. Those who can't vote for that, it's because they don't understand why Mr. Tureen can come here and rush us into this piece of legislation, which no one can ever undo once it is passed. This is the reason why we opposed it.

I would propose as the good Senator from Aroostook, Senator McBreaarty, who offered to share his home. I would like to note that I have spent winters sharing my bed with Indians. I have worked side by side with them. I have the most respect and admiration for my fellow man. This has nothing to do with race, or creed. It has absolutely nothing to do. This is only a matter of how do we Enact legislation. Ladies and Gentlemen. That's all!

I'm sure that this case would probably get settled one way or the other. Sometimes when we get too close to our work I don't care how smart the people are that are doing that work. Sometimes we get so involved that we can't see the fog from the forest. This is why I'm opposing this.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: It's been interesting sitting here this morning listening to this debate.

I think it might be well if one searches their memory when these claims first went to court, the first word we heard from the State were that the claims were frivolous. Today we hear that there is a 60 - 40% chance that if we pursue the court system, we may, we may just possibly win these suits.

The good Senator from Knox, Senator Collins, put it straight on the line yesterday. We have the opportunity before us today providing that the Congress ratified the Act that we are about to Enact, to forever forgive and to eradicate all claims from here forward.

I think this is going to be a tremendous burden removed from the shoulders of all Maine citizens. I don't reluctantly support this bill. I enthusiastically support the bill, to put these claims to rest, so that we can as we've heard so many times, Indian and non-Indian

alike, be able to appreciate our fellow man.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Members of the Senate: I urge you to support passage of this bill. We have a Federal Statute involved. We have litigation in Federal court. We have had in the past and are continuing to have throughout the land decisions of Federal Courts that have apparently in one degree or another eroded the legal position of the State.

As is the case in any law suit, once a suit is commenced in court, sometimes those involved when there are as many people as we have in this State, by the very nature of the litigation, we ask our attorneys to represent us. I think that past and present members of the Attorney General's Office deserve the utmost thanks for the diligence and the ability and the sincerity of their presentation of the State's case.

Council for the Penobscots and Passamaquoddy's whether we agree or not, deserve commendation for the diligent way they have prosecuted their case as they saw it.

We have reached the point now where the Federal Court is pressing parties either settle the case or we will start to try it. We have no control over what Judge Gignoux, in his wisdom, decides in urge parties to set a trial date. I suggest to you, members of the Senate, that if we fail to pass this bill it will not be long before the media is reporting that a conference was held at the U.S. District Court in Portland, and that the court suggested or mandated a date on which the parties would appear before him in this courtroom and start to litigate this case. However intense the emotions which there are on both sides of this question, cannot eliminate that as an inescapable conclusion.

There will be some people in my district who will be extremely critical of me for urging passage of this bill. I'm sure each one of us who votes for this bill will in some manner or other be criticized by our constituents, but we were sent down here to do a job. The duty is on our shoulders. It's not on the shoulders of the electorate. We came here to do our work, and I say part of our work is either to accept or reject this bill.

Now the good Senator from Penobscot raised the question in my opinion maybe somewhat unfairly criticized Maine banks for not taking the entire amount of the requested bond issue or loan that the Town of Millinocket wanted. I would point out not only to the good Senator from Penobscot, but to others who may have had that same experience in their community, banks have a fiduciary duty to their depositors.

One of the steps that is always taken when a bank makes a big loan is to seek an opinion as to the legality of the loan. If a bank ignored the legal existence of this lawsuit and went ahead and loaned the money, and later had the case gone to court, there is a possibility that the depositors of the bank, some of whose funds may have been included in that loan, could bring suit against the bank officials for violating their fiduciary duty.

If we do not pass this bill and we have a trial date set for the Federal Court in Portland, it's my very firm belief that commerce of this State including the some \$19 million of bond issues that we just passed and that have been authorized to be issued, very likely the interest costs on those bond issues will be astronomical. If we can get an opinion of bond council at all. Very likely Commercial and Savings Banks and Savings and Loan Associations will take another look at whether or not they ought to loan monies for the purchase of real estate and take mortgages as security.

Industrial expansion may well ground to a halt. The attraction of new industries into this State may well cease, and if not cease, then be severely diminished.

As is the case in every law suit somehow lost control of the litigation when it began. Where

would we be if we had been trying to keep tabs on every concession that the State made to the plaintiffs in this case. Where would we be if we had been trying to come to an agreement on accepting concessions which the Indian Tribes and Nations may have made to us? We would be here years doing that?

It's just been in the last few days that we have seen a volcano, a live volcano out on the West coast. We're all wondering here on the East coast, is or is it not going to erupt, and if it does what is the extent of the damage?

I submit to members of this Senate that we have a legal volcano in this case. If we fail to recognize the severity of the problem, if we fail to recognize the seriousness of the consequences and fail to pass this Legislative Document, in that case does begin its process in the Federal Court in Portland, if we think we're in trouble now, we have no idea of the trouble that this entire State will then be in.

So my colleagues here in this Chamber, I urge you to make the difficult decision if it is going to be difficult to recognize the problem, to accept the duty which you assumed when you took your oath 15 months ago, and cast your vote in favor of this bill. Thank you very much, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Thank you, Mr. President, and Ladies and Gentlemen of the Senate: I am not going to go over all of the things that I went over yesterday.

I have listened very carefully to the good Senator from Aroostook, Senator Carpenter, and our two learned colleagues from the Bar, discuss this. The more that I listen the more that I am convinced that this debate should be taking place not on the floor of the Maine Senate but in a court of law. If my two learned colleagues could defend the State's position as well in a court of law, as they are doing here today, I think that our 60-40 chance would be even better.

We do have three branches of Government. This matter has already been in court. And should be in court, it is a Federal problem, it is a court problem.

Notwithstanding that it has nothing to do with Indians it has to do with a particular problem that is facing the State of Maine, and it could be with anybody, or any group. For it to be here and for us to be faced with making the decision that we are being asked to make and it is a difficult decision it is probably one of the most difficult decisions that I have had to make. I am not going to support it because it is wrong, it is morally wrong and those who want to know what should be done about it. It should be in the court.

Talk about taking a doctor's advice, the doctor's advice is that we have a 60% chance of winning. You can look at a ½ glass of water, and it is either ½ empty or ½ full depending on how you feel, at that particular moment. I would say that our glass is over ½ full.

It is a legal problem and it belongs in a court, we should not be deciding judicial problems in the Maine Legislature. I would urge the Senate to defeat this piece of Legislation and let it go forth in the Federal Court where it should be.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBrearty.

Senator McBREARTY: Mr. President, May I pose a question through the Chair to anyone who may answer it?

The PRESIDENT: The Senator may state his question.

Senator McBREARTY: Many times in the past when people were dissatisfied with the decisions that we have made here, they have initiated a referendum. Now if this should happen on this bill, what effect will it have on the bill?

The PRESIDENT: The Senator from Aroostook, Senator McBrearty has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Knox. Senator Collins.

Senator COLLINS: Mr. President as far as I know the referendum process if enough signatures were obtained would hold up the progress of this Bill, as it would other bills. I do not think that that is really an issue today.

I would like to move from that answer to, one final word. It has been suggested by one previous speaker that this is a matter that ought to be handled in court. I would point out to the Senate that the origins of the matter were not created in a court. The problems were created in Legislatures. The Congress, the Legislature of Massachusetts, and the Legislature of the State of Maine, a long time ago. I think that it is especially appropriate that a Legislature should cure the problems, in so far as it can contribute to, the cure of the problems.

It has been suggested by a previous speaker that this is a discrimination against the taxpayers. I think that it is absolutely clear, that Maine taxpayers are going to benefit a great deal from this settlement. As to Federal taxpayers, and that includes the Maine taxpayers of course, as to Federal taxpayers we really do not know.

But I know and I think that everyone of us knows that there is a vast difference between \$81,000,000 and \$25,000,000,000. That prudent business judgment dictates that there are times when you make a settlement rather than risk the extreme liability that you may otherwise incur.

In my personal judgment we are doing the right thing for all taxpayers in this nation, when we recommend the settlement process.

We do not control the final result at all, the Congress controls that and always has. We are just playing our part here, to present it to Congress in a constructive way.

It was suggested that there is an element of discrimination against a majority of our citizens. I feel badly about that kind of statement because it just isn't true. History is a part of law, and we have to look at history. When we look at it, and evaluate it I think that we have to find, that this solution that is proposed in this bill, is a fair and equitable solution. In my judgment it is a moral solution. I support it with the same enthusiasm that has been expressed by others here. It is not just an expedient, it is not just a money saver, although those things are important to us. It is fair, it is just and it is right. I am thankful that I live in a Nation where minorities have rights under the law. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Thank you, Mr. President. I will be brief, I know that I can't change enough people's minds here to change the course of this bill.

However I would like to speak so that the Record will show that in spite of all these debates, sometimes we have a tendency to believe those who tell us that if we vote against the bill, that we are voting against taking care of the volcano.

Ladies and Gentlemen of the Senate, I want you all to know that I have spoken with other members of this body of government which oppose this bill. The last thing that they have on their minds is to stop or to slow down this settlement. They have the most firm commitment to try and help settle this thing, this volcano that is almost ready to erupt. This is the reason why they are opposing it. We want to bring about a settlement that will be lasting, so that our grandchildren won't have to come back and go through the something that we are going through. The same as everyone here through to California have to go through, and they never seem to see the end. This is the reason why we are opposing this. All we wanted was a little more time.

I understand that should the people of Maine, start gathering signatures and go for a referen-

## ROLL CALL

dum that this is going to delay it still some more and this is probably going to give us a real hard time.

For all intensive purposes the reason that we wanted a reasonable amount of time to process this bill, was exactly for that because we want to do a good job.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President. When the Roll Call is taken I request leave of the Senate to pair my vote with Senator Martin of Aroostook, who if he were here he would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky Requests Leave of the Senate, to pair his vote with the gentleman from Aroostook, Senator Martin. If he were here, he would be voting Yea and the Senator from Androscoggin, Senator Minkowsky would be voting Nay.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President when the Roll Call is taken I would request Leave of the Senate to pair my vote with Senator Lovell, who if he were here he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from Cumberland, Senator Gill, Requests Leave of the Senate to pair her vote with the Senator from York, Senator Lovell who if he were here would be voting Yea and the Senator from Cumberland, Senator Gill, would be voting Nay.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative votes of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is Enactment of L. D. 2037.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

## ROLL CALL

YEA — Carpenter, Clark, Collins, Conley, Devoe, Farley, Hichens, Huber, Katz, Najarian, O'Leary, Pierce, Pray, Trafton, Trotzky, Usher, Sewall.

NAY — Ault, Chapman, Cote, Emerson, McBreairty, Perkins, Redmond, Shute, Sutton, Teague.

ABSENT — Danton, Silverman.

PAIRED — Minkowsky, Martin-Gill, Lowell.

17 Senators having voted in the affirmative and 10 Senators in the negative, with 4 Senators pairing their votes, and 2 Senators being absent the Bill, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

## (Senate at Ease)

The Senate called to Order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper from the House  
House Paper

Bill, "An Act to Reduce the Per Gallon Tax on Motor Fuels from 9¢ to 7¢ and to Assess a 5% Sales Tax on the Wholesale Price Subject to Public Approval at Referendum." (H. P. 2054)

(L. D. 2040)

Reference to the Committee on Taxation is suggested.

Comes from the House, Indefinitely Postponed.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Reference.

Communications  
Committee on Education

April 3, 1980

The Honorable Joseph Sewall  
President of the Senate  
State House  
Augusta, Maine

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Paul M. Stebbins to the position of member of the Board of Trustees of the Maine Maritime Academy.

After public hearing and discussion of this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS: Senators 2  
Representatives 9  
NAYS: Senators 0  
Representatives 0

ABSENT: 2 Representatives Connolly of Portland, Senator Minkowsky of Androscoggin

Eleven members of the Committee having voted in the affirmative and none in the negative with two being absent, it was the vote of the Committee that the nomination of Paul M. Stebbins to the position of member of the Board of Trustees of the Maine Maritime Academy be confirmed.

Sincerely,  
HOWARD M. TROTZKY  
Senate Chairman  
LAURENCE E. CONNOLLY, Jr.  
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of Paul M. Stebbins be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Education be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: The Joint Standing Committee on Education held a confirmation hearing for Paul Stebbins this morning.

Mr. Stebbins, has a military record, he was a graduate of the Maine Maritime Academy, so he is familiar with the academy. He also served in the Maine Maritime Service as an officer, also as a U.S. Naval Officer, he is familiar with the sea. He also was a principal of Biddeford High School, for 5 years. Assistant Principal of Trace Academy and also Registrar of St. Francis College in Biddeford.

The committee feels that he is well qualified to serve on the Board of Trustees of the Maine Maritime Academy.

The PRESIDENT: Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEA — None.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENT — Danton, Lovell, Martin, Silverman.

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Paul M. Stebbins is confirmed.

## Committee on Judiciary

April 3, 1980

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Eugene W. Beaulieu to the position of District Court Judge.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS: Senators 3  
Representatives 8  
NAYS: Senators 0  
Representatives 0

ABSENT: Senators 0  
Representatives 2 Rep. Silsby & Stetson

11 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Eugene W. Beaulieu be confirmed.

Sincerely,  
SAMUEL W. COLLINS, Jr.  
Senate Chairman  
BARRY J. HOBBINS  
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Eugene W. Beaulieu be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, it is my understanding that Mr. Beaulieu is an appointment to replace that of Judge Pilot that was not reappointed recently.

It has been brought to my attention by some of the lawyers, in my area that they are quite concerned about the manner in which this was brought about. I told them that I would mention it for the Record anyway.

In Judicial Statutes there is a Committee on Judicial Responsibility and Disability that is charged with looking into problems that were alleged in this matter with Judge Pilot. This committee was not used and it bothered some of the lawyers around my area, that there was no use of this system that was set up to meet the possible problems that might occur in the