

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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Divided Report

Majority Report of the Committee on Labor on Bill "An Act Concerning Benefits Under the Unemployment Compensation Act" (H. P. 1552) (L. D. 2031) reporting "Ought to Pass" in New Draft (H. P. 1755) (L. D. 2315)

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

BONNEY of Falmouth
WILLEY of Hampden
GAUVREAU of Lewiston
SWAZEY of Bucksport
TAMMARO of Baileyville
BEAULIEU of Portland
ROBINSON of Auburn
NORTON of Biddeford

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator:

SEWALL of Lincoln

Representative:

ZIRNKILTON of Mount Desert

Reports were read.

On motion of Representative Beaulieu of Portland, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-539) on Bill "An Act to Assure Greater Independence to the Certificate of Need Advisory Committee and for Other Purposes" (H. P. 1481) (L. D. 1944)

Signed:

Senators:

BUSTIN of Kennebec
GILL of Cumberland

Representatives:

BRODEUR of Auburn
CARROLL of Gray
PINES of Limestone
RICHARD of Madison
SEAVEY of Kennebunkport
MAYBURY of Brewer
WEBSTER of Farmington
NELSON of Portland

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

MELENDY of Rockland
MANNING of Portland

Reports were read.

On motion of Representative Nelson of Portland, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-539) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

Consent Calendar

First Day

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

(S. P. 785) (L. D. 2111) Bill "An Act to Provide for Filling Vacancies in the Office of Presidential Electors Nominated by Petition" Committee on Election Laws reporting "Ought to Pass".

(S. P. 717) (L. D. 1963) Bill "An Act to Clarify Certain Provisions in the Recodification of the General Assistance Law" Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-324).

(H. P. 1673) (L. D. 2218) Bill "An Act Authorizing an Adoption Assistance Compact and

Procedures for Interstate Services Payments" Committee on Health and Institutional Services reporting "Ought to Pass".

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, March 22, 1984 under the listing of Second Day.

Consent Calendar

Second Day

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

(H. P. 1456) (L. D. 1908) Bill "An Act to Amend the Highway Transportation Reform Act" (C. "A" H-538)

(S. P. 816) (L. D. 2193) Bill "An Act to Clarify the Congregate Housing Program for Maine's Elderly" (C. "A" S-321)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed as Amended and sent up for concurrence.

Passed to Be Engrossed

As Amended

Bill "An Act to Create the Judicial Employees Labor Relations Act" (Emergency) (H. P. 1649) (L. D. 2175)

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

Representative Beaulieu of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-545) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: In the debate this morning when the issue of binding arbitration was raised before us, I contended that we had been assured and reassured constantly as a committee as a whole that there were no binding arbitration issues other than what was in current law.

Because the issues were raised, we held a series of meetings right after the session, rereviewed the whole issue again and found that indeed we had been misinformed and were working under the wrong assumption. To that end, this amendment before you is not being brought forward in order to quell once and for all the issue of binding arbitration on all issues. We have adopted what is in current statutes, the State Employees Labor Relations Act under the sections concerning arbitration.

I extend to you an apology for my misconception. I am pleased that the issue was raised once and for all, and now I believe and I am comfortable that we have made the changes necessary so that there will not be binding arbitration on all issues. We will still separate the issues, that there will not be binding recommendations made on salaries, pensions and insurance, and I ask you to please pass this bill.

The remaining issue before us on the floor now is, shall these public employees be granted collective bargaining rights that all of our other public employees currently enjoy.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act Relating to Changes in the Composition and Functioning of the Harness Racing Commission" (S. P. 801) (L. D. 2149) (C. "A" S-318 and S. "A" S-323)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed in concurrence.

Emergency Measure

Tabled and Assigned

An Act to Amend the Provisions for Clam Regulation in the Unorganized Territories (H.

P. 1604) (L. D. 2129)

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

On motion of Representative Crowley of Stockton Springs, tabled pending passage to be enacted and assigned for Thursday, March 22.

Emergency Measure

An Act Concerning Terms of Office of Certain County Commissioners whose Districts are Affected by Reapportionment (S. P. 831) (L. D. 2222)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Relating to Penobscot Nation Trust Land Designation (H. P. 1398) (L. D. 1821) (H. "A" H-523 to C. "A" H-498)

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

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

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. I am curious as to whether this legislation as presented will be expanding the Indian Lands Claim Agreement that was negotiated and passed through this body a few years ago, and wonder if we might be setting a dangerous precedent by passing this law so that in the future other land holdings might be given to the Indians. I would like to pose that question to someone who might be able to respond.

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, the bill that is before us for enactment has kind of a long history. The tribes have had a difficult time in negotiating the purchase of land within the designated territories as established by the Indian Lands Claim settlement that was passed through here several years ago.

They brought this problem to the attention of the State Tribal Commission, which recommended that the period of time which they were allowed to purchase lands within those designated areas be extended from January 1, 1983 to January 1, 1988. The Governor's Office had some reservations about extending the time period that far. The bill before us extends it to January 1, 1985, I believe it is, and that is the compromise that has been worked out between the sponsors of this bill, which are myself, Senator Pearson, and the Governor's Office and was approved by the Judiciary Committee. It does not extend the areas under which lands can be purchased, only the time limit under which they can be purchased.

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

Mr. WEBSTER: Mr. Speaker, I would like to pose another question through the Chair. If I look at L. D. 1821, it appears to me that unless it has been amended, the addition of Williamsburg and other areas of the state have been added to the Indian holdings and I would like to know whether that is part of the legislation that was submitted.

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed an additional question to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: Again, I am in error and

Mr. Webster is correct. We have added Williamsburg. That area was inadvertently left out of the original lands claim settlement that was passed through this House.

The Penobscot Nation has already purchased land in that area and I believe it was the original intent of the Lands Claim Act to include Williamsburg in the first place. This is just an effort to correct an error that was made in the original bill.

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I am concerned somewhat about this inadvertent piece of land that might have been left out of this legislation originally when it passed a few years ago. I have nothing against and am not opposed to the Indians or anyone purchasing land anywhere in this state, but I am concerned about expanding the holdings of this nation under one nation, you might say. Some of us feel that passing this legislation gave the Indians a special right under this act to control areas of the state.

I am concerned that perhaps at some point there may be some effort to get land elsewhere in the state and have that included in the Indian Lands Claim area, and my concern is that by passing this and allowing Williamsburg and these other areas to fall within their boundaries, they are in essence taking this land away from the people of the State of Maine, at least the opportunity for them to use this land to hunt and fish because it will become part of the Indian "Nation."

My concern is that we should not be expanding the holdings of the Indian Lands Claim Act. We should let the Indians purchase any land they want anywhere in the state but that we should not be expanding their nation, you might say, so the rest of the people of the state would not be eligible to use that land under the holdings if they control it.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, could I ask the Clerk to read the Committee Report on this bill?

Whereupon, the Committee Report was read by the Clerk.

Mr. Webster of Farmington requested a Division.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Members of the House: This bill came to the Judiciary Committee and we had it in committee for quite a while, and as liberal as I am, I was against this bill. I had the same reservations as Mr. Webster has because I figured if they wanted to be a nation, let them be a nation, and let's take off everything that we provide for them. However, I talked with the Honorable Representative, Mr. Sappier, and I had a different version by the time I got through with him. He was either very convincing or else I felt something inside that I could not control, I didn't cry but I was close to it.

Really, this bill is very simple. The way that I understand it is the fact that a lot of us were against extending the time for them to buy certain property. The bill originally, if I recall asked for a five year extension and some of us were not willing to go along with any at all. But as a matter of consideration, after talking and listening and not pleading but just giving us the facts, the fact is that as much as we hate to hear it, that particular tribe that he represents made some investments which might have been prudent investments at the time, but it turned out not to be that way. They bought a lot of land at certain places and they could not resell it on the market and get their money back at a profit. It just turned out to be a bad investment, so as the bill stands, we are giving them an extra year for them to try and get situated, if they can, and trade some of this land with the paper companies or others and maybe

put them in a better financial position at no cost to us.

The sad position that they are in is the fact that, maybe wisely but it did not turn out that way, they have spent all their allocation or all the money they got, that Indian Tribe, and there are three of them, I believe. They spent that money so they have no money now and even the extension as of the time we pass the bill, at least we put it out, they cannot do anything anyway because as far as I know they haven't got any money. But we are giving them a chance to expand, we have given them an extension for one year. It is up to them to recover and I am sure if they come back two years from now and we have the same liberal people in Judiciary Committee, they are going to have a hard time to get another extension.

Mr. Webster of Farmington was granted permission to speak a third time.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I just state again that I am not opposed to the extension from 1983 to 1984 or, as far as that goes, I would not be opposed to extending this to 1988. I think the tribes should have the opportunity to purchase the land.

My only concern is—I am willing to let this measure pass on the assumption that the gentleman in the front row is correct and this was left out of the original agreement in error. My only concern is not the extension of time but the addition of more land and in no way does it say in here to me that this land would be purchased but it would be a gift to the Indian tribes. I am not concerned about extending the date, I am concerned that at some point we do not expand the land within their holdings unless there is some mechanism different than I see before me.

I have no problem with raising the time limit, my only concern is that we are setting a precedent and I am concerned about that and that is why I have taken this body's time tonight.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to the concerns of Mr. Webster, I don't think that we are running any great danger of endangering the fishing rights and the hunting rights of the people of the State of Maine in extending the lands claim or creating a nation within a nation or any of the other problems that he sees.

I think it should be remembered here that the Governor's Office has agreed that this section of territory, which is being allowed under the settlement act with this bill, was, in fact, inadvertently left out, that it was not just the mistaken impression of the tribes but also of the state that it was going to be in there. The tribes have already purchased the land in this area with that understanding.

This is a matter that has been reviewed by the Tribal Commission, by the Governor's Office, by the Judiciary Committee, as Mr. Carrier stated, and I think the concerns of Mr. Webster have been addressed by those people.

I didn't think that this bill would be highly debated, I didn't think it was a major problem for the state. I do hope that you will support the bill on enactment because I don't think that the concerns expressed by the gentleman from Farmington are well placed.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: Had you recognized me earlier, I think I could have ended this debate quite a lot sooner.

Williamsburg happens to be in my area and I have checked with the people of Williamsburg, the adjacent owners, and they have no problem with it. The only problem that they had a concern with and I have talked with Mr. Sappier and he assures me that there is no problem there, they asked me if in fact they were allowed to buy that land, that is hunting land

and they asked, would we have to pay for the privilege of a license to hunt or fish on the land. Mr. Sappier has assured me that all we would have to do is come to the Indian Nation and ask for a permit to hunt on the land and they would give it freely.

The SPEAKER: The Chair recognizes the gentleman from Penobscot Tribe, Mr. Sappier.

Mr. SAPIER: Mr. Speaker, Members of the House: Penobscot submitted the legislation and in submitting our legislation we have an entire system we go through at Penobscot to get the legislation here. In the meantime, after we get the legislation here, we then have to negotiate with the Governor's Office usually, the Tribal State Commission, which is made up of state individuals appointed by the Governor, and four Indian members from the Tribes. This legislation was submitted on the basis of their recommendations, the Tribal State Commission, to include Williamsburg and to extend the date for placing lands into trust up to five years. It would have been 1988. We, therefore, submitted legislation this year for 1988 and Williamsburg in two pieces of legislation. I think it was L. D. 1821 and 1822—1881 has consolidated both of those pieces of legislation, the time extension and Williamsburg.

In any case, the Penobscot Nation went out and purchased a 149,900 acres of land, of which 51,000 acres of it is in trust. We pay taxes on 98,000 acres of land. You might want to ask us, what does the tree growth tax do to us or fire suppression tax at 25 cents an acre do to us—it killed us this year.

The land that we are talking about here is land that is already owned in Williamsburg, 4,074 acres. Upon placing it in a trust, the Bureau of Indian Affairs is supposed to pick up the taxes on that parcel. We could sure use that break.

We asked that the extension of the time limit be supported as well as Williamsburg be supported in this legislation. We need at least up to 1987, and we believe ten years, to try to get 98,000 acres swapped into trust territory. We are not adding new lands into trust territory, it is those designated parcels.

The SPEAKER: The Chair will order a vote. The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

109 having voted in the affirmative and none in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Enactor Reconsidered

An Act Concerning Tax Exempt Status of Property Owned by the Farmington Village Corporation (H. P. 1561) (L. D. 2063) (H. "A" H-514)

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

On motion of Mr. Armstrong of Wilton, under suspension of the rules of the House reconsidered its action whereby the Bill was passed to be engrossed as amended by House Amendment "A".

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-541) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and House Amendment "B" in non-concurrence and sent up for concurrence.

Enactor Tabled and Assigned

An Act Concerning the Open Burning of Leaves and Brush (H. P. 1422) (L. D. 1867) (S. "A" S-302; H. "A" H-508)

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

The SPEAKER: The Chair recognizes the gen-