

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

Emergency

An Act to Clarify Certain Provisions of Law Pertaining to Lobster Management

S.P. 673 L.D. 1733
(C "A" S-488)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senator having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Consolidate and Improve Delivery of International Trade Services in Maine

H.P. 1318 L.D. 1802
(C "A" H-789)

On motion by Senator HANLEY of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation

H.P. 1320 L.D. 1807
(C "A" H-781)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senator having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 5 Locations

H.P. 1329 L.D. 1821
(C "A" H-806)

On motion by Senator HANLEY of Oxford, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**.

Emergency Resolve

Resolve, to Require the Department of Agriculture, Food and Rural Resources to Take Various Actions in Support of the Dairy Industry

H.P. 1296 L.D. 1778
(C "A" H-801)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senator having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Mandate

An Act to Transfer Land from the Town of Brownfield to the Town of Hiram

H.P. 1333 L.D. 1828
(C "A" H-791)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 28 Members of the Senate, with No Senator having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

RECALLED FROM THE GOVERNOR'S DESK

An Act to Place Penobscot Land in Trust

H.P. 1306 L.D. 1787

(In House, March 13, 1996, **PASSED TO BE ENACTED**.)
(In Senate, March 14, 1996, **PASSED TO BE ENACTED**.)
(**RECALLED** from the Governor's Desk, pursuant to Joint Order S.P. 765.)

On motion by Senator MILLS of Somerset, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

On further motion by the same Senator, the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERATION**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion by the same Senator, Senate Amendment "A" (S-524) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Thank you, Mr. President. By way of brief explanation, this bill has to do with the approval of placing certain lands in trust to the Indian tribes who have purchased the land from a private landholder. The description of the land, contained in the original bill, included specific references to certain water bodies. There are some rather special rules by which water bodies are administered and controlled under our arrangements with the tribes. It was felt by the Attorney General's office, and I think at least one of the tribal representatives concurs, that reference to the water bodies in the legal description was unnecessary and, perhaps, inappropriate in the bill as originally drafted. It does not, this change to the bill, will not change the legal description of the land that is being conveyed to them. It is a fairly minor change. If somebody wants a more technical explanation, I would be glad to do it elsewhere. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator CAREY: Thank you, Mr. President. I would like to pose a question, if I may, to the Senator from Somerset, Senator Mills. The land will still contain the 5,464 acres more or less, without reference to the lakes at all?

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Mr. President. If I may respond. There is no intention to change the quantity of land that is being conveyed. The meets and bounds of that land are defined by the deed and by some survey work. One of our concerns was the fact that within this perimeter there is a great pond. Great ponds are administered by the Indian Tribal Commission, and we just thought we would leave everything as it is with regard to the current issues on managing great ponds that are within tribal territories.

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

Senator RUHLIN: Thank you, Mr. President. I would like to ask the good Senator from Somerset if this bill, or any of its amendments, in any way threatens or excludes public ownership of all the great ponds within the State of Maine.

THE PRESIDENT: The Senator from Penobscot, Senator Ruhlin, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. In brief reply, it has nothing to do with any great pond, that I know of, other than the one that is denominated as Little Salmon Stream Lake, which, from the appearance on the survey, would appear to be a lake of some twenty acres or so. It is the intent of the conveyance that that great pond be administered under the treaty that was negotiated back in the 1980's. The pond itself, with the State not relinquishing its sovereignty over that pond, to the tribe, for the tribe's sole administration. I don't know that this legal description, in the bill that was originally passed, would have done that. The Attorney General's office was a little bit concerned about it, so we wanted to make it clear that the State was not relinquishing its complete control and title to that pond, but that the pond would be administered, as are other great ponds within Indian territory, under the terms of the treaty, and would be administered by the Indian State Tribal Commission.

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

Senator RUHLIN: Thank you, Mr. President. I don't want to belabor the point, but I do want a further clarification. The Senator answered, I think, 90% of the question. I would like to have the other 10% answered. I assume that what he is making reference to is the shoreland abounding, or abutting, the pond itself, and the pond itself stays in ownership of the people of the State of Maine.

THE PRESIDENT: The Senator from Penobscot, Senator Ruhlin, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator MILLS: Thank you, Mr. President, Men and Women of the Senate. My information about this is highly derivative. It is not something that I have personally investigated. I am told that there are some fairly specific rules that deal, not only with great ponds, but with the administration of water bodies which are bounded by Indian territories; that

it is the intent of this bill, as amended, that the same rules would apply to this territory as apply to all other territories in which there are similar water bodies, either bounding the territory, or included within it. If your question is, is the State of Maine, by accepting, or by approving this conveyance, giving up any of its rights to any of the water bodies that are contained within this conveyance, or abounded by it, I am not qualified to answer and I don't know. I can tell you that my understanding is that the conveyance, as amended, would make these water bodies perfectly parallel with other water bodies that are included with other lands that are owned and controlled by the tribes. My sense is, my understanding is, that for water bodies that are below ten acres in scope, there may well be some relinquishment of control, as there would be for any private owner. That is, if you bought a pond that was only five acres, I think you have the power of exclusion on that pond; however, if it is greater than ten acres, you do not. You must provide access to the general public. My understanding is that when there is a pond greater than ten acres in scope, that is wholly within an Indian tribal land, that the administration of that pond becomes the responsibility of this joint commission that we have between the tribes and the State. My understanding is that that would be the disposition of this pond, if it were conveyed in the bill as amended. Thank you.

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

Senator RUHLIN: Thank you, Mr. President. I thank the good Senator from Somerset for his erstwhile and honest answer. I, having asked some questions, would propose to the body that, perhaps, we should have a little more information before we act. I cannot make a tabling motion, but I think it would be worthwhile for the Senate to consider such a motion. Thank you.

On motion by Senator MILLS of Somerset, Tabled 1 Legislative Day, pending the motion by the same Senator that the Senate **ADOPT** Senate Amendment "A" (S-524).

**ORDERS OF THE DAY
Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Adjournment have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the first Tabled and Specially Assigned (Monday, March 25, 1996) matter.

SENATE REPORTS from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,500,000 for Major Improvements at State Park and Historic Site Facilities and for the Public Access to Maine Waters Fund and the Land for Maine's Future Fund"

S.P. 740 L.D. 1848

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-499)** (9 members)

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

Tabled - March 22, 1996, by Senator KIEFFER of Aroostook.

Pending - **ACCEPTANCE OF EITHER REPORT.**