

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

That proposal, however, is not contingent on the passage of this bill. State law currently allows the tribe to hold up to 27 high-stakes bingo games per year. Currently, under state law, subject to approval of LURC, the tribe could build a high-stakes bingo facility in Albany Township. Defeating our bill today would not prevent the tribe from doing that. Yes, the tribe has petitioned the county commissioners for road improvements and contained in that petition and expressed to the commissioners, the tribe made it known that any road improvements would be paid for by the tribe. There is a fiscal note attached to the bill. That fiscal note can not be changed from the way it is written. That is that there would be no cost to the state. There was a public hearing. People came and testified for the bill. No one testified in opposition. As far as the affect on local bingo organizations in the area, in any area that the tribe would hold high-stakes bingo games, all of those organizations are offered the use of the tribes' facilities when the tribe is not conducting high-stakes bingo games. It has been demonstrated by the success of the currently held high-stakes bingo games that not only is this benefit for the tribe, but it is also a benefit for the economy of the region. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Madam Speaker, Men and Women of the House. I am not going to be very long. As far as the tribes in the state and in Washington County, I think we debated this back in the 116th Legislature. This Legislature said that they were going to do something for us. I haven't seen anything forthcoming. I think that this bill is not going to build a gambling hall or whatever. It is simply going to allow them to have a few more games in their beano halls they have now. Living down in Calais, which is about 15 miles between the two reservations, I understand the plight. The taxes are way too high. Their unemployment is up around 40 percent. Our unemployment is between 10 and 13 percent. We do have a problem down there. I think that anything that would help the area to be seriously considered by this Legislature. I don't think a few more beano games added to what they already have is going to hurt. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative McKEE: Madam Speaker, Men and Women of the House. I have only ever bought one lottery ticket in my life. I have been to one horse race. I lost one quarter in some machine down in Atlantic City. I have played beano once. I am not a big proponent of gambling. I won't vote for the so-called gambling bill that is coming up. However, I will today and always will make an exception for the Wabanaki People of the State of Maine. I could count on one hand when we have given them justice. I could fill a book with the injustices. On Friday I am introducing a bill to require that every teacher in the State of Maine take a course in multi-cultural education so that we can understand the people who live here in this state. The people of other cultures. When that happens, we will understand why it is so important to vote for justice and to vote for economic development. As long as the State of Maine is making \$55 million on horse racing and we are hosting a wonderful lottery to fund things that we like, I say let's go.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 79

YEA - Ahearne, Bagley, Belanger DJ, Belanger IG, Berry RL, Bigl, Bodwell, Bouffard, Brennan, Brooks, Bruno, Bunker, Cameron, Campbell, Chick, Chizmar, Colwell, Cowger, Cross,

Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Jabar, Jones SL, Joyce, Kane, Kontos, Labrecque, Lemaire, Lemont, Mayo, McKee, Meres, Morgan, Muse, Nickerson, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Pinkham RG, Poulin, Povich, Quint, Richard, Rines, Samson, Sanborn, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stevens, Tessier, Thompson, Tobin, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Baker CL, Baker JL, Barth, Berry DP, Bolduc, Bragdon, Buck, Bull, Bumps, Carleton, Chartrand, Cianchette, Clark, Clukey, Davidson, Dexter, Donnelly, Foster, Gagne, Gamache, Gieringer, Honey, Jones SA, Joy, Joyner, Kasprzak, Kerr, Kneeland, Lane, LaVerdiere, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, McAlevey, McElroy, Murphy, Nass, O'Brien, Ott, Peavey, Pieh, Pinkham WD, Plowman, Powers, Rowe, Savage, Saxl JW, Skoglund, Snowe-Mello, Stedman, Taylor, Townsend, Treadwell, Waterhouse, Wheeler EM, Winn.

ABSENT - Fisk, Jones KW, Mitchell JE.

Yes, 86; No, 62; Absent, 3; Excused, 0.

86 having voted in the affirmative and 62 voted in the negative, with 3 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-146) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, April 9, 1997.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike" (H.P. 41) (L.D. 66)

TABLED - April 7, 1997 by Representative HATCH of Skowhegan.

PENDING - Acceptance of Either Report

On motion of Representative HATCH of Skowhegan, tabled pending acceptance of either Report and specially assigned for Wednesday, April 9, 1997.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 88) (L.D. 113)

TABLED - April 7, 1997 by Representative HATCH of Skowhegan.

PENDING - Acceptance of Either Report.

On motion of Representative HATCH of Skowhegan, tabled pending acceptance of either Report and specially assigned for Wednesday, April 9, 1997.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (H-155) - Minority (3) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Require Overtime Pay for Employees of Large Agricultural Employers" (H.P. 283) (L.D. 347)

TABLED - April 7, 1997 by Representative TREADWELL of Carmel.

PENDING - Motion of Representative HATCH of Skowhegan to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I move at this time that this bill be indefinitely Postponed with all accompanying papers. I also ask for a roll call on this issue.

I made the point yesterday that this bill brings forward circumstances, not only for the one employer that we are trying to address, but for others. I think the unintended circumstances are such that it would be better if we left this particular issue to our Department of Labor and suggest that they follow up on their activities more so than they have been doing. Thank you very much.

Representative PENDLETON of Scarborough moved the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Lemaire.

Representative LEMAIRE: Madam Speaker, Ladies and Gentlemen of the House. I urge your defeat of the pending motion and your support of the "Ought to Pass" report. The 9-to-3 "Ought to Pass" report out of this committee. I would like to read you something, which I don't normally like to do in the House, but I think it important that you understand where this bill came from.

In 1976, Chapter 7, Section 663 of Title 26, which establishes which employers and employees are covered by the minimum wage and overtime provisions of Chapter 7 was amended to read, "The following individuals shall be exempt from this subchapter. Any individual employed in agriculture as defined in the Maine Employment Security Law and the Federal Unemployment Insurance Tax Law, except, when individual performs services on a farm with over 300 laying birds." It appears clear that the original intent of the 1976 amendment to the law was to ensure that the employees of large egg processing facilities were paid at least the original wage and were paid overtime for all hours worked beyond 40 in one work week. That was not the interpretation that was applied to that amended version of Section 663. I would like to quote a member representative of the Labor Department who was in the committee that day. "We believe that Representative Lemaire's amended version of LD 347 clearly defines the overtime law for this particular industry, as was the original intent of the Maine Minimum Wage and Overtime Law, as amended in 1976. As such, we are pleased to support this clarification of Maine's Law."

I would like to go further in saying in attending this committee hearing, obviously, there was only one opponent who spoke. That included members of the public, members of the Agricultural Industry, the Labor Department and it was signed off by the Agricultural Department, the Labor Department and the Governor's Office. This is not a whimsical issue. I worked very long and hard with the agricultural community, the members of the Labor Department and the Governor's Office to make sure it only affected three companies in this industry. Let me emphasize that there are three of them. What I want to go on to say is that in 1935 there were laws passed on overtime, child labor laws, collective bargaining and minimum wage. Those bills did not come into the Congress because everything was fine in the United States for working men and woman. There was severe exploitation, abuse, and taking advantage of workers. We are now here, 60 years later. We have seen it in our state

where we know that most companies, including two in this industry treat their people with decency and respect. It is time we addressed this. I urge defeat of the pending motion and support the "Ought to Pass" report. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. First, I have a three-line paragraph in response to the handout we received yesterday from the Citizens for Maine's Future. The destruction of egg industry economy, as described by Citizens for Maine's Future, is to a considerable extent accurate. However, no other egg producer in New England employs workers documented to have recently existed in Turner, Maine. These other producers compete, while treating their employees with dignity as by William Bell, the Executive Director of the Poultry Federation and New England Poultry Association. This bill is about dignity. This bill is about dignity of work. The bill is about dignity of people. This bill affirms what we all believe about Maine's work ethic. This bill affirms the motion of an honest week's work for an honest week's wage. Representative Hatch accurately laid out the overtime abuses at Decoster Egg Farm yesterday. This is not an employer who kindly asks for an extra hour here and an extra hour there. This is not a farmer who kindly asks for an extra two hours here or an extra two hours there to get a crop in. This is not a factory manager who kindly asks for extra hours here or there to load a truck. This is an egg factory that exploits people for 60, 70 and 80 hours a week. This is not right and this is not fair and this is not just. The idea of fairness in the workplace must always endure for all Maine workers, whether they are Italians and Irish building the canals, railroads or working the docks or they were Franco-Americans working in the mills or in the woods. We cannot leave anyone behind.

Today, we must right a wrong. We should and can do no less. I ask you, today, to renew your commitment to fairplay in our Maine workplace. The dignity of work demands no less. We must not look at this bill as anti-Jack Decoster, but rather as proworker. This bill is about a commitment that is not out of fashion. This bill is about a commitment to an old value, the dignity of work. This bill is about an honest week's wage. Vote no on the pending motion, our collective sense of passion deserves it. Let us extend our sense of fairness to all of Maine, including Turner. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you Madam Speaker. To anyone who might answer, are these overtime violations we are talking about covered by present law?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Ladies and Gentlemen of the House. In as the question, there are no overtime hours in particular places within the agricultural setting. They can work up to 120 hours without any overtime. On the other hand, truck drivers and other people who do other services do get overtime, but there have also been problems with them running two payrolls on the same employee so they could get around paying the overtime. So, yes and no.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Madam Speaker, Men and Women of the House. I really had no intention of speaking on this bill. I have worked for a living since I was about 18 years old. I think we are kidding ourselves if we think that this large agriculture business is a farm. This is, as the good Representative from Livermore said, an egg factory. These people that work there are egg factory workers. They deserve to have the same treatment under the law as all other factory workers. They deserve to be paid overtime for their labor over 40 hours a week. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone the Bill and Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 80

YEA - Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Campbell, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Underwood, Waterhouse, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Carleton, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Madore, Mailhot, Mayo, McKee, Meres, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

ABSENT - Belanger DJ, Cameron, Fisk, Jones KW, Lemke, Mitchell JE, True.

Yes, 54; No, 90; Absent, 7; Excused, 0.

54 having voted in the affirmative and 90 voted in the negative, with 7 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-155) was read by the Clerk and adopted. The Bill was assigned for second reading Wednesday, April 9, 1997.

MATTER PENDING RULING

HOUSE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (H-149) - Minority (3) "**Ought Not to Pass**" - Committee on **Transportation** on Bill

"An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities" (H.P. 469) (L.D. 640)

TABLED - April 7, 1997 by Speaker MITCHELL of Vassalboro.

PENDING - Ruling of the Chair.

The Chair ruled that according to Mason's manual, section 242, paragraph 1: "It is not the presiding officer's right to rule upon the constitutionality or legal effect or expediency of a proposed Bill since that authority belongs to the House." and placed the Bill before the House for consideration.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 81

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lovett, Mailhot, Mayo, McElroy, McKee, Meres, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Cianchette, Dexter, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, Layton, Lemont, Lindahl, MacDougall, Mack, Madore, Marvin, McAlevey, Nass, Perkins, Pinkham WD, Plowman, Stedman, Treadwell, Underwood, Waterhouse, Wheeler EM, Winsor.

ABSENT - Fisk, Jones KW, Mitchell JE, True.

Yes, 113; No, 34; Absent, 4; Excused, 0.

113 having voted in the affirmative and 34 voted in the negative, with 4 being absent, the motion to accept the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-149) was read by the Clerk.

On motion of Representative KONTOS of Windham, tabled pending adoption of Committee Amendment "A" (H-149) and specially assigned for Wednesday, April 9, 1997.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative O'BRIEN of Augusta, the House adjourned at 12:10 p.m., until 9:30 a.m., Wednesday, April 9, 1997