



HOUSE OF REPRESENTATIVES

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Testimony supporting

**LD 78 RESOLUTION, Proposing an Amendment to Article X of the Constitution of Maine
Regarding the Publication of Maine Indian Treaty Obligations
and**

**LD 578 RESOLUTION, Proposing an Amendment to the Constitution of Maine
Concerning the Publication of Maine Indian Treaty Obligations**

March 7, 2023

Senator Carney, Representative Moonen, esteemed Judiciary Committee members, thank you for hearing these proposals for a constitutional amendment. And thanks to Speaker Talbot Ross and Senator Bennett for introducing them.

This amendment would ensure that the text of Article X, Section 5 of the Constitution, which pertains to Maine Indian treaty obligations, be included in any printed copies of the Constitution.

This is particularly relevant this year, because the Chief Justice has a duty, in each year ending in three, to “arrange” the official copy of the Constitution.

Currently the Constitution includes in Article X the following¹:

Section 7. Original sections 1, 2, 5, of Article X not to be printed; section 5 in full force. Sections 1, 2 and 5, of Article X of the Constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and said section 5 shall remain in full force, as part of the Constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

It’s peculiar, isn’t it? We have a portion of our state’s bedrock document that literally *hides* a provision that is in full force.

¹ <https://legislature.maine.gov/ros/LawsOfMaine/#Const>

When Maine joined the Union in 1820 we promised in the Constitution to honor the treaties with Wabanaki nations -- such as the the 1776 Treaty of Watertown² and the 1794 Treaty with the Passamaquoddy.³

A couple generations later, though, Maine decided to hide its obligations. Why would Maine hide the fact that it was bound since its inception to honor treaties with the Wabanaki tribes? The report of the 1875 Constitutional Commission is silent on the rationale,⁴ but perhaps the context from that era provides clues.

The so-called Indian Wars were in full force in the West (a plaque in the Hall of Flags names some of the Mainers who were involved). The Battle of Little Big Horn would occur the following year, and the Massacre at Wounded Knee would be about 15 years later. A 1993 National Park Service Report described how US soldiers massacred “at least 250 women, girls, and boys.”⁵ Indian boarding schools were proliferating in this country, begun under the motto, “Kill the Indian, save the man.”

The 1875 amendment hiding these treaty obligations in Maine is a relic from an era scarred by less-than-honorable actions toward America’s indigenous people.

So in 2015, the 127th Legislature overwhelmingly voted (House 118-27, Senate 34-0) to begin to correct the historical record.⁶ Introduced by Representative Henry Bear, this resolve required the Secretary of State to expose to the public this slight-of-hand. But it will remain until we amend the Constitution.

A couple weeks before the 1776 Treaty of Watertown, William Whipple (born in Kittery), John Adams, Thomas Jefferson, John Hancock, and 52 others finalized the Declaration of Independence. They may have been flawed and human, but these men tried to articulate a noble vision of sovereignty and freedom. In the very final words, the signers pledged to each other their “sacred Honor.”

Passing this resolution, so the voters can correct Article X would be an *honorable* thing to do, and would signal respect for the Wabanaki tribes who were *sovereign* parties to those treaties.

No nation or state has an unblemished past. But I believe this amendment would be a step toward a more honorable future.

Thank you, and I would be happy to discuss further.

² http://historicalsocietyofwatertownma.org/HSW/index.php?option=com_content&view=article&id=86&Itemid=61

³ https://www.passamaquoddy.com/?page_id=1422 and https://digitalmaine.com/hist_docs/4/

⁴ http://lfdc.mainelegislature.org/Open/Rpts/PubDocs/PubDocs1875v2/PD1875v2_14.pdf

⁵ <https://irma.nps.gov/DataStore/DownloadFile/474813>

⁶ <https://legislature.maine.gov/LawMakerWeb/summary.asp?paper=HP0612&SessionID=11>