

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

House of Representatives
January 5, 1994 to April 14, 1994

I have seen more causes here, valid causes, than trying to establish dedicated accounts in this one. It has no objectives to it, nothing, just allowing the Harness Racing Commission to have these dedicated funds.

I would like to have the good Chair of the committee explain that so you fully understand it before you take your vote.

The second question I would like to ask — this creates a position and a half. Why hasn't that gone to the Appropriations Table? Why hasn't that gone through the process that most funds that are addressed? Perhaps I am proving myself to be ignorant of the process. I am not thin skinned so I can take that part of it. But, on the dedicated funds I would like to have a direct answer.

The SPEAKER: Representative Aliberti of Lewiston has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: The request for the Supplemental Budget, from the Harness Racing Commission did go to the Appropriations Committee. They felt that the OTB handle and the live racing handle would be much larger than what the Bureau of the Budget would accept. The Bureau of the Budget, when they projected the revenues for FY '95, used \$52 million as the maximum, the gross handle for the state.

The Commission felt that it would be higher and they budgeted for several positions and we went along with what is in this document.

What we did was probably put them on the incentive program. We said fine, if the handle does go beyond the \$52 million that part of the handle would have gone to the General Fund, would fund these positions which amounts to less than \$80,000 if they did \$20 million in handle beyond the Bureau of the Budget's revenue estimate.

So, it is probably the only agency in the state that is in an incentive system.

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

Representative ALIBERTI: Mr. Speaker, fellow Colleagues of the House: I don't want to insult your intelligence but do you really understand what he projected to you? Do you really understand it? I have been exposed to it over and over again and I still don't understand it.

Representative ALIBERTI of Lewiston requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

ROLL CALL NO. 350

YEA - Ahearne, Anderson, Ault, Bailey, H.; Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Chase, Chonko, Clark, Cloutier, Clukey, Constantine,

Cross, Daggett, DiPietro, Donnelly, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Hochborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pfeiffer, Pineau, Plourde, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Ruhlin, Saxl, Simoneau, Small, Spear, Strout, Sullivan, Tardy, Taylor, Townsend, E.; True, Tufts, Vigue, Walker, Wentworth, Whitcomb, Young.

NAY - Adams, Aikman, Aliberti, Barth, Beam, Bennett, Birney, Carleton, Cathcart, Clement, Coffman, Coles, Dore, Driscoll, Dutremble, L.; Farnum, Farren, Heino, Jalbert, Joy, Larrivee, Marsh, Martin, J.; Melendy, Murphy, Pinette, Plowman, Pouliot, Ricker, Rydell, Saint Onge, Skoglund, Stevens, A.; Stevens, K.; Swazey, Townsend, G.; Tracy, Treat, Zirnkilton.

ABSENT - Bailey, R.; Bowers, Caron, Cashman, Cote, Dexter, Foss, Heeschen, Hillock, Johnson, Kontos, Kutasi, Martin, H.; Michael, Nash, Ott, Pendleton, Simonds, Thompson, Townsend, L.; Winn, The Speaker.

Yes, 90; No, 39; Absent, 22; Paired, 0; Excused, 0. 90 having voted in the affirmative and 39 in the negative, with 22 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The Chair laid before the House the following item which was tabled earlier in today's session:

Bill "An Act Relating to the Definition of Passamaquoddy Indian Territory" (S.P. 780) (L.D. 2010) which was tabled by Representative WHITCOMB of Waldo pending the motion of Representative POULIOT of Lewiston that House Amendment "A" (H-1106) to House Amendment "A" (H-1098) be indefinitely postponed.

Representative BENNETT of Norway withdrew House Amendment "A" (H-1106) to House Amendment "A" (H-1098).

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, I would pose a question through the Chair.

Under the conditions, as written in the bill and pending the acceptance of Amendment "A" my question is, does this piece of legislation restrict the usage of the potential sale of this land to a casino usage? I am referring to the wording under the pending amendment, under C, Item 2. Under Item 1 it goes on to say, "if the acquisition of the land by the tribe is approved by the legislative body of that city and 2, a Tribal State Compact under the Federal Indian Gaming Regulatory Act is agreed to by the state and the Passamaquoddy Tribe or the state is ordered by a court to negotiate such a compact." Therefore, I am asking the question is the acquisition of this land to be locked in to the usage of a casino under the IGRA regulation act? If it is that way?

The SPEAKER: Representative Look of Jonesboro has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I am most certainly not a lawyer so I won't try to talk in definite legal terms, maybe someone else could address that. Before that land can be used for anything they have to go back to the Calais City Council and sit down and negotiate the sale of that land. I, like I said, am not a lawyer but I do have great trust and confidence in the elected officials of Calais to get the best deal or whatever it might be for their folks.

Does it restrict it? Just in my layman's terms in reading it, I don't suspect it does but I will warn you that I am not a lawyer. The safeguard here is that it has to go back to the elected officials of the City of Calais.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: For the Record, L.D. 2010, House Amendment "A" to House Amendment "A" a proposed amendment to the Maine Implementing Act — for the Record I would like to say that the terms of the Federal Law enacted in settlement of the Maine Indian Land Claims bars the State of Maine from amending provisions of the state act to implement the Maine Indian Land Claims Settlement, 30 MRSA, Section 6201, relating to the governmental authority of the State and the Passamaquoddy Tribe, unless it has the consent of the Passamaquoddy Tribe. A copy of the relevant language can be secured in Title 25, Section 1725. Any amendment affecting the land included in the Passamaquoddy territory relates to the allocation of the governmental responsibility including the jurisdiction of the court over specified geographic areas, any such amendment therefore falls within the scope of the Federal Law provision that has cited.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I think the question posed by Representative Look is whether or not the land would have to be sold to the Secretary and whether or not that land could be sold to someone else who could then could refuse to sell it to the City of Calais — that is what I am gathering. The question here (and it is very clear in Federal Law) that in the negotiation of a Land Settlement Act, land that entered into the possession of the Tribe (both the Penobscot Nation and the Passamaquoddy Tribe) was acquired by voluntary sale on the part of parties throughout the state. That is to say that if that land were to move from party X or the City of Calais it would have to be done in the same fashion. Then Calais, in that regard, would then become, for example, the owner or anyone else could negotiate with the Secretary. So, that 100 acres would in fact be done with that approval. Beyond that, it requires approval of the Secretary of Interior and requires approval of the Passamaquoddy Tribe to enter into that agreement under the terms of the Land Claims Act so that actually there is a three step process that would have to take place.

I don't see anything any different than what was followed in the past.

If that doesn't answer the question then I don't know what the question was and I think we have all missed the question.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: As I understood the question, I could be wrong also, the question was whether or not this amendment requires that the land, if this procedure is followed, be used for a casino. I think that the amendment is very clear and it is consistent with what I understand the purpose of the amendment to be. That is to say that the purpose is to allow the 100 acres in Calais to be included in Indian Territory, subject to two conditions happening. One being that Calais approves it and the other being what is laid out in number two here. But, if those conditions happen it just says that that land can go into Indian Territory. It is silent as to whether it be used for a casino and therefore seems like anything else in Indian Territory, certainly it isn't required to be used for a casino. Certainly, if it were determined to put a casino elsewhere then it would be available to be used for something else.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: I have a slightly different interpretation of the answer to the question. It seems to me that by the language of the statute a Tribal State Compact under the Federal Indian Gaming Regulatory Act is a precondition for this parcel of land to be considered Indian land. Therefore, I think the answer to Representative Look's question is yes, this land would be used toward a casino.

There is a further provision in the gaming act that would have to come into play and that is that after acquired land, later acquired land, is not usually considered appropriate for utilization under the gaming act unless the Governor of the state grants his approval. I think there is a further qualification in there.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: In view of the responses which my question brought forth I would say that Representative Farnsworth did understand my question. We have varied responses on this and I think that this is a question that we need to be absolutely sure of before we vote on this. I just want to call that to your attention. I really would like an opinion on this from the Attorney General, if possible.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would reiterate that the Attorney General has sent a letter around concerning the bill and the amendment — that comes from the Attorney General's Office and they don't have a problem with it. Therefore, considering that they are going to defending the state in the event of a lawsuit under IGRA I would think that if anyone had any problems with this they would be the first to jump on it and say no, this weakens our position. They have no concerns with this amendment.

It says, "People in my office and I reviewed L.D. 2010 along with our proposed amendment which would extend the acquisition date to the year 2001 for this

parcel only. We believe that passage of this language in state law would not influence any potential IGRA lawsuit. We have no objections to passing this legislation. Michael E. Carpenter, Attorney General."

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, I would pose a question through the Chair.

With regard to the Attorney General's memo, the Representative from Eastport is correct, as I read it. The Attorney General only comments on whether or not this bill would impact the IGRA lawsuit. My question is, by passage of this bill, are we saying ahead of time, ahead of negotiating a compact agreement, which would be the procedure were IGRA to be found to apply in this case, would we be setting a condition prior to that negotiation and, would this in any way impinge upon the states ability to negotiate a compact? I wonder if anybody would comment on that?

The SPEAKER: Representative Robichaud of Caribou has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Members of the House: I would like to respond to that question and also the earlier comment with the same answer and that is the only reference in here to a Tribal State Compact, it is just a compact and I don't think that it is a fair reading of this bill in any way to presume that that dictates the terms of any compact or restricts anything otherwise available to the parties to negotiate. So, for that reason, I would answer Representative Robichaud's question in the negative. I would also reassert that there is nothing in here that restricts or requires that this casino be located in Calais. It simply makes Calais have the same level of eligibility as other territories.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Men and Women of the House: I would like to respond to Representative Robichaud's question. I concur and I agree with Representative Farnsworth that there is nothing in the bill that makes this land, if it does become tribal land, go to a casino. It could be used for any purpose that would be so designated by the tribe.

However, I believe that if in fact this bill is passed with the amendment that what we are saying is that the agreement to be worked out in terms of the use of the land would be between the Town of Calais and the Tribe, subject only to good faith negotiations as provided for in IGRA. It would be my thought that we are in fact giving away a chip in the negotiations that could take place if in fact the tribe won under IGRA.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: Last Thursday we voted down having a casino in the State of Maine and here we are today, just a few days later asking ourselves where this casino will go. To me this seems very premature, there is no reason for us to be adopting this bill at this time. This bill has not had a chance to have a hearing, it has not gone to committee, it is a rushed

item at the last moment in the waning days of this legislature. I ask you to postpone this bill and not to act on it right at this moment.

I have even heard talk in the hall about this bill might encourage those to assume that they could start building and let the law case come later. I am sure that is not anything that would be stated in this hall but there are real concerns about what one does and we have not had a thorough hearing on this bill.

So, with your permission I would move to indefinitely postpone this bill with all its accompanying papers.

The SPEAKER: The pending question before the House is the motion to adopt House Amendment "A," the motion to indefinitely postpone House Amendment "A" would be in order, the Chair is unable to accept the motion to indefinitely postpone the entire bill since the entire bill is not before us.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Members of the House: I am a little confused as to why some are concerned about having negotiating ability with the tribes on this issue. In my opinion we had an ample opportunity last week and we turned that down.

Traveling back East this past weekend I confronted and dealt with all weekend long, a lot of disappointment, a lot of anger, a lot of noses bent out of place (if you will). I don't entirely agree with all of that. I am convinced that this House turned the gaming bill down because they were uncomfortable about putting their endorsement on gambling. That is a legitimate reason to vote against it. No question about it. Let me state that from Washington County right here and now.

However, what this does and how this is viewed and how I feel — this bill has been kicked around probably as much as anything we are going to kick around here today. Any more time to discuss it I think is a moot point and I really suspect it a delaying tactic and nothing more.

What this says to Washington County folks — this says even though I was uncomfortable in endorsing casino gambling in the State of Maine and I still am, if the tribes are successful under IGRA, if they even decide to go that way, Washington County, (the area that needs economic development most) is in the ball game. That is it. There are no guarantees that it is even going to go any further than this discussion today on the floor of the House. Washington County folks, like I stated last week, do not want a handout, they want an opportunity. Here is a chance to give them the opportunity to stay in the ball park if this type of economic development comes to the State of Maine. It is that simple.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think this effort is a cruel, cruel hoax on the Passamaquoddy people and on the people of Washington County. It is time that this casino project was put to death. We don't want it in the State of Maine and for some individuals to keep holding out for the hopes of these people who are looking for jobs and looking for assistance to create those jobs it borders on being a crime. I question why this bill is before us. We made the vote not to have casino gambling in this state and that should be it. For some entrepreneurs, some financial advisors to keep holding this carrot out in

front of the Passamaquoddy people and the people of Washington County is not right.

I have made efforts to contact people of both locations up there, both tribal governors and ask them for a list of their projects that they needed funds for, projects that are viable that I know about, that could be gotten funds for. That is what those people should be working on, not having a casino held out there in front of them from now until who knows when. Let's talk about real economic development for that area up there.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Farren.

Representative FARREN: Mr. Speaker, I would pose a question through the Chair.

Maybe I am a little confused on these conditions. However, in Item 2, Section C, it referenced a gaming regulatory act — if the contact with the Federal Indian Gaming Regulatory Act is agreed to by the state. I can't see but what this is directed toward building a casino at that location. However, my question is, it mentions in there that the only approval that they need for the purchase is the legislative body of the City of Calais. However, I think previously we heard from people in the surrounding communities which were concerned about the casino going there. Are there any provisions, that I can't find in that bill, that would permit that?

The SPEAKER: Representative Farren of Cherryfield has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I don't know of any language in there that would allow surrounding towns to vote on this. But, then again, I would think that would be setting a precedent and even though there were some folks in surrounding towns that were concerned with it you can in no way interpret that as the majority. All polls show two to one — that is beside the point, those are unscientific polls. I don't know of any other instances with economic development when a particular town had to vote on something that every town surrounding it also had to vote on it so I consider that a moot point. To answer your question, no, I don't feel there is any language in there that would allow that. I think that was your question, maybe I misinterpreted it but as far as I know there is no language in there to allow towns surrounding that area to vote on that, nor would I support something like that. I think that would be setting very dangerous precedent.

Also, Mr. Speaker, while I am on my feet I did want to respond to a couple of comments mentioned by the good Representative from Old Town, Representative Coffman. One of the things that Washington County folks are tired of is politicians coming down and telling us what is good for us. We are well able and capable of determining that for ourselves. I don't like the reference that we are holding out false hopes for our folks because those of us who represent Washington County, either on one side or the other of this issue, have forgotten more about what Washington County is about than those who don't live there will ever know.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative

Farren.

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I didn't make myself clear. I have no problem with acquisition of the land being approved by the City Council of Calais. However, I do have some concern when a casino, if that is what went in there, and that is what it indicates to me — the purpose of reserving the property — that impacts people more than just the people in Calais. I think at least the people in the surrounding towns ought to have some input on what is going to take place there.

In my opinion, it is going to have an impact over the entire county, but, at least we ought to be considering the people in the surrounding communities.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: The Passamaquoddy Tribe came before this legislature with a proposal for economic development and jobs and prosperity for Washington County. The legislature turned that down.

You have a bill before you, L.D. 2010, that was proposed by the Washington County area people asking if the tribe would consider, if the tribe chooses to pursue IGRA and won, would we consider that area again? That is all this bill does. That was by request of the Washington County area people.

I am not at liberty at this time to say what the tribal action is going to be, that is under consideration and deliberation by the tribe as a whole at Indian Township and Pleasant Point, and working with people that we need to work with in the Federal Government and those people at the state level that wish to work with the tribe so that we can develop as an honest working population of this state.

No one knows better than the tribal people the projects that we need to undertake and where we can go to meet the needs of our people.

I thank you for your consideration. It is really up to you if you want to consider L.D. 2010 for the people of Washington County. If the tribe pursues IGRA and if the tribe wins, it is the tribes choice as to where a casino will be built if that is what they propose to do. I am not saying that is what they propose to do at this time. Calais wanted to be in the ball game, as Representative Townsend said.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, I would like to pose a question through the Chair.

What is not clear to me is, is it necessary for us to pass this bill at this time, this late in the session without a public hearing or public work session? Is there some reason for that? Could the bill be put in next session and go through the normal process?

The SPEAKER: Representative Townsend of Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I didn't put the bill in and I didn't know about it until after it was decided to put it in. It makes sense to me that people would want to put it in now if they are from Washington County because I think there is a risk for Washington County that if the tribe were to decide to proceed

under IGRA and at the time they began that process, Washington County were not an eligible place, then if an order every were issued to negotiate for that end, it is possible that they might not be eligible as a form of relief.

I think there are possibly other ways to deal with that but, if you are from Washington County and you have just bared your soul to this Legislature and even had to look again yourself at how things are — I think they are trying to preserve the right, that is what this is all about.

I guess I feel very comfortable urging the legislature to support this for that reason as well because it also became clear to me that — as a matter of fact for both the tribe and others, including the state, I think it is quite possible that if they ever get to a place where under IGRA they are dealing with this, monetary considerations may play a much greater role for both or all sides or whatever, in locating a casino than the employment needs of Washington County because the market is much more lucrative in other parts of the state where the tribe already has land. I see that if this legislature has absorbed anything out of last weeks debate what I hope people absorb is the crying need and what I hope people would be comfortable with is acknowledging that there is that and just saying okay, this part of the state ought to be considered for that purpose if it is ever an issue. I don't see this as affirming in any way casino gambling because this Legislature spoke so clearly. But, I do see it as a very mild affirmation of Washington County and its needs and a very mild affirmation of the fact that people heard what was said last week so eloquently and so movingly (as far as I am concerned) by people from that area about what their people need.

I would ask the people of this legislature to remember what they heard last week and just listen to that part because without that it is possible that Washington County would be left in the dust again.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Men and Women of the House: I don't think Washington County needs a mild affirmation. I think they need a strong affirmation. I made an effort as soon as that bill died. I went upstairs and I asked those tribal leaders to present their projects; viable, economic projects. I called some people in Washington County and asked them to do that. I met with some banking concerns. I met with FAME. They are all willing to look at those projects. If we hold out the hope for a casino when we already voted no on casino, I think it is a crime.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: May I remind the Legislators that Calais is centrally located between the Pleasant Point Reservation which is 25 miles east of Calais and 25 miles going north is Indian Township. I would just like to make that point. And, we have Indian territory on both reservations.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I pose my original question not for any delay tactics. In all sincerity, it was a question in my mind as to exactly what this legal

term meant. At this point I am still not sure. I can see the need for acquisition of land, if the Passamaquoddy's desire this, but I wanted to know if they acquired this land under the terms of the second part of Section 3 that it locked it into the usage of a casino. I would have no objection of acquiring land and making other usage but because this legislature overwhelmingly refused or objected to the placement of casinos, I wanted to be sure whether this was land limited to be used as a casino or whether they could use it for any other purpose.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-1098). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative FARREN of Cherryfield requested a roll call on adoption of House Amendment "A" (H-1098).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

Representative DRISCOLL: Mr. Speaker, Members of the House: It has been a long year and a half. I went home this weekend and the people of Calais and the surrounding vicinity were sad. Even those who were, for one reason or another, against the casino. A lot of the people were sad about the way things went last week. A lot of people were telling us how we should live down there, what we should do, where we should go and you know we can think on our own feet.

This bill is a simple bill, it simply states that it is the last of the ninth, two outs, give us one more out, that is all we ask.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-1098). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 351

YEA - Ahearne, Aliberti, Ault, Bailey, H.; Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Constantine, Cote, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Hichborn, Hoglund, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saint Onge, Sullivan, Swazey, Townsend, E.; Townsend, G.; True, Tufts, Vigue, Wentworth, Young, The Speaker.

NAY - Adams, Aikman, Anderson, Beam, Birney, Carleton, Clukey, Coffman, Coles, Cross, Donnelly, Dore, Farnum, Farren, Gamache, Gray, Heeschen, Heino, Holt, Hussey, Joy, Kneeland, Lemont, Libby Jack, Lipman, Look, Lord, MacBride, Marsh, Marshall, Nickerson, Ott, Pendexter, Plowman, Reed, G.;

Robichaud, Rydell, Saxl, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Taylor, Tracy, Treat, Walker, Whitcomb, Zirkilton.

ABSENT - Bailey, R.; Barth, Caron, Cashman, Dexter, Foss, Hillock, Jalbert, Johnson, Kutasi, Libby James, Martin, H.; Michael, Nash, Pendleton, Pineau, Simonds, Tardy, Thompson, Townsend, L.; Winn.

Yes, 79; No, 51; Absent, 21; Paired, 0; Excused, 0. 79 having voted in the affirmative and 51 in the negative, with 21 being absent, House Amendment "A" (H-1098) was adopted.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I move that the Bill and all accompanying papers be indefinitely postponed.

The bill to be considered in the second part of the Legislature ought to be emergency in nature. The lawsuit by the Passamaquoddy's is yet to be filed. It is to be filed in Federal Court which is not a short process. We will be back here in January, some of us will be back here in January of next year. This bill should be resubmitted for the next session to be considered by the full complement of the Judiciary Committee with all the questions that have been considered here to be considered again and all the further questions that we would come up with will be also considered to benefit our analyst and the experience that the Judiciary Committee brings with it.

I ask you to indefinitely postpone this bill so that it can be fully considered and an appropriate decision can be made at that time.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Colleagues of the House: In my short time here I have heard several Representatives refer to a vote as being the hardest vote we will take. The hardest vote that I have ever made was made last week on this casino bill. I do oppose casinos in the State of Maine as a matter of public policy. I was very concerned about the overstatement of revenue. I was very concerned about what seemed to be a lack of attention to the potential social and economic problems brought about by a casino. I was afraid that area businesses would suffer and, finally, I was convinced by the simple statement that in order for a casino to be successful a lot of people have to lose a lot of money. I was very concerned about the people of Washington County and about our Native Tribes.

I don't think we are debating casinos as a public policy today. I would, therefore, urge you not to indefinitely postpone this bill but to support it. I will support it. I do still believe that casinos in the State of Maine are bad public policy but I believe what we are faced with will be the tribal rights of our Native Americans if those rights are upheld in Federal Court then we are being faced with or presented with a choice as to how to respond to that eventuality. I say that if in fact it will help the people of Washington County, if it is the will of the tribes and the people of Washington County, then I will support that effort in locating a casino in that part of our state.

I have been very impressed by what I have heard about the relations between the people of Calais and the tribes, the amount of work that was done on this bill and I want to give that support. I urge you to vote against the motion to indefinitely postpone this

bill and its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I apologize for getting up but I just needed to say something. I urge you to vote against this motion to indefinitely postpone this bill. I think it is important today that we (as a legislature) take a stand in favor of the people of Calais.

This is not going to allow a casino in our state. If the tribes so choose they will go to court to determine that under IGRA.

What this would allow is for the people of Calais, once again, to decide that should a casino be approved by the court that the people of Calais and Washington County would have an opportunity to have it placed there. I think it is only showing a bit of respect for them and their right to decide for themselves, for us to defeat this motion and go on to pass this bill.

Representative TOWNSEND of Eastport requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank you for your kind support. I want to urge each and every one of you to allow Washington County to stay in the ball game if this type of economic development comes to the State of Maine. And, I want to thank those who voted with us to allow us to walk back to Washington County with our heads held high.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Colleagues of the House: To allow us to stay in the ball game — what does that mean? It means that we will be allowed to have casino gambling in the State of Maine at Calais and we are picking that specific location and that specific property. We will be or may be faced with a lawsuit. When that lawsuit is over we will know whether the Attorney General was right in his opinion as to whether the Indians will be allowed to have casino gambling under IGRA or whether they will not be. It was the Attorney General's opinion which he ventured last week that they would not win that lawsuit and that casino gambling would not happen in the State of Maine.

It seems to me that the appropriate time to acquire land is after that court decision and not prior to it.

I remind you that last weeks debate (and vote) overwhelmingly said that we did not want casino gambling in Maine and suddenly again this week we are debating where we will put this casino. It seems ill-timed and inappropriate to have that vote now. Let's wait until next session, let's wait until that decision is rendered.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: The Attorney General has stated his opinion that the State of Maine will prevail in a lawsuit under IGRA. That is not really the issue. Indeed, he stated in his letter, explicitly, that he believes that passage of this legislation will not prejudice the position of the state in that potential lawsuit.

I voted against the casino bill but I will be voting against the motion to indefinitely postpone. I believe that is the appropriate move from the perspective of the State of Maine — because, someone said we are deciding to have a casino in Calais — that is not what this bill would do.

If, (if) the tribe were to prevail under IGRA they have quite a number of options of tribal land to choose from. I think it is the State of Maine's advantage to have one of those options be Calais. Many people in this body have a philosophical objection to casinos in general. But, I think most of us all agree that a very strong case was made that if we have casinos, Calais is an excellent location (from our public policy point of view for the entire State of Maine) for such casinos.

I would much prefer that when the tribe is considering a lawsuit, when they are going forward with their options, that if they go forward with those options, they will have Calais as a potential location that they would focus upon rather than some other location which the State of Maine might find much more objectionable. I would much rather have the Calais location on the menu, if you will.

So, I will oppose the motion to indefinitely postpone. I think it is good public policy to allow for that as an option.

I oppose casinos in general but if the tribe prevails under IGRA I think this puts the state, and the tribe, and the people of Washington County in a reasonable posture for all concerned.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: I would implore you not to support the indefinite postponement of this L.D. and its papers.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I think this debate has gotten too broad. We are talking about the same issue that we discussed last week when the casino bill was before this body. The issue to me is whether or not we are now going to open up an opportunity for the tribe if it is successful under IGRA to automatically have the right, together with the people of Calais to, place that casino where the bill had proposed it last week. It seems to me that it is the cart before the horse.

One of the most compelling arguments that floated around these halls last week, and as a matter of fact even before our committee (the Judiciary Committee) was the fact that the tribe would have the right to obtain permission or a license for a gaming casino under Federal Regulation (IGRA), so why not get on board early so the state would have an opportunity to discuss and negotiate terms that looked upon that process, that placement of that casino in Calais with certain rules and regulations that were within the

states purview to establish.

If we pass this measure it seems to me we throw that out the window and we say that if the Indians are successful in obtaining permission from IGRA to establish a casino then they would have the opportunity without any further negotiations with the state to place that on trust land, which if this were passed would include those lands in the Calais area.

It would be my opinion that we should withhold this permission by postponing this bill at this time. If the tribe is successful under IGRA, then at that point, if there is still interest to establish a casino in the Calais area, expressed both by the tribal members and the people in Calais, then let them come to this body and ask that that be established there. At that time it seems to me that there is still an opportunity for both sides to establish some negotiations that would be favorable to everyone.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I think the debate here has gone far afield and I would request, simply, that everyone look at the Statement of Fact in regard to this amendment. This amendment extends to the year 2001, the date for the Passamaquoddy Tribe to acquire territory, only with regard to 100 acres in Calais and not with regard to other areas where the tribe has previously been authorized to acquire territory.

I would ask you to please do not indefinitely postpone the bill and papers.

I voted against the casino but I voted against it not on moral grounds but rather a so-called economic development tool which I did not see it to be fulfilling.

I would ask you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I agree with both the previous speakers, that this debate has gone afield and that what we are looking at here is whether or not to adopt this bill, which is fairly specific, but has not had the privilege and the deliberations that is given through the committee process.

I have a specific question that arises immediately to mind. On line 20 in the amendment on the second page, where it says any land not exceeding 100 acres in the City of Calais. Does that mean that that is one parcel of land not exceeding 100 acres or is it several parcels that add up to 100 or is it several parcels each that contain 100?

I don't know the answer to that question — this is the kind of problem that we get when we have bills in late in the session. Maybe that could be easily answered and perhaps other members can come up with questions as well.

I am going to be voting to indefinitely postpone this bill and its papers because I haven't been convinced of the need to do this right now and I agree with Representative Ott that perhaps we should wait until the next legislature can investigate this thoroughly and put a bill before us that has had the appropriate committee deliberations.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to raise some

questions in regard to this bill. Again, these questions are being raised because we have not had a public hearing, we have not gone through the committee process.

One question, Representative Farren brought up some time ago, maybe an hour ago, what do we do in terms of assuming the Tribe wins the IGRA suit, therefore they go to Calais, they get approval, what about the infrastructure in the neighboring communities?

What do we do about state taxes?

What do we do about police protection?

These are items, the reason they should be left open so if in fact they win the suit that we are open to negotiate with these items.

As I stated earlier, I think that one of the issues that if you win — and in the Attorney General's opinion says that this bill will not affect the capacity to win or lose a suit, I don't dispute that, but the question is, are we (as the State of Maine) as well off in working with the tribe in the Town of Calais, in Washington County, having passed this now versus waiting and putting something together in a sensible fashion and covering all these areas including infrastructure?

I would urge you to support the pending motion and wait until a bill comes in and we put something more comprehensive together.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: The essence of this bill is to take 100 acres in Calais and make it eligible for inclusion in Passamaquoddy Indian Territory. That was the essence of the two-page bill that came before this session last year. That was the fundamental feature in the beginning of the 40 page amendment that we debated at length last week. I find it slightly ironic especially since I am concerned about similar issues with respect to several other, much bigger bills in front of us right now that this particular bill be labeled as one that is newly before us, something that we have never seen before. I don't think that we have had too many bills where that part of it has seen as much light of day as this part.

I really believe that the discussion we have had today is in fact away from this bill. What we are trying to do is preserve eligibility for Washington County. It is possible they will loose that.

The fact is that if it is ever ordered that we have to have a casino on Indian territory here, I strongly believe that, there are other markets usually much closer to urban areas or for example ski resorts where the market will be more lucrative. Both the state and the tribe, by that time, after all the expense they may well have been through may have different interests than they did last week when they came in concerned about unemployment. We had that discussion last week. We are not entering into a casino agreement on a voluntary basis here anymore.

I think the Legislature has made very clear we do not endorse, as a policy, casino gambling in this state. This bill is to give Washington County the option, the eligibility, for being considered if it is ever ordered.

I would urge you to vote against indefinite postponement.

The SPEAKER: The Chair recognizes the

Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I would say that this piece of legislation does just allow Washington County to stay in the running. It doesn't take away any of the states rights to negotiate in good faith once IGRA applies. I am going to vote against the indefinite postponement and I would urge all of you to do the same.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I resented, very deeply, last week when I got threatened with IGRA. When I was threatened that I should vote a certain way because of IGRA. I feel that this bill is even more of a threat and more of an affront being threatened with IGRA. If Tom Tureen and his financial wizards could have built a casino without state permission and sharing state funds with the state, be assured he would have. He knows that, it is time we know it too.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: This raises for me again more or less the same question I asked earlier which isn't clear to me is exactly how Washington County could lose any eligibility between now and January? It seems to me that any lawsuit would take at least that long. If I can hear a very clear, very explicit, very convincing reason as to how they might lose eligibility between now and next January when we would have the opportunity to debate this in a public hearing and have a public work session, I might be convinced to support the bill but I have not heard that argument yet.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Once again I will remind folks I am not a lawyer and I am not going to try to speak in legal terms. It is the feeling that if we are not included ahead of time, if they go to court, then they would have no reason whatsoever to want to include Calais in the running. We are not asking you to endorse casinos, that has been stated. We are not asking you to give us anything. We are asking you please do not eliminate us from the process.

The most important thing about this bill (to me) and I will let the lawyers argue the legal aspects, I am satisfied with the state's highest lawyer's opinion.

Washington County has been knocked down. That is the attitude in Washington County. If you don't believe me travel down there. Talk to some folks down there. I don't mean on the phone to those that you pick out — I refer that to one particular person, get down there (if you care) and talk to people.

I had people calling me all weekend, not only those that were for the casino but those who were definitely against the casino, felt like they got a slap across the face. Now, whether that is real or perceived I have already made my statement on that, I feel it is perceived. I have full confidence in this House, I am very proud to be a member of it and I feel that you voted against it last week because you had a problem endorsing gambling. I accept that. I admit it took me a couple of days to come to that

conclusion but I accept it. You are absolutely correct and it is a legitimate reason to vote against that bill.

All we are asking you now, whether it is legally important or otherwise, we are asking you to extend to Washington County and all the people and say to those folks the vote was not against you, the vote was against gambling. We want to leave you in the ball game if this comes. That is all that is being said. I don't understand what is so difficult to see in this.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: In answer to the question, again, posed by the Representative from Portland, it is my understanding that the issue could come up in the following way. If a court decision were issued, the court (as it did in Rhode Island) if it were issued in favor of the tribe (if there were a court case so and so forth) the court would order the state to negotiate over the placement of or establishment of a casino on Indian land or Indian territory (I am sorry I don't know which word is appropriate right this minute) but if Calais is not included in Indian land at the time the court order is issued then it can not be included in that order. The state would be ordered to negotiate over anything just about, except for Calais, that is in Indian territory. That would be my understanding of how it could be possible that Calais could be excluded. In other words, the whole — IGRA does require negotiation with the state. It has limited what can be demanded to be bargained over by the state but it does require a negotiation with the state. When they issue the order they would be ordering bargaining over a casino in Indian territory so Calais has got to be in Indian territory in order for that to be appropriate subject matter of such an order.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, I would pose a question: We have heard court cases, we have heard IGRA, can anybody give me an idea how long it is going to take a court case for IGRA to get through the courts?

The SPEAKER: Representative Lord of Waterboro has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Men and Women of the House: It would be my estimate, by the time you went to the First District Court (which they did in Rhode Island) and the Circuit Court of Appeals, which they have done, it would probably take three to four years.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I have also talked to lawyers who would say it could take as little as six to eight months. I think when you ask that question you are asking for somebody to guess.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: Just on that point I guess I

would just comment that the First Circuit, which is our circuit of federal courts, has just ruled in this matter so they are going to be able to move a little faster than they usually would, in part.

Secondly, I think there is a question legally that whether or not if Calais is not included in Indian territory at the time the lawsuit is filed (if there were one) then it might not be properly included within the order. That is my concern.

I guess that I would just say that I feel so convinced myself of the need in Washington County that I don't want to risk the fact that because we estimated the time wrong or because we weren't right about whether or not they have to be included that we leave them out.

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of the Bill and all accompanying papers. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 352

YEA - Adams, Aikman, Anderson, Ault, Bennett, Birney, Carleton, Clukey, Coffman, Coles, Constantine, Cross, Donnelly, Farnum, Farren, Gamache, Gray, Heeschen, Holt, Joy, Kneeland, Lemont, Libby Jack, Lipman, Look, Lord, Marsh, Marshall, Michael, Murphy, Nickerson, Ott, Pendexter, Plowman, Reed, G.; Robichaud, Rydell, Saxl, Simoneau, Small, Stevens, A.; Stevens, K.; Taylor, Tracy, Treat, Walker, Whitcomb, Zirnkilton.

NAY - Ahearne, Aliberti, Bailey, H.; Barth, Beam, Bowers, Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heino, Hichborn, Hognlund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Saint Onge, Skoglund, Spear, Strout, Sullivan, Swazey, Townsend, G.; True, Tufts, Vigue, Wentworth, Young.

ABSENT - Bailey, R.; Caron, Cashman, Dexter, Foss, Hillock, Johnson, Kutasi, Libby James, MacBride, Martin, H.; Nash, Pendleton, Ruhlin, Simonds, Tardy, Thompson, Townsend, E.; Townsend, L.; Winn, The Speaker.

Yes, 48; No, 82; Absent, 21; Paired, 0; Excused, 0. 48 having voted in the affirmative and 82 in the negative, with 21 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by House Amendment "A" (H-1098) in non-concurrence and sent up for concurrence.

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

Reference is made to (H.P. 1385) (L.D. 1884) An