

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Sixteenth Legislature
OF THE
State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate
April 7, 1994 to April 14, 1994

SECOND CONFIRMATION SESSION
May 11, 1994

THIRD CONFIRMATION SESSION
July 29, 1994

FOURTH CONFIRMATION SESSION
November 14, 1994

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **HALL** of Piscataquis, **RECESSED** until 1:30 this afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Relating to the Definition of Passamaquoddy Indian Territory" S.P. 780 L.D. 2010

Committee on **JUDICIARY** suggested and **ORDERED PRINTED.**

In Senate, April 11, 1994, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1098)**, without reference to a Committee, in **NON-CONCURRENCE.**

Senator **VOSE** of Washington moved that the Senate **RECEDE** and **CONCUR.**

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I feel that this bill is progressing pretty rapidly and deserves an explanation to the people in this body. The amendment that was placed on this bill is in reality the bill itself. It was suggested by the Attorney General and he has no problem with the amendment and has no problem with the bill. First thing I want to tell you that a vote for this bill does not, and I repeat does not, indicate that anyone here is in favor of casino gambling in the State of Maine. That was thoroughly discussed in our bill before this and it was obvious that just wasn't going anywhere. So, therefore, the only way that a casino can be constructed in the State of Maine is under the IGRA which is the Federal Indian Game and Regulatory Act. Now under that Act any federally recognized tribe may construct a casino or enter into a compact to construct a casino within the state. As you know, the Attorney General of the State of Maine has disagreed that the tribes here in the State of Maine can in fact construct a casino under that Act because of the land claims. However, if the Passamaquoddy tribe goes to court under IGRA, then it's possible that they may win and if they win then this bill makes it possible to construct the casino on 100 acres of land in Calais. I'd like to explain it just a little further because when you go to court under IGRA, you must put the gambling casino under trust land, land owned by the tribe under trust. Therefore, this bill says, and I'll read it because I think it should be read, first off the bill starts in and tells all about the lands that was in the land claims act which they can purchase, and adds this parcel. It says "Any land not exceeding one hundred acres in the City of Calais acquired by the secretary for the benefit of the Passamaquoddy tribe as long as the land is acquired by the secretary prior to January 1, 2001." I want to make it very clear that the original said 1991. The 2001 only applies to this particular parcel. It does not apply to any other land. That's over with. "It is not held in common with any other person or entity and is certified by the Secretary by January 31, 2001, as held for the benefit of the Passamaquoddy tribe if the acquisition of the land by the tribe is approved by the legislative body of that city and a tribal state compact under the Federal Indian Game and Regulatory Act is agreed to by the state and the Passamaquoddy tribe", which is unlikely quite frankly, because of the vote taken here, "or the state is ordered by a court to negotiate such a compact" and it's that simple. It simply says that if we have to have a casino in the State of Maine, this would allow Calais to be in the ball game. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would pose a question to the good Senator from Washington County. Is this an amendment to the Indian Lands Claims Settlement Act?

THE PRESIDENT: The Senator from Hancock, Senator Foster, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Yes, in fact it is. It is part of that. You can add to it but you can't subtract from it

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have served fourteen years in Augusta and over the years I have seen an amendment every year to amend the Indian Lands Claims Settlement Act, whether it is to change what land can be used for. I think maybe two years ago the most onerous was that the Indians Lands Claims Settlement Act would be amended so that the Indian lands would not come under the jurisdiction of LURC, such as all of our lands do. No control over the land. I think probably, I know I am going to vote against it because this is the first attempt to change the definition of what land can be used. I notice there was another amendment that didn't reach our desks on another parcel of land to be changed. This can go on and on and on. We have an honorable contract in an Indian Lands Claims Settlement Act paid for by we citizens and I really object to amending that contract over and over again and I would ask you to vote against this amendment because the next time there will be another one just like this that will come in and say the very same thing and it will be a tract of land somewhere else asking for an exception.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I may, Mr. President, I would like to pose a question through the Chair. I don't have an objection to this particular bill unless this bill would preempt the State's ability to enter into a contract with the Indians should this Federal Gaming Act law suit that I am assuming we are going to see come forward if it passes, and they win the suit, and we agree to this bill, does the State have any role in the decisions the casino may make? Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question. I did, in fact, check with the Attorney General to see if this would have any adverse effect whatsoever on the court case and the answer was absolutely not. Should they win the court case, it would have no effect on the compact that would be negotiated between the Governor and the tribe. The only thing it does is that if they so wish they could request that that be the area or the place where they put it. That is what this bill does. No it does not interfere in any way whatsoever.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When the Indian Lands Claims Settlement Act was passed one of the provisions of that settlement, of course, a certain amount of money that was given to the tribe and that money was to be used to buy land in the future. At the time that that particular document was passed, I was here in the Legislature and I served on the Indian Lands Claims Committee for the Maine Legislature some seventeen or eighteen years ago,

whenever it was, and the understanding at that time was that the Indians who received the money to buy land, could not buy land all at once. Nobody goes out and buys land all at once. They employed a number of different companies, the Sewall Company of Old Town being one of them, to go out and survey land to see that they weren't buying a pig in a poke and so we knew at that time that they were going to have to come back to the Legislature several times after that to put the boundaries down on land they wanted to purchase because the agreement was that it would be done, if the tribes approved, and then if the State approved. It had to have both parties approve. That went on for a number of years. They accomplished the purchase of a lot of land, the Penobscots did and so did the Passamaquoddy over a period of at least a decade because they couldn't do it all at once. It wasn't offered all at once. They didn't have a chance to buy it all at once. There was always a provision in the Indian Lands Claim Settlement that they could come back to the State and ask for permission to purchase certain lands to be held in trust for them. So this is not unusual. The only unusual part of this is that it has been some time since they have been here to ask for this kind of permission which is required in the Indian Lands Claims Settlement Act. I will agree with the Senator from Hancock that the drive to take themselves out from underneath LURC was unfortunate. I voted against that and I think it was improper, it was not well done. With regard to buying land and holding it in trust for the Passamaquoddis is not unusual and it has been done a number of times since I have been here, probably a score of times for both the Penobscots and the Passamaquoddis.

On motion by Senator **VOSE** of Washington, the Senate **RECEDED** and **CONCURRED**.

Off Record Remarks

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **CIANCHETTE** of Somerset was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **ESTY** of Cumberland, **RECESSED** until 4:00 this afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

An Act Relating to the Definition of Passamaquoddy Indian Territory
S.P. 780 L.D. 2010
(H "A" H-1098)

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

On motion by Senator **PEARSON** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 to Provide Funds for Assistance to Maine Businesses

H.P. 1148 L.D. 1547
(C "A" H-949)

Tabled - March 31, 1994, by Senator **PEARSON** of Penobscot.

Pending - **ENACTMENT** (Roll Call Ordered)

(In Senate, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-949)**, in concurrence.)

(In House, March 31, 1994, **PASSED TO BE ENACTED**.)

On motion by Senator **HANDY** of Androscoggin, the Senate **SUSPENDED THE RULES**.

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

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-949), in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-639) to Committee Amendment "A" (H-949) **READ** and **ADOPTED**.

Committee Amendment "A" (H-949) as Amended by Senate Amendment "B" (S-639) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

On motion by Senator **PEARSON** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Safety Improvements at the Baxter School for the Deaf

S.P. 700 L.D. 1898
(C "A" S-538)

Tabled - April 7, 1994, by Senator **TITCOMB** of Cumberland.

Pending - **ENACTMENT**

(In Senate, March 29, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-538)**.)

(In House, March 31, 1994, **PASSED TO BE ENACTED**.)

On motion by Senator **CARPENTER** of York, the Senate **SUSPENDED THE RULES**.

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

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-538).

On further motion by same Senator, Senate Amendment "A" (S-621) to Committee Amendment "A" (S-538) **READ** and **ADOPTED**.

Committee Amendment "A" (S-538) as Amended by Senate Amendment "A" (S-621) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE**.