

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Eighth Legislature
State of Maine

Daily Edition

Second Regular Session
beginning January 3, 2018

beginning at Page 1451

Senate at Ease.

The Senate was called to order by the President.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess the Senate was called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later Assigned (3/29/18) matter:

Resolve, To Establish a Task Force To Examine Agricultural Issues (EMERGENCY)

S.P. 646 L.D. 1747
(C "A" S-388)

Tabled - March 29, 2018 by Senator **DAVIS** of Piscataquis

Pending - **FURTHER CONSIDERATION**

(In Senate, March 20, 2018, on motion by Senator **DAVIS** of Piscataquis, Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) READ and ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388).**)

(In House, Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) READ and ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) AS AMENDED BY HOUSE AMENDMENT "A" (H-690)** thereto in **NON-CONCURRENCE.**)

On motion by Senator **MASON** of Androscoggin, the Senate **RECEDED** and **CONCURRED.**

The Chair laid before the Senate the following Tabled and Later Assigned (4/3/18) matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Authorize Tribal Gaming" H.P. 838 L.D. 1201

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-697)** (6 members)

Tabled - April 3, 2018 by Senator **MASON** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**

(In House, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-697).**)

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, ladies and gentlemen of the Senate, thank you very much, Mr. President. This came out of our committee. I'd ask you to vote against the pending motion. This bill is a compromise that has a couple of fairly unique features to it. First of all, it would require all federally recognized tribes in Maine, all four of them, to get together under a legal umbrella in order for them to even apply for a license. It would allow them to set up a gaming operation either on tribal land or on land in a municipality with approval of the municipality. It would allow them to use a significant amount of the revenue from that for their wellbeing. Our tribal friends in Maine have not been treated well in recent years. Gaming was forbidden in Maine for many years and when it came to Maine it came to Maine on the wings of a proposal that was, actually was, put forward by one of the native tribes. Somehow in the shuffle, they're the ones who got left behind and the big corporations, with the out-of-state and out-of-country shareholders and bank accounts, were able to go forward and to thrive. Tribes have been trying to catch up ever since. They get, literally, table scraps from - two of the tribes get table scraps from one of the casinos and the other two tribes, the two that I represent, get nothing. This would allow them to come together as Native Americans, as a part of the Wabanaki Confederation of many, many years ago, and put together a legal entity and move forward and apply for licensure. The funds would go back to them, beyond the tax that would come to the State. There is no cascade attached to this bill, as there is with the other bills. Mr. President, I request when the vote be taken it be taken by the yeas and nays.

On motion by Senator **CARPENTER** of Aroostook, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON**: Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, I would urge you to vote with me on this motion, on the Ought Not to Pass. There is a bunch of problems in this bill, a couple of which I will outline for you. The tax rate for this supposed new casino would be half the rate that the existing entities currently have to pay. The rate would be at 25% instead of 50% and would create quite an advantage for this new casino. One of the other things, and some of you might remember if you were here during the 126th, we had a long debate on what 100 miles is. The good news is we would have a new debate on this because that limitation would be moved from 100 miles down to 50 and that, I think, would be a major problem. But probably the biggest problem in this bill, in this amendment, is that the license itself would have to be agreed on by all of the tribes in the state but, as long as they stuck together for six months, after six months they could disband as long as two stayed in the agreement. One of the biggest problems that we have had in this state regarding the licensure of casinos is that they're incredibly lucrative and one of my concerns is that there could be a deal cut after this casino license was given to pay off other tribes and we could have a whole other mess on our hands like we had in the last referendum Question 2 on the ballot. So there's a lot of problems with this bill, Mr. President. I don't think that now is the right time to authorize another casino in the State of Maine and I would urge the Senate to join me on the Ought Not to Pass Report. Thank you.

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

Senator **GRATWICK**: Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I, too, rise in opposition - in support of the Majority Ought Not to Pass on this. There are several issues that are here. But the larger one, looking at the larger context, is: are we going to honor our commitments to, one, the tribes and, second of all, to the cities that have been living with what we have so far? I wish to speak for the issues of Bangor. Bangor, in 2002, came with one of the parties that came here to the Legislature. We had reassurance, significant insurance, that we were going to be part of the cascade and, in consequence, Bangor invested \$65 million in the Cross Center, as you know. Many of you have been there. It really is a very good feature. It brings much economic activity to our end of the State and it is dependent on the revenues that are coming from Hollywood Casino there. I'm very concerned that, lacking any other source of funding, we're hollowing out our city. Many people are already fleeing the center city and they're going to surrounding suburbs where taxes are lower and without having this money in the City of Bangor we are going to continue a downward trajectory, one that we've avoided for quite some time now, I think partly because of Hollywood Casino, and I strongly urge that we adhere to the commitment that we made to small cities like Bangor, are very important. There are those people who live here in Maine who love their small cities and their small towns and, to me, that's what - the way we should be voting on this one and I strongly urge you go along with the Majority Ought Not to Pass. Thank you, Mr. President.

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

Senator **BELLOWS**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the pending motion and I recognize that there are good and thoughtful perspectives on all sides, but I'm particularly grateful to the tribal chiefs for taking the time to come here, to Augusta, to meet with me and others and I'm grateful to tribal representatives, including most recently Representative Henry Bear of the Maliseet Tribe, for sharing their perspectives, and I think there are a number of considerations, but for me the most important consideration is that of tribal sovereignty, the right of the tribes to govern themselves within our borders and the borders of the United States. For me, that is the fundamental question. I'll just share, quoting Representative Rachel Talbot Ross in her testimony before the Veterans and Legal Affairs Committee. She noted that this Legislature was the first Legislature in North America to adopt a Resolution expressing support for the United Nations Declaration on the Rights of Indigenous Peoples. That happened in 2008, and I'm so glad it did. She read a few passages from the Declaration on the Rights of Indigenous Peoples and I quote, 'Concern that indigenous peoples have suffered from historic injustices, colonization, and dispossession of their lands, territories, and resources, thus preventing them from exercising their right to development in accordance with their own needs and interests.' That's why I will be voting against the pending motion and hope that we might get to the underlying report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY**: Thank you, Mr. President. I rise in a rare moment of uncertainty for myself. I know in committee folks have an opportunity to testify for, against, or neither for nor against. I guess I rise neither for nor against, though recognizing I will have to pick one button or the other. I'll say I do have some concerns with this bill. I have some concerns that have been raised by the good Senator from Androscoggin about the disparity in taxes. I have some concerns that this could go anywhere in the State, not just on tribal lands. But I also - I recognize, and I think it really bears being noted, the complete inequity of the system that currently exists. You know, we have a system right now with, essentially, two firms having complete monopoly, control over this industry. Two firms that spend a lot of resources to keep out competition and I hear folks say all the time, 'Well, these two firms - these two firms had to pass through a statewide referendum in order to get the ability to do their gaming facility,' and I certainly hear and respect that. I also note that when they did go through that process of that referendum they only had to go over the hurdles of convincing people that we should allow gaming facilities in the State. They did not have to necessarily compete with established businesses willing to pump in millions of dollars to oppose their efforts, to try to restrict competition. So I don't know that this is the right bill. I'm not sure if I'm going to be green or red on this today. But I think that we're here today on this bill in part because of a failure of the overall Legislature to really address this system and I do think that, you know, we said - it's been said for years that we need overall reform for this system, this kind of mishmash of, you know, asking permission for this one group here, that one group there, this referendum here, that referendum there. That's not a way to govern this industry and I'm not sure what I'm going to do today, Mr. President, but I'm sad that we're in this spot. Thank you very much.

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

Senator **MAKER:** Mr. President, ladies and gentlemen of the Senate, I promised I wasn't going to stand today. I did, I promised. But I'm standing because of the fact that every time someone from Washington County, like this, someone from another area says, 'Oh, you can't do that because you're going to take it away from my area.' I want to remind every single person here, it was the tribe that was going to do the very first casino. Very first. This bill, I'm going to support it. It's not the best bill to have, and I wish we could fix it to make it right. But it always happens when something happens. Well, we're going to lose money here, we're going to lose money here. Don't forget, it was Washington County, it was the tribe, that wanted to do it first. I just wanted to remind people. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, I rise in support of the pending motion, not because I have any animus to the underlying desire of the State's tribes to have an opportunity, but to talk about the fairness of this. Mr. President, when we talk about the gaming industry in Maine we talk about a controlled industry, as is the alcohol industry in Maine, as are a number of other industries that we have required to be licensed. Part of that has to do with public safety. Part of that has to do with control and understanding. Part of it has to do with negotiated deals. In this State we negotiated a very large percentage of the revenues from these two properties to be distributed to a number of people, including members of some of the indigenous tribes here in Maine. Mr. President, I think when we make a deal we have to honor those commitments until we have a thoughtful discussion about how we are going to adjust the business models that we've created for these two facilities that operate in Maine, recognizing that there are changing dynamics in the gaming industry outside of our state that will have an impact on them and recognizing that there are other activities that have become dependent upon those revenue streams to subsidize either revenues for harness racing, revenues for a very successful convention and civic center in the City of Bangor, and other entities across our state that have come to find the revenue mix important to them. So it's not just a matter of whether somebody came up with the idea first. There's a lot of people who came up with hamburger restaurant ideas that didn't become as successful as Ray Kroc. That isn't to say that McDonald's is bad. It is to say that they came up with a model that was acceptable and was marketable on an ongoing basis. To say that this is a free market situation really does not reflect on what agreements were made on the behalf of the investors in these entities to bring this type of gaming here. Now I say that recognizing the fact that I'm not a big fan of gambling being considered economic development. I think that we dance very close to the flames there when we do that and, for our fellow residents who are proud of their heritage of being Native Americans, I think we have to reflect upon the opportunities that are there for them, where they may be able to provide jobs, provide economic benefits without relying upon an industry that is going to continue to be very contentious. Thank you, Mr. President, for allowing me to speak.

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

Senator **DILL:** Thank you, Mr. President. Ladies and gentlemen of the Senate, yes, I do rise this time correctly. I think you've probably heard from both sides of the aisle here this morning that this may not be the best crafted bill that could go forward dealing with this issue. But is it - is gaming the best path forward for the tribes in the State of Maine, economically? Probably not. But I think that they deserve a chance at some type of movement forward and I think that the best way forward in this is to go ahead and pass this bill and then, I think, there's two or three things that we could come forward with in a floor amendment to make this much better. So I urge you to vote against the pending motion. Thank you.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm not much of a gambler myself, but I was on the - I was Chair for the Veterans and Legal Affairs two years ago and we dealt with this and we came up with a very good solution, I thought, but the tribes did not agree with each other and it kind of threw it down to the wayside. So it didn't make it. Now this particular one kind of dropped off from statewide to just a county and they could also put their casino anywhere in the State and also that it's half of what the tax would have been. There's a lot of problems with this one on the cascade level, because it would make it uneven for the other casinos as well. I believe that this way it's been crafted is not a very good solution and that's why I'm going to vote for this pending motion. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I apologize for rising a second time and rise in a rare moment of disagreement with my good friend and colleague from Penobscot County who cited Ray Kroc. You know, I enjoyed seeing recently the founder - the movie about Ray Kroc, starring Michael Keaton playing the role. You know, I don't recall any point in his story him using government to restrict competition and to establish himself as the one and only business able to exist in that industry. So I just wanted to note I don't think that that's an apt comparison. Thank you.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought Not to Pass Report. A roll call has been ordered. If you are in favor of the Ought Not to Pass Report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#594)

YEAS: Senators: BRAKEY, CHIPMAN, COLLINS, CUSHING, CYRWAY, DESCHAMBAULT, DIAMOND, DOW, GRATWICK, HAMPER, HILL, KATZ, KEIM, LANGLEY, MASON, MILLETT, ROSEN, SAVIELLO, VOLK, WHITTEMORE, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, DILL, DION, JACKSON, LIBBY, MAKER, MIRAMANT, VITELLI, WOODSOME

ABSENT: Senator: DAVIS

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Amend Maine's High School Diploma Standards and Ensure Maine Students Meet State Standards upon Graduation"

H.P. 1336 L.D. 1898

Comes from the House, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

On motion by Senator **LANGLEY** of Hancock, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Resolve, To Require the Department of Health and Human Services To Submit a State Plan Amendment Regarding Assets in Retirement and Education Accounts

H.P. 1337 L.D. 1899

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **MASON** of Androscoggin, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1335

**JOINT RESOLUTION
RECOGNIZING APRIL 7, 2018
AS MAINE MASONIC DAY**

WHEREAS, Freemasonry is one of the oldest and largest fraternal organizations in the world, open to men of any race, religion or social standing, and it provides opportunities for fellowship, charity, education and leadership based on the 3 ancient Masonic tenets of Brotherly Love, Relief and Truth; and

WHEREAS, the first Maine Masonic Lodge was formed in 1762 and the Grand Lodge of Maine was incorporated on June 16, 1820 as one of the first legislatively created institutions in the State, with Governor William King serving as the first Grand Master of Maine; and

WHEREAS, many of the country's famous patriots were Masons, including Paul Revere, George Washington, John Hancock and Benjamin Franklin, and many sons of Maine were Masons, including at least 33 Governors, Civil War Brigadier General Joshua Chamberlain, arctic explorer Rear Admiral Robert Peary, businessmen and philanthropists Harold Alfond and Galen Cole and famed baseball coach John Winkin, Jr.; and

WHEREAS, throughout history Masons have been committed to serving their communities through charity and continue to do so today through such projects as working with schools and libraries to encourage children to read; providing school teachers and administrators with free educational training and tools to identify and assist at-risk children; offering free specialized education in Portland and Bangor for children with dyslexia; and working with the Shriners, who operate the Shriners Hospitals for Children, an international hospital network providing no-cost, state-of-the-art burn and orthopedic care to children; and

WHEREAS, on Maine Masonic Day, April 7, 2018, Masonic lodges throughout the State will confer the Master Mason degree on men of character who wish to improve themselves and benefit their communities; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-eighth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize April 7, 2018 as Maine Masonic Day and to express our appreciation of the charitable contributions of Masons to their communities and the State.

Comes from the House, **READ** and **ADOPTED.**

The Joint Resolution was **READ.**