

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth
Legislature*

OF THE

STATE OF MAINE

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to An Act relating to the Regulation of Private Detectives, Senate Paper 344, L. D. 984 be indefinitely postponed. If you are in favor of indefinitely postponing House Amendment "A" you will vote yes; if you are opposed you will vote no.

ROLL CALL

YEA — Ault, Bailey, Baker, Barnes, Berry, G. W.; Berube, Birt, Bither, Brawn, Brown, Bunker, Call, Carey, Carrier, Clark, Cote, Crosby, Cummings, Curtis, A. P.; Curtis, T. S., Jr.; Cyr, Dam, Donaghy, Emery, E. M.; Evans, Farrington, Faucher, Fecteau, Fraser, Gagnon, Gill, Hall, Hancock, Hawkens, Hayes, Henley, Hewes, Immonen, Jutras, Kelleher, Kelley, K. F.; Kelley, R. P.; Kilroy, Lee, Lewis, Lincoln, Lizotte, Lynch, MacLeod, Maddox, Mahany, Manchester, Marsh, Marstaller, McNally, Mosher, Orestis, Page, Payson, Pontbriand, Porter, Rand, Rollins, Scott, Shaw, Shute, Silverman, Smith, E. H.; Starbird, Tanguay, Theriault, Trask, Tyndale, Webber, White, Williams, Wood, M. W.; Wood, M. E.

NAY—Bartlett, Bedard, Bernier, Berry, P. P.; Binnette, Boudreau, Bourgoin, Bragdon, Carter, Clemente, Collins, Conley, Cooney, Cottrell, Dow, Doyle, Dyar, Finemore, Gauthier, Goodwin, Hardy, Haskell, Herrick, Kelley, P. S.; Keyte, Lawry, Lebel, Lessard, Lewin, Littlefield, Lucas, Lund, Martin, McCloskey, McCormick, McTeague, Millett, Mills, Murry, Norris, Parks, Pratt, Simpson, L. E.; Slane, Smith, D. M.; Stillings, Vincent, Wheeler, Whitson, Wight.

ABSENT—Albert, Bustin, Churchill, Curran, Drigotas, Dudley, Emery, D. F.; Genest, Good, Hanson, Hodgdon, Jalbert, McKinnon, Morrell, O'Brien, Rocheleau, Ross, Santoro, Sheltra, Simpson, T. R.; Susi, Woodbury.

Yes, 78; No, 50; Absent, 22.

The SPEAKER: Seventy-eight having voted in the affirmative, fifty in the negative, with twenty-two being absent, the motion does prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A".

The Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

The Chair laid before the House the second tabled and later today assigned matter:

Resolution Proposing an Amendment to the Constitution Pledging Credit of the State for Guaranteed Loans for Housing for Indians (H. P. 402) (L. D. 515) Pending passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I think this, even at this late hour, deserves an explanation. We are asking the taxpayers of the State of Maine to set up a million dollar fund to encourage the building of houses, and remodeling of houses by our Indians.

Now on the face of this I feel that this should be encouraged. But I think the explanation that you should have is that no banking institution in Maine will loan money for this purpose, for one very good and simple reason. The land that these houses are to be built on is not owned by the person that is going to build the house. And therefore, if the house is built or remodeled and someone decides to move out and just forget about it, that is the end of it, and the state will own a house on the reservation.

I don't think that we should ask the people to do something that our lending institutions will not do because they are in the business of making money, and if it is a legitimate loan you can be sure that they will be happy to do it. But it was well brought out in testimony in the hearings that there is no real justification in my opinion for us asking that this million dollar fund be set up.

There is an alternative to this, I think, that might be tried. There are some Indian trust funds, and if the Indians themselves, along with the trustees of this fund, feel that this is a worthy project, then we might see that these trust funds are used to back up these loans. But I just don't see going to ask the general public to be prejudiced

in favor of the Indians. And this is what it boils down to. I don't think that we should have our red brethren downtrodden, but on the other hand I don't think that they should get so much more than everyone else.

When we go for a mortgage we have to be able to put up certain collateral and assurances. I don't see why an Indian wouldn't have to do the same thing. If they want to leave the reservation and build a house, borrow money in the same manner as anyone else, there is no restriction on it, and they are able to. But this is on the reservation where they do not own the land. And as a matter of fact, on these reservations most of the housing is even built for them. They don't have to build it themselves.

I think that this is an unnecessary thing, and I am going to ask you to indefinitely postpone the bill, and I will make that motion.

The SPEAKER: The pending question is on the motion of the gentleman from Lubec, Mr. Donaghy, that L. D. 515 be indefinitely postponed.

The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker and Ladies and Gentlemen of the House: First of all I would like to correct a statement made by Mr. Donaghy which I believe is made through misunderstanding. The method of ownership on the two reservations is different. On the Passamaquoddy reservation, the land is not privately owned. It is owned in common on the two Passamaquoddy reservations, it is owned in common by all the tribe. They have never consented, as the Penobscots did some 130 or 140 years ago, to the idea of private ownership of land.

Penobscots on the other hand, at that time, about 130 years ago, their reservation was lotted and land was assigned to the persons living on it. Some land was unassigned, and owned by the tribe. And in case of lack of heirs, when a man or woman dies in that tribe, the land again reverts to the unassigned or tribally owned land, and may be reassigned to another

member of the tribe who lacks land if this is possible.

Now the reason that banks will not loan money for Indian housing is thus very simple. The tribe under state law, the tribe under tribal law, tribal agreement, tribal treaty if you will, cannot sell outside the tribe, even in the Penobscot tribe where there is private ownership. The person owning the land cannot sell his land to anyone who is not a member of his tribe.

Therefore a mortgage by a bank on his land, or on his real estate—we will put it that way, is meaningless. For supposing he did not pay. The bank could not foreclose, because the bank is a white institution, it is controlled by white people, or possibly by Negro people. But at any rate, not members of the tribe. Therefore, they cannot, as an institution, own tribal land.

In many instances I feel that the banks would be perfectly willing to loan to fiscally responsible people of the tribes if they were assured that for any reason, because there may be even the person who is most particular in paying his debts, may come upon bad times and not be able to do so. So to have something as collateral to back up the loan the bank would like to have something that they can collect on in case this misfortune should happen.

Among the tribes this is not possible. So therefore we come to this guarantee of the state. If the state would guarantee the loan as it has in so many cases, than the banks would be willing to loan money. The state initially at least, unless there is a default of a loan, would be investing no money.

Now we do know that these loans made in this manner, these state guaranteed loans — we know that there have been cases in the past where there have been defaults. In particular, the most glaring one in recent years is Maine Sugar Beets. But I might remind you that in all we have guaranteed loans for industrial manufacturing, recreational, fisheries and agriculture, and the Maine School Building Authority. And the 107th Amendment to the Constitution in

1967, whether it was through inadvertence or not, put in a clause that changed the wording of the second sentence of Section 14 of Article IX, about not being able to loan in the aggregate over \$2 million, and so forth, which many exceptions follow, these that I have just quoted being the ones. But this was amended and added a sentence on it that this shall not be construed to refer to any money that has been or may be deposited with this State or by the government of the United States or to any fund which the State shall hold in trust for any Indian tribe.

It seems to indicate that the something like \$225,000 or so held together in both Indian trust funds at the present time is not or cannot be applied for the purpose that Mr. Donaghy recommends. Although this might, as he said, be one alternative.

This is the way I interpret it at least and I may be wrong. But since the state, regardless of this particular amendment that is now in our Constitution, since the state by the treaties has guaranteed the two Maine Indian tribes certain lands in this state, in lieu of other lands that were sold to them or given to them by the Indians by the same treaties, the state has guaranteed that these lands shall be forever held by the tribes for their benefit. Since the state through statute just said that the Indians might not sell their lands outside the tribe without the state's consent, it would seem to me therefore that the state should be bound to back up any loans that a reservation Indian might wish to make in order that he might repair his present house or build a new one.

I think it is only just in view of the present state of Indian legal affairs. I ask you to oppose the motion for indefinite postponement and I would request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker and Ladies and Gentlemen of the House: As one of the signers of the "Ought not to pass" Report on this bill I would like to concur

with Mr. Donaghy that we could indefinitely postpone this bill. It seems to me that we do have a very particular problem here and the Indians who are trying to borrow money for certain purposes do have a problem. But I think that this is not the way to solve it.

I think we have a situation here that is very hard to resolve because we want to respect the Indians' right to have their own lands and their own tribal customs and so forth; and if their tribal custom prohibits or makes it impossible for them to get certain loans, then I think that this is a problem that they have to live with. If we pass this bill we would propose that they have the advantages that other people have that move off the reservations. So I don't think that they can have it both ways.

I think that there are alternatives to this constitutional amendment that the Indians themselves and the Indian Department might set up a credit union, for instance, and some of the organizations and others that want to help the Indians can help fund this credit union and so that they could manage these loans in their tribal way. And I think to ask the taxpayers of the State of Maine to support this type of thing is doing more than we are called on to do.

We tried to get some figures about how much the state and federal government was spending on Indian programs in the last year. I have these in the State Government Committee room. I don't have them right here in front of me but as I recall, in the past fiscal year the state and federal government spent approximately \$3 million on Indian programs in the State of Maine. Now this figures out to nearly \$3,000 per person, man, woman and child on the Indians.

Now it seems to me that we are doing fairly well here. I grant you that the Indians don't receive this. A lot of it gets lost in programs, but I think that we are making an effort here and I think that this bill is unnecessary.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Mrs. Doyle.

Mrs. DOYLE: Mr. Speaker and Members of the House: I rise to oppose the motion to indefinitely postpone this bill.

Since I have worked fairly closely with Indians throughout the State of Maine for several years, I believe I have some understanding of why this particular bill is important to them.

The gentleman from Kingman Township, Mr. Starbird, has outlined some of the background and the reasons why the Indians are unable to obtain bank-financed loans as we can.

The gentleman from Lubec, Mr. Donaghy, is quite incorrect in saying that the Indians have had their housing built for them. The housing that was built on the Pleasant Point Reservation, under the direction of the Department of Health and Welfare, was built with Indian money, not state money. Those particular houses do not meet the fire standards of the state at the present time. In fact there was a severe tragedy in which several people died in one of those homes this year.

The intent of this bill is to help Indians become more self-sufficient and build their own homes and make repairs to their existing homes. The Indian men on all three reservations, none of them had to be drafted in World War II. All that were eligible for military service volunteered. And yet they are not eligible for GI loans—for VA loans for housing because they do not individually own their house lots.

Loans which would be obtainable through this L. D. would not be indiscriminately given, particularly in view of some of the current financial difficulties of the state. The individuals applying for loans would have to have well established credit and would be carefully scrutinized by the Department of Indian Affairs.

Federal Indians received similar loans from the Federal Bureau of Indian Affairs. Do not Maine Indians deserve equitable treatment? Since this bill would be a constitutional amendment, it would have to be sent to the people for them to decide whether or not our

Indians will receive equitable treatment under our laws.

The SPEAKER: The yeas and nays have 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. All members desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: The effort being put into this bill is simply this. In the 102nd when the Department of Indian Affairs was established, there were found to be a lot of deficiencies in the operation of the reservation. Step by step these are being corrected. What has been explained here this morning will allow the Indians more responsibility which they were lacking in the old days. Step by step through the Department of Education the Indians are being brought up on their educational program so that now I am informed that when they go in to the public schools they are on a parity rating with the other students. I think that this is a very good piece of legislation and it still has to go to referendum before the people. Let's find out what the people think about it.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lubec, Mr. Donaghy, that Resolution Proposing an Amendment to the Constitution Pledging Credit of the State for Guaranteed Loans for Housing for Indians, House Paper 402, L. D. 515 be indefinitely postponed. If you are in favor of the Resolution being indefinitely postponed you will vote yes; if you are opposed you will vote no.

ROLL CALL

YEA — Ault, Bailey, Baker, Bartlet, Berry, G. W.; Berube, Birt, Bither, Brawn, Bunker, Carrier, Carter, Conley, Cote, Crosby, Curtis, A. P.; Cyr, Donaghy, Finmore,

Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Hewes, Immonen, Jutras, Kelleher, Kelley, K. F.; Lee, Lewin, Lincoln, Lund, MacLeod, Manchester, Marstaller, McCormick, McNally, Mosher, Page, Parks, Payson, Porter, Rand, Rollins, Scott, Shaw, Simpson, L. E.; Trask, White, Wight, Williams.

NAY — Albert, Barnes, Berry, P. P.; Binnette, Boudreau, Bourgoin, Call, Carey, Clark, Clemente, Collins, Cooney, Cottrell, Cummings, Curtis, T. S., Jr.; Dow, Doyle, Dyar, Emery, E. M.; Farington, Faucher, Fecteau, Fraser, Gagnon, Gill, Goodwin, Hancock, Herrick, Kelley, P. S.; Kelley, R. P.; Kilroy, Lebel, Lessard, Lewis, Littlefield, Lizotte, Lucas, Lynch, Mahany, Marsh, Martin, McCloskey, McTeague, Millett, Mills, Murray, Norris, Orestis, Pontbriand, Sheltra, Silverman, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Starbird, Stillings, Tanguay, Theriault, Vincent, Webber, Wheeler, Whitson, Wood, M. W.; Wood, M. E.; Woodbury.

ABSENT — Bedard, Bernier, Bragdon, Brown, Bustin, Churchill, Curran, Dam, Drigotas, Dudley, Emery, D. F.; Evans, Gauthier, Genest, Good, Hanson, Hodgdon, Jalbert, Keyte, Lawry, Maddox, McKinnon, Morrell, O'Brien, Pratt, Rocheleau, Ross, Santoro, Shute, Susi, Tyndale.

Yes, 53; No, 66; Absent, 31.

The SPEAKER: Fifty-three having voted in the affirmative, sixty-six in the negative, with thirty-one being absent, the motion does not prevail.

Thereupon, the Resolution was passed to be engrossed and sent to the Senate.

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

Mr. MARTIN: Mr. Speaker, L. D. 1103, Leave to Withdraw, I would move that we reconsider our action whereby we accepted the Leave to Withdraw Report in concurrence.

The SPEAKER: Report of the Committee on State Government on Bill "An Act relating to Actions by the Attorney General for Injury to Tribal Lands," Senate Paper 364, L. D. 1103 reporting Leave to Withdraw, the gentleman from Eagle Lake, Mr. Martin, moves that the House reconsider its action whereby it accepted the Leave to Withdraw Report in concurrence.

Whereupon, on motion of Mr. Donaghy of Lubec, tabled pending the motion of Mr. Martin of Eagle Lake to reconsider, and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Dam of Skowhegan,

Adjourned until nine o'clock tomorrow morning