MAINE STATE LEGISLATURE

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114th WAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 885

H.P. 651

House of Representatives, March 22, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representative TOWNSEND of Eastport, Senator PEARSON of Penobscot and Representative PARADIS of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-NINE

An Act Concerning The Passamaquoddy Tribal Court.

(AFTER DEADLINE)



Sec. 1. 30 MRSA §6209, sub-§1, ¶A, as amended by PL 1987, c. 3 756, §§1 and 2, is further amended to read: 5 Criminal offenses against a person or property for which 7 the maximum potential term of imprisonment does not exceed 6 months and the maximum potential fine does not exceed \$500 9 and which are committed on the Indian reservation of the respective tribe or nation by a member of either tribe or nation against another member of either tribe or nation or 11 against the property of another member of either tribe or 13 nation. The Penobscot Nation shall also have the right to 15 exercise exclusive jurisdiction separate and distinct 17 from the State over criminal offenses against a person or property for which the maximum potential term of 19 imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and which are 21 committed on the Penobscot Indian Reservation by a member of the Penobscot Nation against another member 23 of the Penobscot Nation or against the property of another member of the Penobscot Nation. 25 This subparagraph is repealed on September 27 30, 1995. Before that date, the Penobscot Nation and the Department of the Attorney General may 29 each submit written reports to the joint standing committee of the Legislature having jurisdiction over judiciary matters concerning the effect of 31 this subparagraph; 33 (2) The Passamaquoddy Tribe shall have the right to exercise exclusive jurisdiction separate and distinct 35 from the State over criminal offenses against a person or property for which the maximum potential term of 37 imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and which are 39 committed on the Passamaquoddy Indian Reservation by a 41 member of the Passamaquoddy Tribe against another member of the Passamaquoddy Tribe or against the 43 property of another member of the Passamaquoddy Tribe. 45 This subparagraph is repealed on September 30, 1995. Before that date, the Passamaquoddy Tribe and the Department of the Attorney General 47 may each submit written reports to the joint standing committee of the Legislature having 49

Be it enacted by the People of the State of Maine as follows:

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effect to this subparagraph;

jurisdiction over judiciary matters concerning the

Sec. 2. Certification. This Act shall not be effective unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and Council of the Passamaquoddy Tribe that the Tribe has agreed to the provisions of this Act pursuant to the Maine Indian Claims Settlement Act of 1980, United States Public Law 96-420, copies of which shall be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives.

STATEMENT OF FACT

This bill increases the penalties that the Passamaquoddy Tribal Court may impose for on-reservation crimes involving members of the Passamaquoddy Tribe. A similar law was passed by the Second Regular Session of the 113th Legislature, increasing the penalties that the Penobscot Tribal Court could impose for on-reservation crimes involving Penobscot tribal members.

The practical effect of this bill is that the Passamaquoddy Tribal Court will be able to hear Class D offenses committed on the Passamaquoddy Reservation by a member of the Passamaquoddy Tribe against another member of the Tribe or against the property of another member. Under this bill the Passamaquoddy Tribal Court will be allowed to impose fines greater than \$1,000 where prescribed by state law, as long as the term of imprisonment for the particular crime is less than one year.

The current law, which limits the Passamaquoddy Tribal Court to hearing Class E crimes involving Passamaquoddy or Penobscot tribal members, is based on limits that existed under the United States Indian Civil Rights Act of 1968, Public Law 90-284, at the time of the Maine Indian Claims Settlement Act. The United States Indian Civil Rights Act of 1968 was amended in 1986 to provide that tribal courts may impose greater penalties of up to one year imprisonment and a \$5,000 fine. This bill will allow the Passamaquoddy Tribal Court to exercise powers already permitted tribal courts outside Maine under the amended federal law, and will allow the Passamaquoddy Tribal Court to exercise the same jurisdiction as the Penobscot Tribal Court.