

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Second Legislature**  
**State of Maine**

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homeowners are not the people responsible for the lead that is in our homes and that is injuring our children.

I hope that knowing a little more about the Committee process and the fact that we weren't all on such different pages will help you. I would urge you to support the Majority Ought to Pass Report. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative Pingree just hit the nail on the head. The homeowner is going to pay for this. Who else? Do you think that the manufacturer gives a hoot whether we make them charge an extra quarter or not? They don't and they won't. All of these well intentioned, but I think misguided policies of this type are just coming home to roost. Every gallon of paint that you buy will just cost you \$.75 more, as Representative Lewin said. Let's not be self-righteous and pick on the villainous manufacturer because the villainous manufacturer couldn't care less. He is just going to charge me an extra \$.75 per gallon of paint. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative JOY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I presume that all of you will agree with me that the Legislature in this particular body is representative of all of the people in the State of Maine. If we are exposed to so many hazards how did any of us ever live long enough to grow up and get here? Thank you.

The SPEAKER PRO TEM: The Representative from Crystal, Representative Joy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Cummings.

Representative CUMMINGS: Mr. Speaker, Ladies and Gentlemen of the House. If had not been affected by lead poisoning we would be smart enough to end this debate.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Goldman.

Representative GOLDMAN: Mr. Speaker, Ladies and Gentlemen of the House. I agree, this has been a long debate, but I feel, perhaps having lived as long as my good colleague from Crystal, Representative Joy, that I might just make a few comments.

One of the things that I have been sitting here thinking about is the asbestos abatement that I have become quite familiar with through my involvement with many school projects. Frankly, asbestos removal is one of those subjects that was the object of many suits. Ultimately, you know who is paying for asbestos removal and the large sums that have gone into asbestos removal in publicly funded projects. It is coming out of my taxes, your taxes and the taxes of the state of Maine because it was, in fact, something that had to be addressed.

This is something that has to be addressed too. Children need to be protected. We had to do it and we are still doing it in any of our school projects, as well as any other publicly funded projects through taxpayer dollars. So, it seems to me that if this bill is trying to address a necessary removal I am not positive that I know that the funding in this bill is the best possible route, but if it isn't going to come that way then it will ultimately have to come out of tax dollars. Thank you very much.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Acceptance of the Majority

Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 278**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Curley, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jennings, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Moore G, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jacobsen, Jodrey, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Vaughan.

ABSENT - Crosby, Jackson.

Yes, 86; No, 63; Absent, 2; Excused, 0.

86 having voted in the affirmative and 63 voted in the negative, with 2 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-642) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Wednesday, June 8, 2005.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on JUDICIARY reporting Ought Not to Pass on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Define Marriage

(H.P. 891) (L.D. 1294)

Signed:

Senators:

HOBBS of York  
BROMLEY of Cumberland

Representatives:

PELLETIER-SIMPSON of Auburn  
FAIRCLOTH of Bangor  
GERZOFKY of Brunswick  
CANAVAN of Waterville  
BRYANT of Windham  
DUNN of Bangor

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (H-648) on same RESOLUTION.

Signed:

Senator:

HASTINGS of Oxford

Representatives:

SHERMAN of Hodgdon

CARR of Lincoln  
 BRYANT-DESCHENES of Turner  
 NASS of Acton

**READ.**

Representative PELLETIER-SIMPSON of Auburn moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to note that I, like Representative Duprey, I like his wife, I respect his views and if anybody were to attack him for his viewpoints I would be on his side in that regard. However, in December 2004 every member of this House swore an oath to uphold the Constitution, not only of Maine, but also of the United States of America. LD 1294 violates the federal Constitution's Bill of Rights, but first I want to talk about murder.

The Maine State Prison holds men who have brutally beaten their wives to death. These men, under Maine law, can get married again. The Department of Corrections has, in fact, facilitated marriages on behalf of inmates incarcerated for homicide. Representative Larry Bliss, according to a 1997 Maine statute cannot marry his partner of ten years, but a convicted wife killer can remarry. In May, Senator Scott Cowger celebrated nine years of a committed relationship. Marriage for Senator Cowger? No. Marriage for incarcerated woman killers? Yes.

Some say that a remarrying wife killer is more of a threat to the sanctity of marriage than is the prospect of Representative Bliss getting hitched, but that's current Maine law. The issue before us is whether we should enshrine in Maine's Constitution, for the first time ever, a restriction on rights, a restriction on marriage. Enshrining this restriction constitutionally could only be overturned with one, a two-thirds legislative vote and then two, a popular vote on minority rights.

The United States District Court in Nebraska last month held that language like LD 1294 violates the first amendment of the Bill of Rights of the United States of America, which guarantees the right "to petition the government to redress grievances." The court ruled that language similar to 1294 is a major barrier to the right of gay people to participate in the political process. Think about it. By passing 1294 Maine would be saying, "If you gay people attempt to exercise your first amendment right to petition the government regarding marriage law, government will impose on you a two thirds vote hurdle in the Legislature, followed by a popular vote on minority rights." Of course, we heterosexuals can change marriage laws affecting us by a simple majority. Quashing a minority's first amendment right to petition the government is not the American way.

With 1294 legislators would, in essence, travel to the future and use Maine's Constitution to impose a 1997 definition of marriage on people in the year 2030 or 2050. Are we in 2005 so certain of this 1997 definition; is it so important that this is the legacy, my colleagues of the House, that we will leave in Maine's Constitution. LD 1294 also violates the constitutional rights of many Quakers, Unitarian Universalists, some Jewish congregations and some Methodists who now sanctify gay marriage. If a Quaker congregation petitions our Legislature to recognize in law, marriages that they already sanctify, then why should government force Quakers to jump a two-thirds hurdle? LD 1294 favors one set of church doctrines over another and that is unconstitutional.

Some ask us to protect traditional marriage. In the 1700's the English jurist William Blackstone correctly stated the longstanding legal definition of marriage in which, women do not exist as people. Blackstone stated that pursuant to marriages legal

definition a wife is her husband's property. Under centuries old common law a man's marital rights permitted him to take all of his wife's money and beat her and rape her. This legal definition of marriage - the beating, the owning, the raping - existed as law and as traditional marriage for many more years than our more recent definition. Who are we to constitutionally freeze the legal definition of marriage so that it can no longer evolve? LD 1294 doesn't even make gay marriage illegal in Maine because it already is and 1294 seeks not to protect the sanctity of heterosexual marriage - remember wife killers can join the marriage club - LD 1294 seeks solely to use Maine's Constitution to permanently demean same sex relationships. After all we know about hate crimes against gay people why make our state constitution a weapon and not a shield.

When 1294 came before the Judicial Committee many legislators testified in favor and that is their right, but think of all of the energy spent to restrict first amendment rights. In the recent two-year budget there were \$20 million dollars in cuts affecting abused children, mentally ill children, and developmentally delayed children. Where is the energy? Where is the Christian passion for these children? Let us heed the scripture, "What does the Lord require of thee but to do justice, love mercy and to walk humbly with thy God?" What could be less humble, less merciful than denying first amendment rights to a minority, not just today, but for generations to come.

When I was a boy giants walked this earth, giants like the Reverend Dr. Martin Luther King, and when Martin Luther King spoke of Christian values he did not speak of trivia, when Doctor King spoke of moral values he spoke for poor children. He spoke for stigmatized minorities. He called us to a passion for justice. Dr. King's values are moral values. Something has gone very wrong in recent decades when the very words, moral values, have been hijacked by trivia. Maine is better than LD 1294. We, my colleagues of the House, we are better than this legislation. Mr. Speaker I request a roll call.

Representative **FAIRCLOTH** of Bangor **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am going to give one of my shortest floor speeches ever because I don't want to belabor this issue because everyone knows how they are going to vote. I am not going to try to change anybody's mind because I respect everyone's opinion, but if you support gay marriage vote green and if you oppose gay marriage and you believe in marriage between one man and one woman vote red. That is it.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Cummings.

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. With all due respect to the Representative from Hampden, Representative Duprey, it isn't that simple and I want to be clear that it is not that simple. There are many in this House who may oppose gay marriage. The question is, where does it belong in our body of laws? I believe that we should not scribble the graffiti of fear and discrimination into Maine's most sacred political document.

The reason for that is because that sacred political document was designed specifically for us to understand how people in this country ought to treat each other in relationship to power and the very foundations of this democracy and in order to function. And, today, many of you would support statutory language opposing

gay marriage. Many of you have. Many of you would support an amendment to the Equal Rights Amendment and the equal rights legislation that would say it could never be interpreted to include gay marriage, but is this the appropriate place to place it? I would argue that it is not.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative CANAVAN: Mr. Speaker, Men and Women of the House. As I listened in Committee to some of the rhetoric used in support of this bill I had déjà vu because it clearly had the ring of a sermon designed to play on people's fears. One speaker made a correlation between the rise of feminism and today's moral ills and her remarks actually drew cheers from the audience. It all sounded eerily like a replay of the scare tactics used back in the '70s by opponents of the ERA designed to keep women in their place and it was hard to see what it all had to do with protecting marriage.

The same speakers that attacked feminism went on to pontificate about why the institute of marriage could be best protected by the passage of this constitutional amendment and listening to the remarks I thought of my own marriage. It is a union that has lasted for more than 51 years. Yes I do think we deserve a medal. My husband and I have five great children and six feisty grandkids and for sixteen years I was a stay at home mom. All of which my kids will be quick to tell you doesn't make me any more perfect than anyone else. But, I mention it simply to point out that I do have some first hand knowledge about the subject of marriage. Our years together involved a certain level of stress, a ton of work and some pretty good times as well, but the truth is that none of the stress we experienced had anything to do with the fact that a gay couple lived up the street from our house. What got us through had nothing to do with the fact that the law defines marriage as between a man and a woman. What strengthens marriage plain and simple is commitment to one another and to family. What helps are decent wages, affordable healthcare and the support of friends and neighbors, which we had. More paid family leave would defiantly help. I can quite honestly say that a few superfluous lines submitted into the Maine Constitution would not have made one bit of evidence in our lives and there is, in fact, not one scintilla of evidence to show that such an amendment will serve to strengthen anyone's marriage or prevent one single divorce. All this bill does is play on people's fears.

The proponents suggest that if we can put gays and feminists in their place then moral order will prevail. Well, I have to say that opponents of the civil rights movement used the same tactics against black Americans 45 years ago. The truth is that we don't have a marriage problem in this country. We have a divorce crisis. One that existed long before this issue came to the fore. If we really want to defend and strengthen marriage then let's stop pointing the finger of shame at caring couples regardless of gender and live and let live. If we really want to strengthen marriage let's work to find out why marriage has failed and try to remedy that. We have a lot of work to do here in this body. Let's put this bill where it belongs in the dead file and get on with the work that will make a real difference in the lives of Maine families. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House. Really, there are no less rights for gay men than mine. They have the right to marry a woman. The fact that they don't have the marriage right to marry each other is the same denial that I have. So, as far as that particular argument is concerned it is not an argument. It isn't a first amendment right

and I don't really care whether they marry each other or not, but as far as the legal argument is concerned they don't have a leg to stand on.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative SHERMAN: Mr. Speaker, Ladies and Gentlemen of the House. This saddens me. The rhetoric that I heard on the other side, in the interest of being fair, starting off with prisoners and the allegations there, this is not about gay marriage to me. This country has 41 states that prohibit some form of gay marriage and doesn't say anything about civil unions. There are eighteen states that have a constitutional amendment. We have been in the great sweep of history here for the last 25 or 30 years. Some institutions have been under attack and it seems to me that there is left over rhetoric from the 1960s and the 1970s and I seem to sense that on the other side they are fighting a civil rights battle that is long over.

This is not a Christian morality, it is an institution or an arrangement that has been in place for thousands of years and I think that there is all sorts of data that says that the best way to raise children and family is to have a male and female doing it.

I think that the fact that divorced people get remarried is a basic building block of any country and we are engaged in a great social experiment and I would like to live to be 100 years old and to look back and see what the actions we take in this Legislature will have in the resulting society that we have.

A lot of this is about sexual arrangements. Look at what is on television. Look at what we have become accustomed to on TV is that the degradation of women and men and marriage? I am one of those who have been married a long time. I haven't made the 50-year mark yet, but I hope that I do. It is however through thick and thin and I am not a great bible person and that is not what I am talking about, but it is the institution that holds us together.

I heard the phrase "scribbling something in the Constitution" and that bothered me. This body, when we went into special session decided to override the Constitution and the courts of the State of Maine said that you did wrong and to pay up and there was big fight not to pay up. I took that money as a penalty, hoping that you can't use it. Now we are in another special session. We have overridden the Constitution twice at least and it is like when you take your first drink at 16 years old. It feels pretty good and then you take it again and again. I think that we have done it to our own Constitution here. This institution is playing games with budgets – that may be off the mark there, slide a little money here or there – listen to what we are saying. We call it spin. You can call it what you want, but come back to this issue. If this is in the Constitution so what, it heightens what is already in statute. I see nothing wrong with putting this in the Constitution and highlighting it as a moral rule.

We are one of the greatest countries in the world and in the words of Senator Sawyer, I think that we are nickel and diming ourselves to death and we are doing it by making a thousand cuts and this seems to be one of them. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to break out and sing *We Shall Overcome* but I won't. I have to respond to a comment that my good friend and seatmate on the Agriculture Committee just made. I have too. I cannot sit here in silence. The best way to raise children is with love. The best way to raise children is with love.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Mr. Speaker, Ladies and Gentlemen of the House. Last Sunday I attended the wedding of a young man that works for me. He and his girlfriend have lived together for quite a while. They have a young daughter that is eight years old and a young son that is two. The happiest person at the wedding was little Sadie. She is eight years old. She was going to have a mom and a dad that were committed to being a family. Marriage isn't about adults as much as it is about children. Kids need a mom and a dad and that is important enough to me that I think it should be in the Constitution. Thank you.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This state and this country have been in a great social experiment since it's founding. This body no more represents the people than the body that was here in 1823 or any other time. It has been changing over the years and decades for the better. We are no longer just a group of rich white men sitting here. We have women and we have had people of color and we have had people of different thoughts, faiths and creeds, as it should be. I hope it will continue to be a great experiment for another 200 years. As long as there is one person or one group of people being discriminated against I don't think that the social progress that this state and country are capable of will be reached.

I also remember the '60s and '70s and '80s and there were giants because there was a time that we needed giants. There was a time that we needed to make social change. Those times haven't changed because the decades have. Those fights are still here. As long as there is a group of people that are not being treated with the same dignity that we would want to be treated ourselves then we have a battle. The Constitution of the State of Maine, like the Constitution of the United States, was not written to divide people, but to unite them. That is not what this bill does. This bill divides us. It doesn't unite us and I will never vote for a piece of legislation that will put dividing people against people into the Constitution. Nor do I think that this body should ever vote that way. Thank you very much for your time and patience and for listening to me.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. I don't think that sexual preference or sexual anything has anything to do with the security of our country or anything about it. All that we have to do is look back historically. The Roman Empire was very free with its sexual preference and it was one of the longest lasting governments in the history of the world. One of the shortest-lived ones was Nazi Germany, which was so pro family. So, let's not forget that.

Secondly, the Constitution, in most areas of the country, has been used to protect the minority. Sometimes we fail, but I hope that today we will be protecting the minority again.

Another point as well. A single parent brought me up. My dad had died and nobody knew it, but I knew what it was like to have a single parent and it is no different. My mother was my mother and my mother was my father so believe me, it doesn't matter. If you are loved you are loved and that is the bottom of the line. If we really want to protect marriage it is not a tough law. Anybody who gets divorced goes to jail. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Mr. Speaker, Ladies and Gentlemen of the House. After great thought I want to make this

statement. Number one, I am against gay marriage. However, I do not believe that it belongs in the Constitution. Thank you Mr. Speaker.

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

Representative **DUDLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We have a lot of problems facing us this session and the people of Maine have a lot of problems facing them. We have issues of job creation and improving our business climate – expanding access to healthcare, Controlling property taxes, managing our natural resources, dealing with levels of crime in the corrections system, confronting poverty and homelessness, confronting child abuse and neglect, creating access to opportunity through quality education, but the question before us has nothing to do with any of it.

With all due respect to the people who brought this bill forward and without impugning their motives at all, I have to say that from my perspective that this question is a huge distraction from the very real problems that are facing us and that we should be spending our time on. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 279**

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Campbell, Canavan, Craven, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Goldman, Greeley, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman, Lerman, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, Merrill, Miller, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Rector, Richardson D, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Smith N, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bowles, Browne W, Bryant-Deschenes, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Duprey, Edgecomb, Emery, Fletcher, Glynn, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lundeen, Marean, McKenney, McLeod, Millett, Moore G, Moulton, Nass, Nutting, Ott, Plummer, Richardson E, Richardson M, Richardson W, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan.

ABSENT - Berube, Bierman, Crosby, Dugay, Fitts, Jackson, Lindell.

Yes, 88; No, 56; Absent, 7; Excused, 0.

88 having voted in the affirmative and 56 voted in the negative, with 7 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**