

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fourteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 10, 1989 to June 14, 1989

was taken. 120 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Amend the Schedule of Fees for Permits, Licenses and Certificates Issued by the State Fire Marshal (S.P. 116) (L.D. 182) (C. "A" S-133)

An Act to Include Sheriffs' Deputies in the Maine Tort Claims Act (S.P. 186) (L.D. 343)

An Act to Amend the School Finance Act to Include Transportation as a Supportive Service to Special Education for State Agency Clients (S.P. 294) (L.D. 767) (C. "A" S-135)

An Act to Impose Civil Penalties for Intentional Violations of the Maine Unfair Trade Practices Act (S.P. 299) (L.D. 797) (C. "A" S-129)

An Act to Facilitate the Disclosure of Information in Medical Support Recoupment and Child Support Cases (S.P. 330) (L.D. 867) (H. "A" H-257 to C. "A" S-103)

An Act to Amend the Charters of the Sewer District of the Town of Kennebunk and the York Sewer District (S.P. 361) (L.D. 978) (C. "A" S-132)

An Act to Amend the Notice Requirement of Care Repair Facilities (S.P. 400) (L.D. 1044) (C. "A" S-130)

An Act to Amend the Revised Maine Securities Act and Related Statutes (H.P. 189) (L.D. 254) (H. "A" H-237 and H. "B" H-275)

An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility (H.P. 284) (L.D. 396)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**ENACTOR**

**Tabled and Assigned**

An Act to Provide Property Tax Relief by Allowing Counties to Retain a Greater Portion of Real Estate Transfer Tax Receipts (H.P. 371) (L.D. 502) (C. "A" H-248)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Mayo of Thomaston, tabled pending passage to be enacted and specially assigned for Wednesday, May 31, 1989.

**PASSED TO BE ENACTED**

An Act Regulating the Sale of Grave Markers by Funeral Establishments (H.P. 434) (L.D. 599) (C. "A" H-241)

An Act Concerning Special Marine Resources Permits (H.P. 520) (L.D. 705) (C. "A" H-258)

An Act to Remove the Limitations on Raffles Conducted by Nonprofit Entities (H.P. 544) (L.D. 741) (C. "A" H-233)

An Act to Clarify the Provisions of the Act to Protect Elderly, Infirm Persons from Improvident Transfers of Title to Property (H.P. 548) (L.D. 745)

An Act to Create the Youth-at-Risk Alternative Education Program (H.P. 585) (L.D. 789) (C. "A" H-250)

An Act to Clarify the Payment of Medical Expenses under the Workers' Compensation Act (H.P. 678) (L.D. 929) (C. "A" H-239)

An Act to Better Incorporate Vocational Education into High School Graduation Requirements (H.P. 784) (L.D. 1096)

An Act to Allow the Sale of Alcoholic Beverages in Bowling Centers (H.P. 832) (L.D. 1164) (C. "A" H-244)

An Act to Permit Municipalities to Set Lower Debt Limitations (H.P. 874) (L.D. 1217) (C. "A" H-253)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**

Resolve, Authorizing Lorraine Gray to Sue the State for Compensation for Losses Allegedly Suffered as a Result of Claims of Child Abuse Instituted by the State (H.P. 54) (L.D. 75) (C. "A" H-243)

Resolve, Granting Compensation to Oscar and Wandalyn Rae Thompson for Damage to Their Car Caused by a Foster Child in Their Care (H.P. 266) (L.D. 378) (C. "A" H-245)

Resolve, to Create the Commission to Study Public Financing of State Elections (H.P. 653) (L.D. 887)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

**ORDERS OF THE DAY  
UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment on Friday, May 26, 1989 have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Prevent Discrimination" (H.P. 413) (L.D. 556)

- In House, Majority "Ought to Pass" as amended Report of the Committee on Judiciary read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-211) on May 19, 1989.

- In Senate, Minority "Ought Not to Pass" Report of the Committee on Judiciary read and accepted in non-concurrence.

TABLED - May 25, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

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

Representative CONLEY: Mr. Speaker, I move that the House recede.

During the debate on this matter, there has been a great deal of concern expressed about what this bill would actually do. Obviously it is not appropriate to speak to what this amendment is all about until it is before the body. However, I am trying to address some of the concerns raised in this body by many of the people who did not see fit to vote for the original bill. If I have an opportunity to present my amendment, I will speak to the merits of it on its own.

Representative MacBride of Presque Isle requested a Division.

The SPEAKER: The Chair will order a vote. The pending motion before the House is the motion of the Representative from Portland, Representative Conley, that the House recede. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 58 in the negative, the motion to recede did prevail.

Representative Conley of Portland offered House Amendment "B" (H-319) and moved its adoption.

House Amendment "B" was read by the Clerk.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: This body has debated the main bill at length during the course of last week and the week before.

This amendment deals with some objections raised to the bill by opponents to the original piece of legislation. Some of the objections raised to that bill and articulated in debate surrounded this issue of whether or not this discrimination bill conferred special rights or privileges on gay people. This amendment, as you can read, is very short and to the point. It states specifically that nothing in the entire Maine Human Rights Act or specifically this bill would be construed to promote or condone any life-style or condone any special privileges on any one of these protected classes. I think that is important. The reason it is important is because one of the main objections to this bill has been the theory that some sort of special right would be given to this particular class of people. The Maine Human Rights Act nor this bill prefers anybody over anybody else. does not prefer Black over White, Jew over Catholic, or female over male. This bill as amended, if passed, would be clear that it would not prefer any gay people over straight people. The purpose of the bill, as has been stated, would be simply to ensure that these individuals have their civil rights.

We do not have to review the testimony. Of all the Representatives who spoke on this, I would let this body know that we had many, Representative Paradis, Representative O'Gara, Representative Oliver, Representative Ketover, Representative Rand, Representative Luther, Representative Rolde, Representative Anthony, Representative Holt, and Representative Aliberti all related to this body many, many personal and profound reasons why this bill should pass. This amendment does not change the basic purpose of the Act, it merely makes clear for everybody and anyone who had an objection based on their belief that some sort of special right was being conferred by passage of this bill but that is not the case.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is being offered to assure legislators that they can vote for this safely without having any repercussions at home. However, I think that our constituents do view this in an entirely different manner.

On the issue of this amendment of not conferring special privileges -- ladies and gentlemen, if this bill should pass and you have two people out there either men or women who are working at the same plant, who have about the same job, who have the same ability and about the same age, if they are both laid off, the person who is gay would have the recourse of going to the Human Rights Commission and saying that he or she was laid off because of sex discrimination or sexual orientation because he or she happened to be gay. Your straight person would have realistically not that recourse at all. So, this does make a difference.

Ladies and gentlemen, I hope you will vote against this bill and this amendment today.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Representative Conley had done such a good job that I just said to my seatmate

that I really didn't think I needed to speak but I must just respond briefly to the statements from the previous speaker.

To suggest that is so incorrect and so misleading and really almost an insult to the intelligence of the members of this House. The Human Rights Commission has a record of (I think it is clear to everybody) certainly not acting on such a frivolous statement as was just suggested to you.

I would just urge the members of this House -- I certainly don't want to take anybody for granted and certainly those legislators who know me better than that, I would urge those legislators who supported us recently to continue that support and to the others who by now who have had ample opportunity to hear from their constituents, I would suggest to you that the response has been overwhelming to all of us who have supported this legislation that in fact the Maine people, the State of Maine people that we profess to represent, see this as exactly what it is, an antidiscrimination bill, nothing more, nothing less. I urge you to set aside this extremely misleading and I must say extremely disappointing remarks of the Representative to continue to insist that that kind of thing can happen.

Representative MacBride of Presque Isle requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I am disappointed as well to hear the comments directed against the lady from Presque Isle because the lady from Presque Isle is not doing anything except attempting to explain the bill to the members of this House. I am disappointed as well that there was a feeling of need to present a statement which purports to do nothing except to elaborate from the obvious. There is always a question in my mind as to the worth of a statement which does nothing except elaborate the obvious because in fact the statement in the amendment, it seems to me, is misleading. It is misleading for exactly the reasons which the lady from Presque Isle has spoken to.

I speak not in my capacity as a leader of the Republican Party or Assistant Floor Leader here but simply because I have opposed this bill for procedural reasons before and I continue to oppose it. I think that that amendment is essentially nothing except a smoke screen and not even a well described or defined smoke screen. To suggest that the kind of procedure that exists in the Human Rights Act does not confer its special privileges upon people who wish to make arguments and to invoke the powers of the state to carry out the minority status which they have is just simply not so.

Under the Human Rights Act which exists, the cure, things which have been constitutionally infirmed, there have been structures created and in order to advantage yourself by the powers of the state, one needs to be a member of a protected class. We have protected people under the Human Rights Act and we ought to make no mistake about that. When one of those persons is protected by the Human Rights Act, if they feel they have been

disadvantaged, they make a statement and that statement then means that the Human Rights Commission begins the inexorable process of attempting to deal with that and that is, it seems to me, what is the problem with this proposed amendment and with the bill itself.

This bill suggests that that is not a special preference or not a special privilege but it seems to me that it clearly is a special privilege.

I would urge the House to reject the amendment first and then reject the Bill.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I hope we can get on with this and vote on it but I did want to make it clear that this bill protects all of us. The Human Rights Act protects all of us. I am white, male, Anglo-Saxon, straight, married, all the things that would tend to suggest that I do not enjoy any protection under the Human Rights Act, but I feel the protection of the Human Rights Act. I know that if I am discriminated against on account of being either male or white or protestant or straight or married that I can go to the Human Rights Commission and I can seek their protection and this bill is here for all of us. I do not see this (in any sense) as a smoke screen but rather as stating what is clear and straightforward on the face of both the Human Rights Act and the proposed bill before you today.

I urge passage of this amendment.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: We, as a society, should no longer tolerate the bashing and killing of people because they exist. The message from the 114th should be loud and clear, enough is enough. Abuses, harassment is no longer appropriate or acceptable behavior. If we are truly pro-life, we can't abandon certain individuals at birth.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Women and Men of the House: This gentle amendment will help some of us reaffirm our faith in the system of justice. It will help minorities reaffirm their faith. It is up to us to help our constituents understand that we are affirming the Pledge of Allegiance we made today, nothing more.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I think we all know the bill was here to address one purpose and that is to address the issue of the gay life-style. What is intended or what is not intended in the Statement of Fact truly points that out. All people are treated the same under the law or at least they should be and we have laws set up -- as you hire a lawyer chances are, you will be protected. It is a matter of going to the courts. It says right here, "This Act is not construed to mean" this, that and the other, but nevertheless, it will be. Today I believe it is put in for one purpose and one purpose only and that is to address one life-style. All those that spoke for this bill, not all but most, always came to that issue. So the issue is really what they are trying to address. I would hope you would vote against this amendment.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Members of the House: I always enjoy listening to the arguments of the Representative from Belfast because I find that he is very informative as to his debating point. I think his argument this morning is correct in that he makes the statement to the fact that the state would be an advocate for a certain group of people and thereby making them a privileged class. I think the gentleman's point is correct on that and I would not disagree with him. I think where the error with his argument is that, we as a legislative body, can charge the state (that is, society) with defending the rights of a minority group because that is the beauty of government.

The state can be an advocate for people. The instrument of state can be an advocate of people if we deem it to be necessary to protect the rights of certain people. His argument is flawed in that he suggested that it is a privileged position. I think that is where the error lies in the argument that if the Human Rights Commission is going to argue on behalf of homeless, on behalf of women who have been discriminated against, on behalf of a race of people that have been maligned, they are not advocating necessarily those people, they are advocating that it is not a privilege to want to live in a house, to want to have shelter, it is not a privilege to want to have employment to sustain one's self, it is not a privilege to live in society and enjoy the rights which the constitution so beautifully enumerates. I think that is the argument that we must look at, that those are not privileges as we think of them as privileges, they are necessities today. It is necessary to have shelter in this climate, it is necessary to have a job to sustain oneself, it is necessary to mix with other people and to enjoy life as you understand it. I think that from that point of view that we ought to support this amendment and we ought to continue to support the bill because I think that basically is what this group of people is asking of us in this 114th Legislature. I would urge support of the gentleman's amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "B" (H-319).

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, pursuant to House Rule 7, I wish permission to pair my vote with Representative Burke of Vassalboro. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, I request permission to pair my vote with Representative Higgins of Scarborough. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is adoption of House Amendment "B" (H-319). Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 49

YEA - Adams, Aliberti, Allen, Anthony, Boutilier, Brewer, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Crowley, Daggett, Dellert, Dipietro, Donald, Dore, Farnsworth, Graham, Gwadosky, Hale, Handy, Hastings, Heeschen, Hickey, Hogle, Holt, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Luther, Mahany, Manning, Mayo, McCormick, McKeen, Melendy, Mills, Mitchell, Nadeau,

G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Pouliot, Priest, Rand, Rolde, Ruhlin, Rydell, Simpson, Skoglund, Small, Stevens, P.; Swazey, Tammaro, Townsend, Tracy, Walker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Bell, Carroll, J.; Clark, H.; Cote, Curran, Dexter, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Hepburn, Hichborn, Hussey, Hutchins, Jacques, LaPointe, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Marsh, Marston, Martin, H.; McGowan, McHenry, McPherson, McSweeney, Merrill, Michaud, Murphy, Paradis, E.; Parent, Pines, Plourde, Reed, Richard, Richards, Ridley, Rotondi, Seavey, Sheltra, Sherburne, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tardy, Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Carter, Cashman, Foster, Hanley, Jackson, Moholland, The Speaker.

PAIRED - Burke, Higgins, Jalbert, Pendleton.

Yes, 71; No, 68; Absent, 7; Vacant, 1; Paired, 4; Excused, 0.

71 having voted in the affirmative and 68 in the negative with 7 being absent, 1 vacant and 4 having paired, House Amendment "B" was adopted.

Representative MacBride of Presque Isle requested a roll call on engrossment in non-concurrence.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, a question through the Chair. On the last vote I distinctly pushed my vote to indicate nay. Someone called my attention to the fact that my light was out just before you closed the vote. I would like to make sure that I am recorded as nay. That has happened before.

The SPEAKER: The Chair would suggest that the only way that that can happen is if the button in front of you is pushed which would then negate the vote.

The Chair would make note of the fact that you should notice your vote prior to announcement.

The pending question before the House is passage to be engrossed in non-concurrence.

The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, pursuant to House Rule 7, I wish permission to pair my vote with Representative Burke of Vassalboro. If she were present and voting she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, I request permission to pair my vote with Representative Higgins of Scarborough. If he were present and voting he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is passage to be engrossed as amended in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 50

YE - Adams, Aliberti, Allen, Anthony, Boutilier, Brewer, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Crowley, Daggett, Dellert, Dipietro, Donald, Dore, Farnsworth, Graham, Gwadosky, Hale, Handy, Hastings, Heesch, Hickey, Hoglund, Holt, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Luther, Mahany, Manning, Mayo, McCormick, McKeen, Melendy, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Pouliot, Priest, Rand, Rolde, Ruhlin, Rydell, Simpson, Skoglund, Small, Stevens, P.; Swazey, Tammaro, Townsend, Tracy, Walker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Bell, Carroll, J.; Carter, Clark, H.; Cote, Curran, Dexter, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Hepburn, Hichborn, Hussey, Hutchins, Jacques, LaPointe, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Marsh, Marston, Martin, H.; McGowan, McHenry, McPherson, McSweeney, Merrill, Michaud, Murphy, Paradis, E.; Parent, Pines, Plourde, Reed, Richard, Richards, Ridley, Rotondi, Seavey, Sheltra, Sherburne, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tardy, Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Cashman, Foster, Hanley, Jackson, Moholland, The Speaker.

PAIRED - Burke, Higgins, Jalbert, Pendleton.

Yes, 71; No, 69; Absent, 6; Vacant, 1; Paired, 4; Excused, 0.

71 having voted in the affirmative, 69 in the negative, with 6 being absent, 1 vacant and 4 having paired, the Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "B" in non-concurrence and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act Concerning Municipal Regulation of Shellfish Resources" (EMERGENCY) (S.P. 354) (L.D. 955) (S. "A" S-151 to C. "A" S-141)

TABLED - May 26, 1989 (Till Later Today) by Representative MITCHELL of Freeport.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and later today assigned.

#### TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" - Committee on Banking and Insurance on Bill "An Act to Insure Maintenance of Financial Responsibility by All Motorists" (S.P. 172) (L.D. 329)

- In Senate, Minority "Ought to Pass" Report read and accepted and Bill passed to be engrossed.

TABLED - May 26, 1989 by Representative RYDELL of Brunswick.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Rydell of Brunswick to accept the Majority "Ought Not to Pass" Report and later today assigned.