

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**

**Senate**

December 2, 1992 to May 18, 1993

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on AGRICULTURE on Bill "An Act to Extend the Repeal Date of the Laws Governing Biosynthetic Bovine Somatotropin" (Emergency)

S.P. 198 L.D. 634

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-105).**

Minority - **Ought Not to Pass.**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 3, 1993, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of Either Report.

The Chair laid before the Senate the Tabled and Today Assigned matter:

An Act to Prevent Discrimination  
S.P. 92 L.D. 246  
(C "A" S-57)

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - **ENACTMENT**

(In Senate, April 13, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" S-57.**)

(In House, April 15, 1993, **PASSED TO BE ENACTED.**)

On motion by Senator **BUTLAND** of Cumberland the Senate **SUSPENDED THE RULES.**

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the spirit of cooperation which I think has been pretty evident this year in this body I would go along with the Senator's request for reconsideration, even though it does take a two-thirds vote to secure such a reconsideration. Because of the courtesy I've been extended for tabling this Bill for as long as I have and for many of the other courtesies that have been extended to me I would ask that the motion be granted.

**THE PRESIDENT:** The motion to suspend the Rules is not debatable.

On motion by Senator **BUTLAND** of Cumberland, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by same Senator, Senate Amendment "H" (S-77) **READ.**

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Butland.

Senator **BUTLAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. First of all I appreciate the opportunity to reconsider this Bill. I'm offering this referendum amendment in a sincere attempt to break the deadlock on L.D. 246. All of the players have been heard from, the House and the Senate have passed the measure by comfortable majorities. The Governor has stated his objections and his intention to veto, even though it has passed the two bodies comfortably I don't believe that there is enough support there to override the veto. We have to decide where we're going from here. We can either fail this referendum, allow it to be vetoed and start from scratch in 1995, but in the interim I suspect that the voters, by their own initiative, would choose to participate directly with a referendum in 1994. If you have ever listened to the testimony at the public hearings for this act, L.D. 246, or any of the previous acts you can't help but be moved by the stories of fear, intimidation, hatred and violence. Someone is going to have to explain to me why it is preferable to preserve the status quo for two more years then to allow this to go to public referendum with a perceived threat of rancor. The public will react reasonably when presented the facts, to assume otherwise is patronizing at best and condescending at worst. It has never been my intention to simply propose, debate and pass this amendment. I view it as a continuing process and an outstanding opportunity for the legislature to accept a leadership challenge. I will tell you what I am willing to do. I have been informed that I have an allowance for a district-wide mailing and I assume that everyone else does also, I am willing to contribute my allowance towards the production and mailing of a Majority and Minority Report which describes this issue without excess, without exaggeration, but with just the facts. I'm also willing to host within my district, within my six towns, any number of debates throughout the fall. Thirdly, I would be willing to help the media to police this debate by reporting any instances of distortion. It is not my intention to be a passive participant.

I listened to the debate three weeks ago on a similar amendment and quite frankly I was surprised by the negative tenor. I believe that many in this chamber sell the good people of the State of Maine short when they say that it is unwise to allow a majority to decide the rights of a minority. The proponents of L.D. 246 spoke with great pride of the increasing list of organizations and individuals who support this measure. My question is how long must this list be before we come to the understanding that Maine people are both compassionate and fair minded. Quite frankly I'm embarrassed by the comparison of our present situation to the civil rights movement in the South in the 1960's. The comparison only serves to demean our friends and neighbors. I consider Maine people capable of mature conduct and reasonable decision-making. I don't remember seeing or hearing displays of excessive hatred or rancor during the recent debate on gay rights in Portland. Like my seatmate from Cumberland, Senator Harriman, I believe that the Portland debate served a useful purpose by better educating all citizens on this issue. And after all is said and done I suspect the opponents were more accepting of the outcome, knowing that they had been afforded the opportunity to participate

directly in the process. I also suspect that any group or individual who chose to drag this issue into the gutter would do so at their own peril. I'm certain that there would be a public outcry and a backlash that would undermine their base of support. If you think that prejudice is going to end towards this group by the mere passage of this act you are mistaken. All of the civil rights legislation passed in America has yet to cure the disease of racism in our nation. We need to educate and we need to enlighten. In this particular issue we need to put to rest once and for all all of the tired stereotypes that hinder understanding. The leadership for implementing this process is sitting right here in this chamber. Ladies and Gentlemen of the Senate, this is an issue that has been debated on nine separate occasions, it is not a simple matter, we are not discussing the boundary between the towns of Enfield and Passadumkeag, we are debating the bounds of tolerance. After eighteen years futility I do not consider this to be an abuse of the referendum process. For me it is the only means of breaking the deadlock and it is also a means to facilitate direct democracy and education. The fate of the gay rights issue in 1993 is up to us. We can fail to pass this amendment and the Governor can veto it and we can be right back here in 1995 or we can take a positive action here today. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To the good Senator from Cumberland, Senator Butland, I appreciate his candid support of L.D. 246 and his own attempts to get this impasse behind us and reach a resolution that is acceptable. This chamber has already debated the referendum question in a slightly different form a little earlier and rejected it by a large margin and I'm hopeful that the chamber, for all the good reasons expressed then, will continue with its vote. Not to mention the fact that if this amendment was put on this Bill would then go back to the beginning and we would be debating this issue once again for probably a fairly length of time. The impasse which the good Senator from Cumberland talked about, we have been attempting to get by and we spent a long time this past week trying to get by it. I am prepared to speak about that when we debate the merits of the Bill on final passage. The issue on referendum became clear as we discussed it during these last two weeks. As a matter of fact I have an article in front of me right now which talks about a referendum that is looming in Florida. "Bitter Ballot Showdown Looms in Florida". One of the sides has spent some three million dollars and the other side has spent some multi-million dollars in this referendum campaign. It's a very nasty, dirty, negative campaign with national groups, particularly the far right, have brought in a substantial amount of money to craft out a TV message that plays on hate. I don't think that's the type of campaign we should go through here in this State, we certainly did not want to and wisely avoided it on the choice issue. This would be very similar, talking about individual minority rights. For that reason alone I do not think that we should engage in going to a referendum on that and I think that is reason enough to vote against this particular proposal. Thank you.

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

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **BUTLAND** of Cumberland to **ADOPT** Senate Amendment "H" (S-77).

A vote of Yes will be in favor of **ADOPTION**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators **BEGLEY, BUTLAND, CAHILL, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUTHER, MARDEN, WEBSTER**

**NAYS:** Senators **AMERO, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, FOSTER, HANDY, LAWRENCE, LUDWIG, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, SUMMERS, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

**ABSENT:** Senators None

Senator **CAREY** of Kennebec requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

Senator **CIANCHETTE** of Somerset requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BUTLAND** of Cumberland, to **ADOPT** Senate Amendment "H" (S-77), **FAILED**.

Senator **WEBSTER** of Franklin requested a Division.

**THE PRESIDENT:** The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Once again I want to thank this body for the patience it has shown with this issue over the last several months. I also want to thank the Governor for his patience and for his work to try and reach a meaningful compromise

here and I think it's important for this body to know that there were several meetings that went on with the Governor's staff as well as one meeting with the Governor. Speaking as one Senator I felt that he showed that he was sensitive to the fact that discrimination does exist against our gay and lesbian citizens, he also showed sensitivity towards the fact that there is violence against this group of Maine citizens and although he worked hard to try to find a middle ground that we could all live with, unfortunately, through the course of our meetings, particularly with John Devine from the Governor's Office who was extremely helpful, it became clear to us that we could not draft a compromise which would protect people from being discriminated against. The bottom line in the end was you actually had to get beat up in order to get some sort of protection under the last proposal that we had on the table, in order to get protection from losing your job. To try to make that into a positive message was just impossible. To try to draft it in such a way it was unclear whether you would get a lifetime protection for being beat up once, if that would apply to every job you ever had, it was unclear as to what would start the process going. Would one police report about being beat up be enough to get you that protection and in consultation with the Attorney General's Office and with law enforcement from Lewiston and Portland I became convinced that that alone would not be enough. So we explored with the Governor's Office the possibility of a Portland style ordinance which would keep the State out of this issue and give people the private right of action to sue and it became unworkable. All this is not to say that there hasn't been tremendous progress here. I feel like this has been a very positive session in reference to this Bill and with my good friend from Cumberland, Senator Butland, I don't think it's like you go away with nothing. You look at civil rights for blacks, it started off with the fourteenth amendment over 120 years ago. It took a hundred years to get the voting rights act so in twenty short years we have come a long way. We've got a Bill by Senator Lawrence from York which will be heard in Judiciary which deals specifically with hate crimes, an important measure that I look forward to. We've already had some indication that Mr. Wyman will be supporting that measure. So there has been tremendous progress and I don't want to go away from this debate with anything but a positive feeling. For everyone who has been patient, to the Governor who I think has expressed an awareness of what the problem is, and to those of you who supported this Bill, you know it's pretty easy for me being from Portland, to support this measure. I look over here to Senator Carey from Kennebec and some of the others in here who have dared to support this and to get out there. All of you have been supportive and I would be remiss if I did not thank Senator Amero from Cumberland for her tremendous efforts on this measure. I just want to thank you all and urge you to continue your support for this Bill. Thank you.

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Increase the County Share of the Government Operations Surcharge Fund"

H.P. 97 L.D. 139

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-114).**

Tabled - May 3, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE** (Division Requested)

(In Senate, April 26, 1993, Reports **READ**.)

(In House, April 15, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-114) AS AMENDED BY HOUSE AMENDMENT "A" (H-145)** thereto.)

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Gould.

Senator **GOULD:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If you are in favor of County Government I believe that you would vote against the pending motion of Ought Not to Pass and vote for the Minority Report. What this Bill does is an act to increase the County share and change the name of the Government Operation Surcharge Fund. "The Jail Operation Surcharge Fund - There is hereby a fund to be known as a Jail Operation Surcharge Fund, this fund must be maintained by the Treasurer of the State for the sole purpose of reimbursing Counties for costs associated with operations of the jail system. Surcharge imposed - A surcharge of 10% must be added to every fine, forfeiture, or penalty imposed by any Court in this State which, for the purpose of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of the surcharge must be deposited monthly in the Jail Operation Surcharge Fund." There is a procedure here to reimburse the Counties for these monies. This process doesn't start until July 1, 1995. "The total fines, forfeitures and penalties, including the surcharge paid to the counties must increase by 1% each year until all money paid into the fund is paid to the Counties an amount equal to the Counties prior year's expenditures." In no way will we be paying the county more than what their previous expenses were. I move that we do not vote for the motion on the floor of Ought Not to Pass and I request a Roll Call.