

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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concurrency, and the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

The Committee on Energy on, Bill, "An Act to Establish Procedures to Evaluate the Efficiency of Energy Utilization in State-financed and Leased Facilities." (H. P. 549) (L. D. 666)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A." (H-457).

Which Report was Read and Accepted in concurrence, and the Bill Read Once. House Amendment "A" was Read and Adopted, in concurrence, and the Bill, as amended, and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act Relating to Partnerships between Husbands and Wives." (H. P. 683) (L. D. 865)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-446).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Business Legislation on, Bill, "An Act Concerning Solicitation Sales of Consumer Merchandise." (H. P. 256) (L. D. 325)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-447).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Business Legislation on, Bill, "An Act to Increase Limited Partnership Filing Fees." (H. P. 404) (L. D. 514)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-448).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Election Laws on, Bill, "An Act Concerning the Registration of Voters by Justices of the Peace." (H. P. 1353) (L. D. 1622)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-451).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Marine Resources on, Bill, "An Act Limiting Three Lobster Traps to One Warp." (Emergency) (H. P. 648) (L. D. 792)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-435).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Natural Resources on, Bill, "An Act to Expedite the Construction of Natural Gas Pipelines in the State." (Emergency) (H. P. 1247) (L. D. 1477)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-445).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Transportation on, Bill, "An Act to Allow Limited Operation of an Unregistered Motor Vehicle." (H. P. 1101) (L. D. 1325)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-449).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which reports were Read and Accepted in

concurrency, and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act Concerning the Definition of a General Lines Consultant and a Life Consultant under the Maine Insurance Code." (H. P. 406) (L. D. 499)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1617) (L. D. 1818)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

The Committee on Marine Resources on, Resolve, Directing the Commissioner of Marine Resources to Lease Land and Buildings in West Boothbay Harbor to the Northeastern Research Foundation, Inc. (Emergency) (H. P. 1492) (L. D. 1704)

Reported that the same Ought to Pass in New Draft, under same title. (H. P. 1619) (L. D. 1820)

Comes from the House, the Resolve, in New Draft, Passed to be Engrossed.

Which Reports were Read and Accepted in concurrence, and the Bill, and Resolve, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

Six members of the Committee on Human Resources on, Bill, "An Act to Include the Term "Sexual or Affectional Preference" in the Maine Human Rights Act." (H. P. 1169) (L. D. 1419)

Reported in Report "A" that the same Ought to Pass.

Signed:

Representatives:

KANY of Waterville
BURNS of Anson
TALBOT of Portland
CUNNINGHAM of New Gloucester
GREEN of Auburn
DAVIES of Orono

Six members of the same Committee on the same subject matter Reported in Report "B" that the same Ought Not to Pass.

Signed:

Senators:

LOVELL of York
HICHENS of York

Representatives:

MARSHALL of Millinocket
HUTCHINGS of Lincolnville
LaPLANTE of Sabattus
PETERSON of Caribou

One member of the same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass as amended by Committee Amendment "A" (H-444).

Signed:

Senator:

MANGAN of Androscoggin

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, I seem to get the worst Bills to debate of anyone I have ever seen in this Session, or any other Session, but I would like to move the Ought Not to Pass, or Report "B", and will speak briefly to that Motion, because I do not think that there will be much competition here this morning.

This Bill was given a careful hearing before the Committee on Human Resources, and the hearing room was absolutely filled with gays. There was only one opponent to the Bill: a minister. But since that time I think I have received more mail from both the gays, ministers and others than I did on the 20 year old Liquor Bill.

This Bill simply takes the Maine Human Rights Act, and where it puts in discrimination based on race or color, sex, physical or mental handicaps, religion, age, ancestry and national origin, it puts in the middle of that, sexual or affectionate preference.

Now I tried not to be biased on this Bill, although I do not have much use for homosexuals or lesbians, and I mentioned to a professor of the University of Maine during the course of the Hearing in questioning him, I asked the professor, I said, "Do you think that you should come out in the open?" I said "45 years ago 50 years ago when I was a youngster, we never had any homosexuals around." I knew all of them, heard some rumors, but it seems as though time progresses as has been done in Washington, D. C., where they did pass some sort of Bill such as this. It seems as time progresses the gays are coming out of the woodwork and they want to be recognized.

Now in my opinion, and in the opinion of many people, we feel that the gays should stay unidentified. Now the professor from the University of Maine said that ten percent of the students at the University of Maine, were gays. He said ten percent of the population of the State of Maine are gays. That is 100,000. I asked him, I says, Sanford has got 17,000 people. We have got 1,700 gays in the town of Sanford? He says "yes, you have." Well, they have not started coming out in the open in Sanford if there is that many.

I do not think that this Bill is worthy at this time of passage. I do not think that we want to set up throughout the entire State of Maine sexual preference. There is nothing to stop two men from living together now, or two women from living together. But if they could just keep it quiet, there is no problem. Now there is no problem as far as the teachers. They say can do just as good a job if they are gays, but if they find it out they fire the teacher. Well there is no reason for the superintendent of schools to find it out if they had sense enough to keep quiet, keep still on the Bill.

This Bill may be coming up two or four years from now, and it might be passed as we get more and more gays in Maine. I also asked the professor of the University of Maine, I said, "Professor, when does this habit start." He says when the child is three or four years of age." I says, "I doubt it. I have known of grown men that have taken young boys and practiced this homosexuality on them. I have definitely seen it in my hometown."

So, Mr. President, Members of the Senate, I certainly hope that you will not see fit to pass this Bill, because this Bill is not a good Bill. This Bill is not fitted for the State of Maine. We do not want to be the first State in the Union to recognize the gays, the homosexuals and lesbians. I may be prejudiced at my age, but I just cannot see it. In fact I think I will move to my home in Florida if this Bill should pass.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, I do not think that necessarily voting for this, voting against the present Motion would necessarily mean that we condone this way of life. It is just, as far as I am concerned, a question of rights under the Constitution. Who are we to punish in public a decision made in private, decisions of adult citizens of the State of Maine? What makes us think we are dealing justly and fairly with people if, when they disagree with our way of life, we hinder them from getting jobs, or from keeping them? Are we prepared to subsidize these people in their enforced leisure?

This country was founded by those who wanted freedom. Freedom to be individuals who are not bound to traditions. Freedom to follow their own beliefs. Freedom to choose not to conform. Are we now going to ostracize these individuals because they are attempting to do in

the 20th Century what our forefathers guaranteed for future generations in the Constitution, Life, Liberty and the Pursuit of Happiness, and no one stipulated HOW.

Life — each individual's choice of a way of life.

Liberty — liberty to be oneself.

Pursuit of Happiness — everyone here pursues happiness in his or her own way.

I personally feel sorry for people who choose to live a homosexual life, and thereby forego the opportunity to become parents. But, it is their decision. And I do not feel any need to express my disagreement with them by withholding privileges afforded to other citizens in Maine.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: L. D. 1419 expands the Human Rights Act of 1973 to include under the general provisions the words "sexual or affectional preference."

At the present time under the Human Rights Act all Maine citizens are protected from discrimination in employment, housing, or access to public accommodations relating to race, color, sex, physical or mental handicaps, religion, ancestry or national origin. Everyone of these with the exception of physical or mental handicaps and religion, are elements incidental at birth. Physical or mental handicaps may be a result of birth, accident, disease or illness. Discrimination according to religious beliefs are prohibited by Federal and State Constitution as we read in Article 1, Section 3 of the Declaration of Rights in the Maine Constitution.

Quote "and no one shall be hurt, molested or restrained in his person, liberty or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience" unquote.

Those speaking in favor of L. D. 1419 want to include a condition which is not inherent at birth, which is developmental in character and which is not, in my opinion deserving of legislative action in this area.

Not to steal the thunder of the lone member of the Human Resources Committee who signed a report endorsing Committee Amendment "A" (H-144), and Senator Mangan is not present this morning, so I am not actually stealing his thunder. I would draw your attention to the statement of fact in the amendment which states "this amendment prohibits discrimination under the terms of the Human Rights Act on account of marital status, personal appearance, family responsibilities, source of income and place of residence or business." These developmental characteristics are as equally deserving as the subject matter of L. D. 1419, at least in my opinion, and you can well imagine the wealth of developmental characteristics that anyone of us could add, of which we could exempt from discrimination if we expand the Human Rights Act in that direction. Pursuit of argument along these channels may border on the ridiculous, but if we except one, why not another?

The issue we make a decision this morning is not whether any one of us believes in discrimination against so called "gays" or whether you approve or disapprove of homosexuality, although we all do have our own personal opinions and religious convictions on the matter.

The issue before us is whether or not we wish to expand the concept of the Human Rights Act to include a developmental characteristic of one select minority.

We must each make that decision this morning. As one who signed the Ought Not to Pass Report I urge you to accept the motion, and when the vote is taken I request a roll call.

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

Mr. CONLEY: Mr. President and Members of the Senate: Perhaps the most valid criticism of L. D. 1419 is that it should not be taking up the time of the Legislature when we have 40,000 citizens unemployed and many other difficult problems to deal with. But the Bill is before us now, and it is a Bill which mirrors the support of a large number of Members of the Committee which heard the Bill and a larger number of Legislators. If we can take hours to debate fish and game regulations, as we do every week, we can take the time today to discuss a measure which concerns Human Rights and human dignity.

I would concede, however, that our action on this Bill is not going to make a great deal of difference to most of our citizens. If anyone thinks this measure is going to take us down the path of Sodom and Gomorrah then they are wrong. This Bill does not legalize homosexuality. In the Criminal Code, revisions passed in the 107th Legislature, we already stated that our Law would not pass judgment upon the sexual conduct of two consenting adults. Homosexuality is already legal and the results of this change in our laws have not been noticeable.

This Bill does not promote homosexuality, no more than existing Human Rights Act in Maine has created more blacks, more females, more handicapped persons or older persons, French, Irish, Catholics or Jewish persons. The incidence of homosexuality in a society happens to become a constant statistic, and historic references from the Bible on suggest it is hardly new, or a new concern. What changes, of course, is society's tolerance for deviation from what is considered certain norms. I do not think there were any fewer homosexuals in Hitler's Germany, than there were in Rome during the most decadent years. People just treated the issue differently. And that is what we are trying to do with this Bill, just treat the issue a little more rationally, with a little more tolerance, with a little more respect for our fellow man and woman.

Mr. President and Members of the Senate, I would urge the Senate to vote against the Pending Motion.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, in regard to the good Senator from Penobscot, Senator Cummings. I do not believe if the gays would stay the way they were 15 or 20 years ago, they would have no problem on jobs. And, they would be much happier than they are now. Now they are looking for happiness and respect. If a person does not know who a gay is, whether homosexual, lesbian or whatever it might be, if they do not know that they are, fine. I remember I had one chap who was a great friend of mine in Sanford. They said later on that he was a homosexual, but I held great respect for him. I did not think that he was any different than anybody else, if it had not been whispered around to me and so forth, so I think that if it is in the Criminal Code, as the good Senator from Portland said, I can not say that this is a Portland Bill actually because he did not enter it, but if the Senator from Cumberland says it is in the Criminal Code, and then certainly we do not need this Bill. This Bill is just going to start just like Alcoholics Anonymous. There are going to be gay homes. There are going to be gay parties all over the State. I am telling you, they will be calling Maine the Gay State, instead of the Vacationland.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate accept Report "B" of the Committee, Ought Not to Pass.

A Roll Call has been requested.

In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those

Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

A yes vote will be in favor of accepting Report "B". A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Collins, D.; Collins, S.; Greeley, Hewes, Hichens, Katz, Lovell, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Chapman, Conley, Cummings, Curtis, Danton, Farley, Huber, Jackson, Levine, Morrell.

ABSENT — Mangan.

21 Senators having voted in the affirmative, and 10 Senators in the negative, with one Senator being absent, the Motion to accept Report "B", Ought Not to Pass Report, does prevail.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, having voted on the prevailing side, I would ask for reconsideration, and hope you will vote against me.

A viva voce vote being had,

The Motion to reconsider does not prevail.

(Off Record Remarks)

Reconsidered Matter

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, with reference to Bill, "An Act to Establish a Fund to Insure the Safe and Proper Decommissioning of Nuclear Energy Generating Facilities." (H. P. 1454) (L. D. 1694) having voted on the prevailing side, I now move reconsideration, and I hope the Senate votes against me.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves that the Senate reconsider its action whereby it voted to adhere on L. D. 1694.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Reconsidered Matter

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, with reference to Bill, "An Act Concerning County Contingent Funds and the Rate of Interest Which May be Charged for Delinquent County Taxes." (H. P. 877) (L. D. 1102) having voted on the prevailing side, I move the Senate reconsider its action, and I hope you vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves the Senate reconsider its action whereby it voted to recede and concur with reference to L. D. 1102.

A viva voce being had,

The Motion to reconsider does not prevail.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Require that Savings from Substitution of Generic Drugs be Passed on to the Purchaser." (H. P. 147) (L. D. 177)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SNOWE of Androscoggin

GREELEY of Waldo

Representatives:

TYNDALE of Kennebunkport

GILL of South Portland

PRESCOTT of Hampden

NELSON of Portland

TRAFTON of Auburn

The Minority of the same Committee on the same subject matter Reported that the same