

TESTIMONY OF MICHELLE HENKIN

LD 489—Ought to Pass

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a
Right to a Healthy Environment**

Joint Standing Committee on Environment and Natural Resources

March 8, 2021

Senator Brenner, Representative Tucker, and distinguished members of the Committee, greetings:

My name is Michelle Henkin, and I live in New Harbor on the Pemaquid Peninsula. I am here to testify in support of LD489, amending the Constitution to enshrine the right to clean air, pure water and a healthy environment, for all people in Maine, including future generations.

I love the State of Maine, and I have carried a question with me for a long time, “How can I give back in a meaningful way to this place that means so much to me?” Then I came across a book by Maya van Rossum, called *The Green Amendment*, in which she describes the power of environmental rights amendments to provide foundational protections for the places we hold dear.

I learned that, unless these rights are explicitly protected in the Declaration of Rights, that I, that we, don’t have a clear and unambiguous constitutional right to clean air and pure water or a healthy environment. I had always assumed that I had those rights. Who among us doesn’t feel that we have a right to breathe clean air and drink and bathe in clean water? I had always taken it as a given.

Still disbelieving, I read through the Maine State Constitution and there was no mention anywhere of the environment, or of air or water. Then I read the Debates and Journals of the Constitutional Convention of 1819, a record of all the discussions the framers had as they drew up Maine’s Constitution. There is not a single conversation there about the land and the waters, or the air or the environment.

Herb Adams, former legislator from Portland, in an interview he did with Irwin Gratz for the Maine Bicentennial, explains that the framers of Maine's Constitution were far-sighted in ending Article I with Section 24, "Other Rights Not Impaired," which they used to assure that their document would serve into a future they could not yet imagine.

In the Maine of 1819, there were abundant natural resources, endless forests and free flowing rivers, plenty of fish and game. The framers would have had no reason to imagine that essential human rights - rights to clean air and pure water and a healthy environment - could possibly be threatened. But they gave us Section 24, because they anticipated that there would be the need to assert the peoples' rights in ways they had not foreseen.

If the framers of the Maine Constitution were living in today's Maine, where the amount of wild caught fish you can safely eat in a week is prescribed, where landfills are accepting trash from out of state, where people living next to oil tanks can't open the windows of their houses, they would surely recognize the need to protect the air we breathe and the water we drink.

Without clean air and clean water, without a healthy environment, how can we fulfil the promise of the very first right, "to enjoy and defend our life and liberty" and "pursue and obtain safety and happiness"?

It is critical that our right to a healthy environment rise to the level of the other rights we hold dear. For that reason, I urge you to vote Ought to Pass on LD 489.

Sincerely,

Michelle Henkin
New Harbor, ME

On Section 24:

Section 24. Other rights not impaired. *The enumeration of certain rights shall not impair nor deny others retained by the people*

Article I, Section 24 was added out of concern that it would be impossible to mention every fundamental right, and dangerous to list just some of them for fear of suggesting that the list was complete. Because the rights protected by the amendment are not specified, they are referred to as "unenumerated" rights, as opposed to those enumerated in the Constitution.

