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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

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED.**

Sent down for concurrence.

Senator **ESTY** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **CAHILL** of Sagadahoc, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Correct the Boundary Description of the Town of Long Island"

H.P. 721 L.D. 980

Reported that the same **Ought to Pass.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

Which Report was **READ** and **ACCEPTED,** in concurrence.

The Bill **READ ONCE.**

The Bill **TOMORROW ASSIGNED FOR SECOND READING.**

Ought to Pass As Amended

The Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Newport Water District" (Emergency)

H.P. 705 L.D. 957

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-134).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-134).**

Which Report was **READ** and **ACCEPTED,** in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-134) **READ** and **ADOPTED,** in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME,** and **PASSED TO BE ENGROSSED, As Amended,** in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Senate

Ought to Pass As Amended

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Protect Consumers when Disconnecting Cable Television Services" (Emergency)

S.P. 195 L.D. 631

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-58).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-58) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Prevent Discrimination"

S.P. 92 L.D. 246

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-57).**

Signed:

Senators:
CONLEY of Cumberland
BERUBE of Androscoggin

Representatives:
LIPMAN of Augusta
CARON of Biddeford
CATHCART of Orono
FAIRCLOTH of Bangor
COTE of Auburn
FARNSWORTH of Hallowell
KETTERER of Madison
SAXL of Bangor
OTT of York

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass.**

Signed:

Senator:
HANLEY of Oxford

Representative:
PLOWMAN of Hampden

Which Reports were **READ**.

Senator **CONLEY** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **CONLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. What we are about to debate is L.D. 246, "An Act to Prevent Discrimination". I am proud to be the sponsor of this measure for the third consecutive session. I would like to point out to the chamber that this Bill is not new to this Legislature, this is actually the ninth time that we have to revisit this issue. Back in 1975 when this Bill first came forward it was hard for people to find someone to sponsor this legislation. After significant debate in the other body and in this body it was only able to generate a scant number of votes. People who turned up at the hearing in reference to this Bill, there were literally hundreds of people who had a lot of very mean, and nasty things to say about people because of their sexual orientation. How glad I am to be a citizen in this State as the nature of this debate has changed so significantly since that time. Back then comments used on the floor of this chamber would have been ruled out of order by the presiding officer in charge. Again, the tenor of the debate has changed significantly. As a matter of fact, this year things have changed so substantially that there were over forty cosponsors on this L.D. Over fifty organizations and businesses have come to support this measure. The Maine Chamber of Commerce and the Maine Medical Association are two of those fifty that came forward. Not two organizations I put in the bastion of liberal politics from which I tend to hail from time to time. There are also many labor organizations who came forward, many churches who came forward, and many individual citizens who came forward to talk about the discrimination which they have endured at the hands of some of our fellow citizens.

They talked about discrimination that they face in getting jobs, discrimination that they face in getting thrown out of their apartments, discrimination in not being able to get public accommodations or even credit. These people have real faces, with real names and real courage to come up before our Committee and tell us about the pain which they have suffered because of a lack of inclusion in the Maine Human Rights Act of the term sexual orientation. What scared me most as a member of that Committee and as a member of the eleven out of thirteen members of that Committee that signed onto the Majority Report, is that these individuals testified about the violence which they have had to endure in their lives just because of the perception by some members of the public that they are gay or lesbian. This violence which they have had to endure could not be reported because here in the State of Maine it is legal to fire somebody because of their sexual orientation. You can literally say to somebody yes you've done a great job here, as a matter of fact you have produced more than any of the other workers in this plant, people here seem to like you, you have an excellent reputation among your co-workers for diligence and hard work but I found out that you happen to be gay, sorry I don't like your type, hit the bricks. That is legal here. That is wrong, it's wrong and we ought to be ashamed to have that type of situation here in the State of Maine.

We should take a step today to join with the ten other states in this country which have passed this type of legislation. Maine needs this legislation. We were on the forefront when this legislation was introduced some twenty years ago and now we've been left behind. Our sister and brother states have adopted this measure, all without problem. You are going to hear some testimony here today in this chamber, testimony I would describe as being red herring in nature, there will be some scare tactics dwelled up, some fact situations put together by some high paid lawyers who really, in their hearts although they cant' come out and say it because you can't say what you could say twenty years ago, really don't like individuals who happen to not be of the same sexual orientation that they hail from. People can hang whatever statistic, whatever face, whatever name they want on a reason for not supporting this Bill but the fact of the matter is all this Bill is about is ending discrimination. It doesn't give special rights to anyone. It does away with a special wrong, a wrong which our gay and lesbian citizens have had to endure for too long. I grew up in a household with a father who amongst all of my siblings, as many as we were, often told us about how difficult it was to be Irish growing up in Portland. Those of you who know Portland and have been around Portland for some time know that it is true that signs hung in restaurant and business windows said Irish need not apply. We know that is wrong. We've rectified that wrong, let's rectify this wrong. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I simply must differ with the good Senator from Cumberland that that in fact is not the law in the State of Maine. As a matter of fact if an employer were to be so silly as to give a gay or lesbian in writing that reason I think the gay or lesbian would have a tort case. In fact the law in the State of Maine is at will. You can be fired at any time for no reason and also you can quit for no reason. Some people seem to think that is fair, I suppose if jobs were hobbies that you did just to take up your time then I suppose it would be fair. I don't know why it is so sad that the lesbian school teacher can be fired for simply being a lesbian but Joe Arsenault, the truck driver with a wife and three children at home under ten, can be fired with no reason at all and that does not draw a tear from anybody. The fact of the matter is that everyone in this State who works should have just cause for dismissal and I disagree that this will not give special privileges. This will give the gay and lesbian community just cause for dismissal. If you belong to a union you will also have just cause for dismissal but seeing as Maine is a State where businesses are small, often with five or six people to a business, you aren't going to find many unions trying to unionize that business. I firmly believe in just cause for dismissal and I will vote for it and support it when it covers all Maine workers. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I have had an opportunity in four terms in the Legislature to serve on the Judiciary Committee all those four terms. Serving on the Judiciary has given me the opportunity to participate in four public hearings regarding discrimination based on sexual orientation. It has provided me with an opportunity to serve for four terms in work sessions and now for the fourth time debate on the Floor. I have probably logged over fifty or sixty hours of debate, discussion, deliberation on this issue alone. It is after all of that deliberation that I rise this afternoon and request that you members of the Senate vote against the Majority Ought to Pass Report. To force a person to explain and defend every choice, every decision under threat of legal penalties is too great a price. To eliminate unfair prejudice we must educate and persuade, not legislate and punish. You will not change peoples minds or their hearts by threatening them or suing them.

L.D. 246 will not increase our civil rights, it will in fact reduce our civil rights. It will increase the power of the government at the expense of our individual freedoms of association and private property. A law such as this should not be an unguided missile, turned loose with little idea of where it will land. My good friend from Cumberland, Senator Conley, raised a number of very good points as far as the fact of where this debate has gone. Where this issue has been and where it is now. As the good Senator pointed out, in the late seventies you couldn't find a sponsor, nor could you find very many who would support this legislation. I say now that has changed, the pendulum has swung. Now you have any number of people who are willing to sponsor this legislation and to say that discrimination is bad. Let me echo with my good friend from Cumberland, any discrimination is bad. Whether it's based on your age, your gender, your political affiliation, your sexual orientation, whether you're left handed, whether you're over weight, whether you're not that attractive, whether or not you're from the southern part of the state or the northern part of the state. No discrimination should be allowed. The question at hand for this Senate is whether or not this is appropriate legislation to enact.

Currently when people are harassed or hurt because of their sexual orientation there are laws on the books to protect them. In fact Maine has one of the strongest harassment statutes in the nation. We protect people that have been victims of violent assaults based on their sexual orientation. As far as the comments that there will be red herrings, and scare tactics by high priced lawyers I would just tell my good friend that after seven years of discussing this issue that it doesn't take high priced lawyers, it just takes a sense of common sense to look at exactly where this Bill is going. One interesting note is if you take a look at the fiscal note. In discussions in the hearings it was brought up that there would probably only be eight to ten claims a year based on this new change and that in fact, the fiscal note says, any expenses can be incurred by current operating expenses. That should be some indication as to whether or not how necessary and how prevalent this problem is. Men and women of the Senate let me just walk you through this because I think it's important how a complaint would be lodged and how it would be handled by the Human Rights Commission. If I were to interview ten people to provide daycare for my children and one of the people that I interviewed was homosexual and I did not hire him, I do not know his sexual orientation but I decided that someone else was better qualified, that person could contact the Human Rights Commission. If they fulfill the certain criteria that first they are a member of the protected status, that they have the certain sexual orientation that was the basis for their not being hired, second that they qualified for the position, third that either they were fired from that position or they were not hired in the first place, the fourth is that they have to have a sworn affidavit stating that in their belief, their own personal belief, they think that the reason why they were not hired or the reason that they were fired was based on their sexual orientation. That's all it takes to get in the door, to get a claim going. Now what happens after that is the Human Rights Commission will then call up Senator Hanley and ask me whether or not I hired this individual, whether or not it was based on sexual orientation and the burden of production would then rest on myself. To show that of those ten people interviewed I refused to hire that one individual based on his sexual orientation. That's the way it works. We're not talking about your L.L. Beans, we're not talking about your BIW's, we're talking about you and as the Zoe Baird incident proved, whether or not you have one person providing daycare, or you have one person cleaning your home, you are an employer and as an employer you will now be bound by this law, by this proposed change in the law. You would no longer have that control as far as who is to be in your home, who was to watch over your children, who is to clean your home. I'm just talking about the single employer. The same holds true for the fisherman who wants to hire two or three individuals and go out to sea for two or three weeks at a time.

An attorney from Lewiston and an attorney, in fact that I just met who was in our caucus, from Portland, we were discussing as far as the cost from the employment aspect for your single employer or for any employer. If a complaint was filed against you, and you've got to realize that when you're interviewing someone you can't ask what their sexual orientation is, as a matter of fact if you have a complaint lodged against you based on their age, or their gender or their race, you can have a questionnaire stating that's just not true. I have ten women of the twenty people I employ, five are native americans, five are african americans. You can show that you can rebut any presumption that you are acting indiscriminately or discriminately based on certain qualifications. You do not have that opportunity based on sexual orientation. So where are we? You've had a complaint lodged against you, they have hit the four steps now it's your turn. In consulting with these two attorneys who have done a lot of work in labor relations and employee discrimination the ball park, just to defend your case, the low end is $5,000 the other is $10,000. He told me and he works with Herbert H. Bennett Associates Professional Association hasn't seen a defense of less than $10,000.

Men and women of the Senate the most powerful testimony that I think I heard at the public hearing was from a woman in South Portland, that woman in South Portland recounted what had happened in past legislative sessions as far as on the Record. In the mid to late seventies when a lot of derogatory comments were made about homosexuals, about people based on their sexual orientation, she said now

thankfully, hopefully, and I think she was right, we have crossed the barrier. We as elected representative, a microcosm of state as it were, have made that leap, have made that transition from being educated on this issue to being understanding of individuals based on their sexual orientation. That's where the answer is. If this Bill were to pass discrimination would still exist, in fact I would argue that it would create a wider rift between heterosexuals and homosexuals. The bottom line, men and women of the Senate, is that we want to try and put away homophobia, if we want to try and deal with the problem at hand then we should encourage both sides to work together on this by creating, by enacting this legislation, by forcing individuals to make choices that they as a single employer would not want to make, you're going to be forcing people who have made that transition and have made that leap from being understanding and who do not have a need to discriminate, you're going to force them into a position where all of their growth, all of their understanding has now been for naught because they no longer have their own privacy as far as their own rights for association, their own rights for privacy within their home.

There are a lot of questions as far as what the impact of this legislation would have. I think that's important for us as a Senate to ask. I guess I have a couple of questions and I would pose them to the good Senate Chair of the Judiciary Committee. If L.D. 246 is adopted in its present form would the Human Rights Commission interpret the Maine Human Rights Act to require an employer to provide health insurance benefits or other employee benefits to partners of homosexual employees if such benefits are available to spouses of heterosexual employees? Thank you.

On motion by Senator **CONLEY** of Cumberland, Tabled until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber the members of the University of Maine Black Bear Championship Hockey Team. I would like to introduce each member so if they could either step up or make themselves known so that we know who you are. Reg Cardinal, Barry Clukey, Mike Dunham, Eric Fenton, Chris Ferraro, Peter Ferraro, Tony Frenette, Craig Gwinn, Greg Hirsch, Chris Imes, Cal Ingraham, Paul Kariya, Dave LaCouture, Mike Latendresse, Dave MacIsaac, Brad Mahoney, Blair Marsh, Matt Martin, Martin Mercier, Jim Montgomery, Dan Murphy, Brad Purdie, Jack Rodrique, Kent Salfi, Mike Santonelli, Lee Saunders, Andy Silverman, Garth Snow, Pat Tardif, Chuck Texiera, Jaime Thompson, Justin Tomberlin and Jason Weinrich, coaches Red Gendron, Bruce Major and Grant Standbrook. Now it gives me great pleasure to have their coach, Shawn Walsh, come and address the Senate.

COACH SHAWN WALSH: Thank you. Your Senate President did a tremendous job on the french names, an average job on the Irish names and not a very good job on the Japanese names. We're certainly very proud to be here and I think what makes us the proudest is you're the true warriors in the State of Maine, you people are the people who represent this State day in and day out. For one quick and not so quiet night on April 3, I think this group right in front of you represented the State of Maine and I think we represented them proudly. It's interesting, on the bus ride down we had the video tape playing of the National Championship game and we only got through the first two periods, we haven't yet seen the third period but I think in that third period what we are going to see on the way home is a word called resiliency and a word called staying positive in tough times. You people represent all of our citizens and knowing you have done that you have been very resilient and very positive and I want in my acceptance on behalf of this team to thank you for that. We all appreciate your feelings for us and believe me it's visa versa. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to take this opportunity to welcome the University of Maine Black Bears here to Augusta today and to have everybody here in the Senate take a close look at these individuals who represented our State so well. These are some of the faces of our 30,000 students system wide, some of the faculty and staff who guide and shape the next generation of leaders in Maine. Everyone of these individuals has made an outstanding contribution that we are all very much aware of and it's their contributions and it's the contributions that we don't see on the front pages of the newspapers that really shape where we are going to go tomorrow. We are all very much indebted to you for the work that you have done in bringing Maine to the very pinnacle of success in intercollegiate hockey. I don't think there was a person in this State who wasn't watching your game and there are several of us who have watched it more than once. It's been discussed in these halls, in fact it is still being discussed today, and if Coach Walsh needs to know how that third period ends up I'm sure there are any number of people here who could tell you shot for shot and play by play. Everybody from Kittery to Fort Kent is very pleased and very proud to say that you represented us very well. With that I would just like to say thank you as well. Thank you.

THE PRESIDENT: Once again we would like to thank you for the exciting year. Players and coaches great job. Thanks a lot.

ORDERS OF THE DAY

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

Senate Reports - from the Committee on **JUDICIARY** on Bill "An Act to Prevent Discrimination"
S.P. 92 L.D. 246

Majority - **Ought to Pass as Amended**

Minority - **Ought Not to Pass**

Tabled - April 12, 1993, by Senator **CONLEY** of Cumberland.

Pending - Motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, April 12, 1993, Reports **READ**.)

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

Senator **CONLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question posed by the good Senator from Oxford, what I first would say is that if my health were in danger I would want these guys around but in reference to the specifics of your question as to whether or not an employer would have to provide health benefits for what I assume we could call a significant other of an employee in his or her business similar to the health benefits would have to provide to a spouse, the answer is no. Spouse is already defined in Maine law and it would not include any partner in any other type of relationship other than one which comes out of marriage. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. If I could just follow up with another question to my good colleague, Senator Conley. Would the same be true or would they be able to have a cause of action under the disparate impact theory to go beyond. I know that there are some court cases nationally where in fact just such a disparate impact theory has been used in states having a similar sexual orientation protection status. Would you interpret that as being a potential?

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

Senator **CONLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the good question from the Senator from Oxford, my answer is no.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Cumberland and I disagree on that issue and there are a number of other ones that will rise probably in the course of this debate and we will get into those as well. I'd just like to point out that in the four months that the Portland gay rights ordinance has been in effect there has not been one single claim of discrimination brought in the city of Portland, which arguably has the largest gay population in the state. Also the Pine Tree Council of the Boy Scouts is exempted under the Portland ordinance but would not be exempt under 246. Men and women of the Senate, liberty is a very messy and crude idea and in a free society part of the price we pay for liberty is that individuals sometimes make decisions or choices for the wrong reasons. Life is not always fair in a free society, life is only truly fair in a utopian, totalitarian state where the government makes all of our decisions and makes sure that they are all there. Men and women of the Senate if this passes discrimination will still exist, in fact I would argue that the discrimination would become more pronounced.

If what we are looking for is to end discrimination, to have equality amongst all, regardless of any behavior, any physical attributes, then we as individuals will make that choice. It's not by threat of suit that will control us. I would encourage you to vote against the Majority Ought to Pass Report. Thank you

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCI**: Thank you Mr. President, Ladies and Gentlemen of the Senate. There have been a couple of points that have been made tonight that have bothered me in regards to this legislation. As one of the many co-sponsors of this legislation and a long time supporter of this as an attempt to give people an avenue to air their discriminations, it should be very clear and on the Record, having not consulted any attorneys about this and not having them present for discussions, it has been the feeling of the business community, which I do not speak for, but the business community is very supportive of this legislation and if I'm not mistaken the Maine Chamber of Commerce and Industry endorses this ending of discrimination against people for their sexual preference. It should be very clear that the business community does support this end to the ban against sexual preference. It allows for the amendment for the Human Rights Act to allow an avenue for people who feel discriminated against to have an opportunity to air that. The business community supports this legislation, the small employers. I haven't consulted with very many attorneys as it impacts their practice and their firm and the number of employees that they have but I have talked to people who are operating businesses and it has always been their feeling that whatever you happen to be or where ever you happen to be it is your conduct in employment which is in question. If the conduct of individuals, for whatever their sexual preference is, goes against the employment practices and standards then those people will be terminated. If there is a problem with the Human Rights Commission and it practices and procedures I would say to the good Senator from Oxford, Senator Hanley, that is should be done within the Judiciary Committee to address those mechanical types of issues.

I don't want to hold back ending the discrimination and saying that it is alright to discriminate because we have an inefficient process or one that is tilted in certain directions. Basically all this is is an avenue to air those discriminations. The business community supports it, I support it, we've supported it for a long time. It's not giving them any special rights, it's just saying here is a process and procedure. If you want credit, employment or housing, you shouldn't be discriminated against solely because of your sexual preference. I think that this is all this allows people an opportunity to air that. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise here this evening to speak to you because of the importance of this issue. What we have here today is really very simple, and as it states it is an act to prevent discrimination. That is what we are here to discuss,

to debate and to cast our decision on. Does discrimination exist or does it not exist against individuals who are gay men, lesbians, or even suspected of being a gay man or a lesbian. That is the question before us. What do we, as representatives of the people of this State, do. If it doesn't exist cast our vote. If it does exist we have a moral obligation to protect those people which are being discriminated against. It is that simple. We know discrimination exists. Listen to the testimony of scores, if not hundreds, of individuals before a public hearing here. Listen to the individuals who have spoken to us about the discrimination which they have experienced. They have been fired from jobs, that's not theoretical , we know it has happened, people have said they have done it. Employers have said they have fired individuals because someone has been identified as being a gay person, a gay man or a lesbian. We know that people have been evicted from their homes, from their apartments because of their sexual orientation. We know that has happened. We know that people have been denied credit, they have been denied public accommodation in restaurants and hotels. We know they have been harassed . There's documented evidence around the State to show that that is the case. There's graffiti on the walls of public buildings and private buildings to indicate harassment of individuals. They have been degraded, they have been humiliated, they have been beaten, and some of them have died. We know that and we must either decide discrimination has occured or it has not occurred. What we also know is that it is now perfectly legal to discriminate against someone because of their sexual orientation. There is no provision in the constitution, there is no state statute, there is no court who has ruled that simply to act on your belief that someone is gay or is a lesbian that you cannot discriminate against them. There is no protection from that simple act. If there is, someone should state it this evening, but there is none. It's been researched by several Attorney Generals, the courts have looked at it, clearly there is no protection.

What do we individually know about discrimination? I can tell you that I am a heterosexual, white male, married with two children. Frankly I don't know very much about discrimination based on being gay or lesbian, I don't have very much personal experience about that. But I can tell you some personal experiences about discrimination. My name is John Joseph Chabot Cleveland. I'm from french heritage, my grandparents grew up in Canada, they spoke french. I spoke french before I started school. I was ridiculed because my accent was not what other children were in school. I was ridiculed because I was a French Canadian, maybe some of the others of you in this chamber have felt that pain and that sting of discrimination. Maybe it's because you are Jewish and you felt it, maybe it's because you are Italian and you felt it, maybe it's because you were of color and you felt it, maybe it's because you are a woman and you felt it. Each one of us have felt it or we are only one generation away from it. Discrimination is something that each one of us is personally familiar with and we know what it feels like and we know what it does to us, we know what it does to our children, we know the debilitating and destructive effect that discrimination and hatred has and only love can overcome. We may not personally know what discrimination is because of our sexual orientation but we certainly know what it is and the pain of that is no less painful for those individuals either.

There are some who would suggest that by this legislature and this Senate endorsing this law that somehow we are taking affirmative action to endorse a sexual orientation or a lifestyle. Nothing could be further from the truth. If that was true then when we passed the Human Rights Act were we promoting one religion over another, Jews over Christians, Protestants over Catholics, no we didn't do that. Were we promoting one race over the other when we passed the Human Rights Act, saying blacks were being endorsed over whites, or browns over whites, no we didn't do that then. Did we promote one ethnic group over another, Italians over French, Polish over English, no we did not. Did we promote one gender over another, we didn't do it then, why would we do it now. The language is the same, the provision is the same, the process is the same, there is no endorsement. It's a recognition of discrimination and the injustice of discrimination and our actions protect anyone who experiences it for those causes.

This really must be distinguished between status, that is you're an Italian, you're black, you're a woman, you're a Jew or your sexual orientation. It's much different than your conduct. We don't condone nor do we require acceptance of any conduct from anyone, black, white, French, Italian, Jewish, woman, male, anyone, or sexual orientation. What we require is that they be treated equally because of who they are and because of what they do and their abilities and how they are performing. That's how we must judge each individual in this state, always. We must always be careful to distinguish between an individual's status and an individual's conduct, no conduct, no matter what, is acceptable if it is not acceptable to the norms and the laws of this State. Some would suggest that this is a special right, that we are extending to this group a right that no other group enjoys. Is having a job and not being fired from it because of who you are, is that a special right, is that a right any of us enjoy that anyone else doesn't? The right to have a home, to pay rent, to buy a home somewhere and own it, is that a special right, is it a special right to receive credit so that we can participate fully in this society and not be denied the critical loans to buy cars and other major purchases? Is it a special right to be served a meal in a public restaurant or a public hotel, are we extending anything more? No we're not. Nowhere are we doing that. If it was a special right then we would have extended them to people who are Jewish, woman, Polish, Italian, Portuguese, French. But no, we said we treat all the same, regardless of our status, not our conduct.

In actuality what we do know is that there is a special right that exists and that is the special right to discriminate against individuals and that's what brings us to the problem. That's what we must recognize and that's what we must act on. What we know is is that individuals may discriminate against someone else because of their sexual orientation. They may make individual judgements. If you're the owner of a business you may fire someone, take away their economic livelihood because of their sexual orientation. You may be the judge, you may be the jury, and you may be the sentencer and the executioner because you are the employer. If you own an apartment and you wish to rent it you may do the same thing. If you are a bank officer you may be the judge and the jury and the executioner. What that does is provide an economic penalty for those individuals who have suffered under our other statute. If you have been assaulted you know that there is another judge, separate from the court system, another justice that is unequal and unfair

that if you speak up your employer may take a separate sentence on you and you may lose your economic income, because you have objected to being assaulted. You may be thrown out of your apartment or you may be denied credit you need to buy your car and these judgements are allowed to be made separately in the public commerce. Not your private decisions in your home, not what you do with your family, not whom you want to associate with in your own private relationships, but in public commerce. Individuals who have chosen to be employers, to provide public accommodations, to lend credit, they can render a judgement that is more cruel and more difficult that denies the justice of our legal system to others that have been discriminated against. Is it then surprising that people don't come forward as quickly, knowing that those separate injustices can occur. It ought to be obvious to us that that occurs thus the reason we are here. Discrimination exists, we are being asked to act on it, it is our responsibility, we know it's there, it cannot be remedied by other than our own action. That is why we must deal with this issue. The courts have said clearly that since the Maine Human Rights law includes certain defined categories and not others it was the intent of the legislature and the Governor to say this group was included and that all others were not. Therefore the courts cannot expand beyond what the legislature has deemed and the Governor has voted for. We must, this legislature, this Senate and this Governor, must deal with this issue. We are the representatives of all peoples, even minorities, even native americans. Any minority group, we must represent their interests as well because it is only proper to do that. They depend on us, we were elected to do that, it is our responsibility, we need to do it.

We must also do it in a way that looks to no greater standard than is required from any other group. When we look to protect the rights of any other individuals we must not ask for super majorities, if it's not required in the process we ought not to require a standard that is higher than what we require to protect any other groups. It has to be a majority vote of both chambers, the Governor has to sign it, that's what the law says, that's what the constitution says. That's what we ought to require of ourselves here. We ought not to suggest that there has to be a majority in both parties, and in both houses because the law doesn't say that. If that's the standard then we must apply it to everything. That's not what we have chosen to do, we cannot selectively decide which standard to apply simply because we feel it is more convenient to do that. We must abide by that and the Governor must abide by applying the law equitably to everyone. That's the oath we took, that's the oath the Governor took, and that's what we are required to do. I believe the people in Maine are tolerant. Polls have shown over and over again that individuals support tolerance that they are opposed to discrimination and that they believe that all people should have equal rights to conduct their lives in a way that is appropriate and gives them an opportunity to fulfill them, regardless of their status, whether they are women, whether they are black, whether they are Jewish or, I believe, whether they have a sexual orientation that is different from the heterosexual orientation. I think we must always remember that anywhere that we allow injustice and discrimination that it is a threat to the freedom and liberty of all of us and we have a responsibility, not only to ourselves, but to the people of this state to see that is does not exist. Thank you.

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

Senator **AMERO**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise today as a proud Senate sponsor of L.D. 246. It's been said over and over again that this is a simple Bill and in my heart I believe that it is a simple Bill. It is also a very powerful Bill because it asks each and every one of us to take a stand against discrimination. This is a real opportunity for us to affirm our basic principals and assure a fair and equal society. I believe that Maine people stand for individual freedom, that we think that a woman or a man should be judged solely on his or her individual qualifications and efforts. Sometimes I think the reason that there is any opposition to this Bill is because it is so basic that people think there must be more to it than there is. I don't think there is. I think this Bill simply prevents discrimination. I don't want to rehash what other people have said but I do want to point out some of the misconceptions about the Bill. First of all the Bill will not create any new or special rights for gay people. This Bill will not force our schools to teach homosexuality. The Bill will not restrict the rights of any religious organizations, they are specifically exempt. This Bill will not establish affirmative action for lesbians or gays. The Bill will not legalize gay or lesbian marriages and it will not extend benefits to the partners of the gay employee. The Bill will not legalize any sexual conduct at all, especially any conduct now criminal. The Bill will not authorize any gay or lesbian adoptions. Why does this Bill have such broad based support of both employees and employers and people in both political parties? I think it has such broad support because it is fair and because it is right. How are our employers in this State going to be affected. Well, ask Jack Dexter, the President of the Maine Chamber of Commerce and Industry, or ask the Maine Bankers Association, ask Bath Iron Works, International Paper, L.L. Bean, Unum or Boise Cascade. They will all tell you that sexual orientation should be irrelevant to any Maine employer, any Maine banker or any Maine landlord. In fact, fourteen out of Maine's twenty largest employers have already adopted such policies of their own. I'd also ask you to think about one other item. That is how do we want to be viewed by people outside of our state. Do we want to be viewed as a State that is against discrimination, that is fair, and that is tolerant or do we want to be looked upon otherwise. I ask for a non-partisan show of support for L.D. 246. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK**: Thank you Mr. President, Ladies and Gentlemen of the Senate. This is a very simple Bill, this is an anti-discrimination Bill. It would add two words to the Maine Human Rights Act, sexual orientation. I would like to thank the good Senator from Androscoggin, Senator Cleveland, for his eloquent accounting of how in past times you and I might have argued about whether it was legal or not to discriminate against gays and lesbians in this State. I think the good Senator has clearly run down the list of Attorney Generals, hate crime task forces, Chiefs of Police who have stated clearly that it is legal to discriminate in Maine against this group of people. The fact that discrimination is legal in Maine has been a problem for gays and lesbians for quite some time. Now, however, in the past year we have seen it become a problem for police

chiefs and that is because the victims of crime who are gay and lesbian are unwilling to come forward to accuse their assaulters for fear of losing their jobs. I just had one of the pages pass out to you a copy of this little clipping, actually they had to blow it up. It was so little, I've been carrying it around for a year with me in my datebook and it so struck me. It's from the Portland Press Herald last April, 1992, about the eighth incident of gay bashing in Portland that year. It says officers took two of the alleged assailants into custody after a foot chase but Lt. Dion said police released the men when the alleged victim declined to file charges. The sad part is he feels he'll lose his employment if his employer finds out he's gay. That is why we have had unprecedented support from police chiefs on this measure and why hate crime task forces have actually proposed this to many city councils around this State.

I have been quite successful in my life. I have achieved a lot. I have been awarded jobs and promotions all based on my abilities and that's the way it should be and that is the reason why you saw the Chamber of Commerce come forward and take a position on this Bill this year. Occasionally I have been denied a promotion or a place to live or an opportunity based on my sexual orientation. Whenever that happens it always brings me up short. This happened recently when I was invited to give a key note address in Aroostook county on self esteem to a teen conference there. Several ministers objected and pressured school boards into withdrawing. Since the topic of my speech was career choices it was very clear to my that people were objecting to only one part of who I am and not what I was going to say and it hurt. It felt like everything that I had accomplished counted for nothing. It's been a very personal reminder to me that discrimination exists. Isn't that the definition of discrimination, having your accomplishments count for nothing. That's what discrimination is. It's a lonely feeling to have people object to only part of who you are. There's nothing I can do about being a lesbian, before I even had a name for it I knew that I was different. There's just nothing I can do about it, it is not a choice for me. Some say that people that choose their sexual orientation ought not to be protected by the Maine Human Rights Act, and maybe someday scientific research will catch up with this argument, this discussion we are having and make the question mute and answer that question for us, but right now it really doesn't matter. The answer to that question about how we all come to be who we are in our sexual orientation is not a question that we need concern ourselves with today because the Human Rights Act protects both characteristics that are hereditary and characteristics that are choices. The Maine Human Rights Act, today, prevents discrimination based on inherited characteristics such as race or gender and it also prohibits discrimination based on choices like religion.

I want to address for a minute the concerns of the good Senator from Oxford, Senator Luther, who has been a tireless advocate for workers' rights and in that effort I wish to emulate and help and with whom I join, as she knows, in the concern for the just cause discrimination. I worry that we have two fights to fight, we have this fight and we have the just cause fight. Somehow, don't ask me why, back in the age of Dred Scott or whenever people who were discriminated against started objecting to it, we have done it class by class. I agree there are two last fights to fight, this one and just cause and I will be right there with you on just cause and I certainly hope that you are with me today in supporting the end to discrimination on sexual orientation. I'd like to also answer some of the concerns of the good Senator Hanley from Oxford, he's concerned with attitudes. This Bill will not change the fact that discrimination will exist, that it will still exist after this Bill is passed and it will not change people's attitudes and I totally agree with that. It is not meant to change people's attitudes. People have a right, as you so eloquently asserted, to be free in their homes to teach their children as they wish, to believe as they wish, to talk as they wish. What this Bill does is regulates public behavior in four areas, it is an anti-discrimination Bill, it is simple Bill, it only changes public behavior. As to the concern about hiring out of ten people a daycare provider or someone in your home and your concern about having no control over who works for you, that's absolutely not the case. Employers have a lot of control over who works for them. Were that situation to come up, and I have been talking to a member of the other body about this situation , the burden of proof in any discrimination case always rests with the plaintiff, the employee or the would-be-employee. So you were very accurate in what the employee initially has to prove when the employee says I was discriminated against. Then, it's not the burden of proof that shifts back to the employer, he must articulate a legitimate reason for the employer's behavior. That is what the good Senator called the burden of production. That is very different than the burden of proof. The employer does not have to prove anything, he merely has to articulate a legitimate reason for choosing applicant number one over applicant number two. Then the burden of proof shifts back to the complainant , the would-be-employee and the would-be-employee has to prove, not articulate, has to prove, a much higher standard a very difficult legal standard, and that is why it is so hard to win discrimination cases. The complainant has to prove adverse state of mind on the part of the employer, he has to get into the employer's mind and actually prove that there is another pretext for his behavior. It's a very difficult standard of evidence to prove. So let's be very clear, employer's have many rights. There is no burden of proof that rests on the employer at all and the burden of proof, and it is very difficult, on the complainant . In addition, Pat Ryan, who is the head of the Maine Human Rights Act, asserts that most of the cases that come before her are not all the kind of case posed by the good Senator from Oxford, they are not cases of someone complaining because they were not hired. They are cases of firing or eviction. They are after you are employed cases. The other thing to remember and the concern about the Portland ordinance, other states who have passed this Bill have shown that about 1% - 2% of their cases are sexual orientation related and I'm sure that will be the case in Portland. It doesn't matter how many there are, one is too many and if one person is discriminated against and loses an equal chance for a job or a house that is too many.

I'd just like to close by saying one more thing. On July 4, 1776 a few brave men, who's names we all know, took a very courageous step. They signed their names to the Declaration of Independence, which was the embodiment of a new idea of government. I brought a long my copy of the Declaration of Independence, we all know these words, they are very important to our culture, "We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights. Among these are life, liberty, and the pursuit of happiness". Now with this kind of document in our culture it's no wonder some people

think of course you have rights, we all have the same rights, how could we not think that when we have this wonderful, wonderful document as the idiom, the basis, the foundation of our culture. As we know now our founding fathers, when they said men they meant men. No general neutral language for the founding fathers. As a matter of fact they meant white men, they did not mean just men, they were very clear about what they meant. It has taken us 189 years, from 1776 to the 1965 voting rights act, to acknowledge that non-whites have the right to be free from discrimination, and it has taken us 196 years to acknowledge that women have the right to be free from discrimination, it's taken us 215 years to acknowledge that people with disabilities have the right to be free from discrimination, and here we are tonight, 216 years 8 months and 9 days since July 4, 1776. It's time that we acknowledge that sexual orientation should not be grounds for discrimination. All people have the right to equal access to a job, a house, credit and public accommodations. It's time for L.D. 246. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm going to speak a little differently on this Bill. First I'm going to say that everything that has been said on behalf of this Bill I am in favor of. I want to tell another little story of my own that's a bit more personal. My mother's cousin was gay. Mother has since passed away and Cecil has passed away. He was a history teacher in Boston. He would come up to visit us in Eastport every year. I've never found a more delightful person than that guy right there. He was a lot of fun, a very gentle person, and just a nice guy all the way through. We'd all sit around and talk and listen to the radio, because in those days when I was a young man we didn't have TV. On many occasions Cecil would say, let's go out to dinner, on me. We'd go to the local restaurant and of course they knew us in the small town of Eastport, it wasn't any problem there, but I often think what if I was going into a restaurant in Portland or Lewiston or where ever. We'd come into a restaurant and after having such a nice time a guy walks up to us and says listen I happen to know he is gay. He's going to have to leave, you can stay if you want to. Can you imagine the embarrassment, can you imagine how we would all feel, every one of us. Under present law that can happen but if you pass this Bill it can't. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am against this Bill. I have heard comments that we must take care of each individual, no one would differ. However, when you review the legislation against discrimination you will find that it is not on an individual basis but on a much broader basis of a larger group. The history of anti-discrimination legislation has been based on a group or groups of citizens who have been deprived of usual privileges across a large segment of our geographical and social society. This group of people in this legislation, as far as I'm concerned, does not meet the criteria. In the field of housing, in the area of the State that I represent, there has been little or no discrimination to my knowledge. Most of this group live in apartments or houses that are average or above. In the field of economics, this group earns more than the average citizen. In the field of education, this group has more education then the average Maine citizen. In the field of politics, this group is represented on most levels of government. In the field of ethnic background, this group does not have a heritage that is or has been threatened. No one wants discrimination, least of all me. To insert a phrase in the Human Rights Act that does not meet the requirements of the words or phrases that are currently in the act is not the way to handle this issue. I urge you to vote against the Majority Ought to Pass motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have been fortunate enough to serve the people of the city of Lewiston for ten years in the House of Representatives and now in the Maine Senate, since that first term in 1982 I have not changed my position on this, I have always supported the elimination of discrimination of this type and every other type in our society. I say that because I hear from people who are surprised at my stance, it's not newfound, it's been held for a very, very long time and even before I served in the Maine Legislature. I guess I'd like to start my comments this afternoon by rebutting some of the comments made by the previous speaker. Simply because someone has a better education, they should be discriminated against? Simply because someone has the ability to earn a wage, they should be discriminated against? Simply because someone has a desire to serve the public, they should be discriminated against? That is really the extension of what the good Senator from Lincoln has stated. Would we rather have them on the public dole? Would we rather have people illiterate? Would we rather have people not have a sense of public duty and responsibility? I categorically reject the arguments from the good Senator. There a couple of other things that I would really like to raise for you today, not any less important than those issues. Like my good colleague from Androscoggin, Senator Cleveland, I don't think that I have been the subject of discrimination. I certainly have been the subject of ridicule, which I think is probably right on the edge of discrimination. As a person growing up, not being of significant physical stature or terribly adept at athletics. I've been ridiculed and called the usual names of someone who might fall into that category. I'd rather be in a play then play football, I'd rather play a symphony than play hockey, I'd rather take dance lessons then be in a pool hall. Yea, I've been ridiculed and I'm not gay, I'm not even gay. Why should I be discriminated against? Because someone who wanted to, the deliberate act to single a person out. Call it ridicule, call it discrimination, I think it's one and the same in this case.

In the months that we spend here in the legislature, and even before that during our campaigns, we often say how much we want to do for children, how much we want them to have the best possible education, the best possible life. Here's your chance men and women of the Senate. This is a children's Bill. Let me tell you exactly why. I don't know if my seven year old daughter Alexis, or my three and a half year old son Carter, or my five day old son Jordan will be gay or lesbian. Do I want to give them a life for the remainder of this century and into the next to be discriminated against? Is that what we are really here for? I really don't think we want that. I know as a parent I don't. We

all have to look to our friends and our families and say would you want your brother or your sister, your mother or your father, ostracized in society, prohibited from going out to eat in a restaurant or getting an apartment or getting a car loan, of all things, I really don't think so. This is a children's Bill and I know of no better reason to vote for it then to protect those of us who are the least of us, our children.

The good Senator from Oxford said, twice at least, I lost count after the first few times, that any discrimination is bad. No discrimination should be allowed. I have to say that if that is the case then one should be supporting this Bill because to allow one case of discrimination is wrong, patently wrong. I can't urge you more strongly to support this legislation. I've been here now for twelve years, so don't fear for your political repercussions. If that's the reason why I would be thrown out of this chamber then so be it. As a great statesman, Henry Clay, once said "I'd rather be right than President", and I'd rather be right than be a Maine Senator. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I won't be eloquent I just wanted to say to the members of the Senate that I will be voting today for this Bill but I feel that there may be a technical problem that I hope we can work out if, in fact it is a problem, before we have a second reading on this Bill. I just wanted everybody to know that. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I will speak briefly because I think many of my colleagues who stand in support of this Bill have said many of the important things that need to be said but I do want to say one thing briefly about what this Bill says to me. I think it speaks to intolerance. I have been very troubled over the past couple of years and I think we all should be about some of the divisiveness that takes place in our culture, as we try to pit one group against another. As we are always trying to make somebody else out to be the bad guy, the people who, if we didn't have them here, we would be alright. I think it's important to remember that we are a melting pot as a culture and our greatness comes from seeing all of us as equals. What we are doing here today is just recognizing one more group of people as our equals and saying we are no different and no one is any better than any one else and we all deserve to be treated in exactly the same way. I agree with the good Senator Handy that this is a Bill for children and I would like to say it in a slightly different way. I have been the Chair of my local school board for the past three years and I have been an active volunteer in the school since my children were little. I am very troubled when I go onto the playground in my community, which I consider to be a tolerant community, there are only 350 people in my town, we are an island and we all know that we all have to get along with each other if we are going to survive, but when I hear kids on the playground calling each other the kinds of names that you and I all know about, calling each other gay, or fag or queer, as if it's something derogatory to say about somebody else I am very troubled. I have three children, eleven, thirteen and sixteen and I think there is no better message that I can give them about the tolerance I expect them to have for all other people then by voting in support of this Bill today and I hope that you would all do the same. Thank you.

THE PRESIDENT: Senator **HANLEY** of Oxford requested and received leave of the Senate to speak a fourth time. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. As the good Senator from Knox has spoken and the good Senator from Kennebec has spoken regarding our constitution, that all of us are created equal. Unfortunately history has shown that that document cannot dictate to people their actions so as the good Senator from Lincoln pointed out, and I think it's important for the Senator from Androscoggin to maybe get an idea of where the point he was trying to make, the reason why we have created a protected status for race, for gender, what's being considered now for sexual orientation. For race the reason it came up was you had disadvantages passed from generation to generation, you had a class of people who had suffered widespread economic disadvantage and systematic deprivation. They had been denied over and over educational opportunities, they had been delegated to menial positions in the work force, forced to live in shanty towns. Our governing body said we have got to take positive action beyond those protections outlined in the constitution. That is the genesis for any human rights act that we have, that our constitution alone was not enough. I think it's important that we all know exactly what we are doing when we take the vote this evening. If I could just respond briefly to Senator McCormick from Kennebec, just so we all understand exactly how this will work. It was noted that the burden of proof rests with the complainant , and then the employer or the land lord or the bank institution or whatever would have to articulate a legitimate reason, otherwise known as the burden of production. To me, men and women of the Senate, it's one in the same as far as that burden is definitely on that individual to show that that wasn't the reason. Just stating it is not enough, saying that, and I'll use me for a personal example, I interview ten people for daycare, I hire one person, not knowing their sexual orientation and finding out later that they are homosexual. I decide that I do not feel comfortable having a homosexual individual watching over my kids in my own home, as an employer. I decide to terminate the employment and hire one of the other individuals who had identical records, identical credentials. It would be incumbent upon me to prove that that wasn't the reason when in fact it was one of the reasons why I felt uncomfortable and having not known previously. The way this legislation will work out realistically as far as being enforced by the Human Rights Commission, the one man logger, the lobsterman, the parent in their home, they would have to go to the Human Rights Commission and articulate the legitimate reason why it wasn't based on sexual orientation. To me that's a very strong burden of production and as I pointed out before the expense that will be incurred, and having spoken to an attorney that handles the law exclusively from Scalton, Tanner and Abbott, a law firm in Lewiston and a law firm in Portland, $5,000 to $10,000 just to defend before the hearing process. That is quite a decision that this body has to make as far as if there was an exemption for someone who is going to employ less than ten people, that should be addressed in this Bill. That's not the case, this Bill, if passed today would apply to the one employer, you in

your own home, you out operating your skidder, right up to the assembly line and the factory worker. That is an incredible responsibility that we are going to be putting upon everyone and not knowing the sexual orientation of an individual before hiring I think adds a lot of troubles and not solutions for the people of our state. Once again I hope that you vote against the Majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Obviously I have agonized for some time, I have been approached by all sides and it certainly is not an easy position to be in but if I wanted to be in an easy position I would not have run for the job. I have a very understanding district, many times they will call me and express their views but they have always trusted my judgement and I certainly hope that today they will do the very same thing. The gentleman from Waldo, Senator Begley, talked about these people having a higher education, and these people having higher paying jobs. I'm not a jealous person and I really couldn't care less what people make. A long time ago I had a friend in the other body while I was there and his name was Jerry Talbot. He was black. He was discriminated against on many occasions and I felt very sorry for him and his family. Today I'm just sick of being sorry.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. It's been going on for a long time and I will be brief but I think I want to address the whole Bill. I'll stand by my first words, homosexuals have the same lack of protection that everyone else has in this state. The other part that deals with credit, it makes you wonder who you are trying to borrow money from, your brother-in-law's uncle? Of course the banks are all supportive of this because the banks do not discriminate. If you want to borrow money you should go to some place that says FDIC or FICU and in this case the F word means Federal, and they do not discriminate against you. In housing, we're also talking about renting houses, in our town there are a lot of large houses from when people had large families and they got cut down and now they are three tenement houses. The owner usually lives on the first or second floor and rents the other two. Would that owner, no matter what their religious feelings were, have to rent to a homosexual couple under this Bill? I have some problems with that. As for public accommodations I did a mini survey, I asked a man who had worked in about twenty different hotels for about twenty years and I asked him if it happened. He said yes, in fact it does happen, and it not only happens to homosexuals but it happens to heterosexuals and it happens to two women and it happens to two men and it happens if you show up looking like you're halfway in the bag and are going to have a party, they will refuse to let you have a room. The way hotels make their money is when they put out that no vacancy sign and if you look like you're going to be quiet he has never seen anyone discriminated against that was going to pay for their room, be quiet, and get out. There is a real problem and this Bill doesn't address it, the real problem is gay bashing. We should have taken the joy out of the Saturday night sock in the jaw a long time ago and we haven't done it. Battery should be a felony, period. This Bill doesn't do that. Then what really does this Bill do, because the title itself is a winner, I mean I don't think you could find anybody who is pro-discrimination. I think this Bill is to statutory law what $7.2 million is to the megabucks winner on Saturday night. Not only will it take care of this little problem but it will take care of all the problems down the road. You're going to give a key to people, you're going to create a minority group and let them go after what they want and I'll bet you the next court case will answer all kinds of questions that have been asked here tonight. Thank you.

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

Senator **SUMMERS**: Thank you Mr. President, Ladies and Gentlemen of the Senate. I originally didn't intend to even enter this debate and probably some of you are dismayed at this point that I am but nevertheless in listening to both sides of this argument I really feel compelled to make at least a few remarks in the Record. I would like to start off by congratulating individuals on both sides of this issue. As a freshman member of this body during the 115th Legislature I can remember the divisiveness of this issue, I remember the misinformation that was put forward on both sides of the issue, and at times the nastiness of it and I haven't seen that this time. I have to say that the people lobbying in favor of this particular piece of legislation have really conducted themselves absolutely above board as have the people lobbying against it. In fact I want to thank an individual who came to my house last Saturday in the rain, who drove eleven or thirteen miles from Portland, his name is Brian Quint and he is an M.D. at Maine Medical Center. He dropped off some information that I had asked for regarding this Bill and it was information dealing with homosexuality and whether or not it is passed on genetically or transferred biologically. There's a whole realm of study at this particular point dealing with this particular issue, whether or not, I think they refer to is as hypothalamus, the brain of a homosexual and the size of the hypothalamus and whether or not it can be detected by the size of the hypothalamus and there was a lot of medical research on this particular issue, which I think is very important, ultimately, to debate this legislation not only in this State but certainly in other states throughout the country.

Throughout the debate there has been a lot of reference made to people's origins, whether they are Irish, Asian, African, or religious affiliation whether they are Catholic, Protestant, Jewish, Muslim whatever and it seems to me that in the instance of their ethnic background, which is by the virtue of their birth, and certainly in many societies their religion is in fact, by virtue of their birth. I guess the question I have in my mind, and the reason why I asked for the information from the American Medical Association, is whether or not an individual's sexual preference is something that is decided by virtue of their birth. At this point, in the information that I have before me, although very strong, I do not feel it is conclusive and therefore I will not support the Bill. I want to say on the Record that when the day comes when the information is conclusive I will reverse my position on this issue, because at that point I believe that and individual's sexual preference would fit the definition of a protected class. I feel that that is certainly the missing link in this particular issue. Finally I should say that I believe that this legislation will pass this chamber and find it's way down to the House, where it's final fate in the House

I don't know exactly will be. I hope whether it's this issue or any other issue we can continue to debate this at the high level that these debates have gone on and I respect each and every one of you in this chamber and I respect your position on this issue. Thank you.

Senator **BEGLEY** of Lincoln requested a Division.

On motion by Senator **WEBSTER** of Franklin, 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 by Senator **CONLEY** of Cumberland to **ACCEPT** Majority **OUGHT TO PASS AS AMENDED** Report.

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

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 AMERO, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, HARRIMAN, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators BEGLEY, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, KIEFFER, LUDWIG, LUTHER, MARDEN, PEARSON, SUMMERS, WEBSTER

ABSENT: Senators None

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, with No Senators being absent, the motion by Senator **CONLEY**, of Cumberland, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-57) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House As Amended

Bill "An Act to Mandate Suspension of a Minor's Operator's License for Possession of Alcohol in a Motor Vehicle"
H.P. 208 L.D. 270
(C "A" H-78)

Bill "An Act to Prohibit the Use of Electronic Calling Devices While Hunting Moose"
H.P. 317 L.D. 405
(C "A" H-100)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Bill "An Act Regarding Bow Hunting"
H.P. 382 L.D. 495
(C "A" H-85)

Which was **READ A SECOND TIME.**

On motion by Senator **HALL** of Piscataquis, Senate Amendment "A" (S-59) **READ** and **ADOPTED.**

Which was **PASSED TO BE ENGROSSED, As Amended** in **NON-CONCURRENCE.**

Sent down for concurrence.

Senate As Amended

Bill "An Act to Increase the Penalty for Abuse of Animals"
S.P. 82 L.D. 195
(C "A" S-56)

Bill "An Act to Make the Terms of Certain Commissioners Coterminous with the Term of the Governor"
S.P. 104 L.D. 282
(C "A" S-55)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

An Act Regarding Motorized Wheelchairs
H.P. 202 L.D. 264
(H "A" H-91 to C "B" H-52)

An Act to Repeal the Mandatory First-aid Requirement for Licensed Maine Guides
H.P. 248 L.D. 327
(C "A" H-76)

An Act Relating to Interspousal Immunity
H.P. 258 L.D. 336

An Act to Amend the Laws Concerning Transfers of Commercial Moorings
S.P. 166 L.D. 558
(S "A" S-51)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

HELD BILL

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Mr. President, is the Senate in possession of "An Act to Protect Reproductive Privacy in Maine" S.P. 117, L.D. 318?

THE PRESIDENT: The Chair would answer in the affirmative. The Bill having been held at the Senator's Request.

On motion by Senator **PARADIS** of Aroostook, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **PASSED TO BE ENACTED:**

An Act to Protect Reproductive Privacy in Maine (Governor's Bill)
S.P. 117 L.D. 318

(In Senate, April 8, 1993, **PASSED TO BE ENACTED**, in concurrence.)

(In House, April 8, 1993, **PASSED TO BE ENACTED.**)

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I thank you for your reconsideration of L.D. 318. My last minute decision to vote on the prevailing side of the issue last week took many people and myself by surprise, so thank you for your indulgence. Last Thursday morning I had a conversation with Representative Paul Young from Limestone and he expressed his concern about having this Bill, which was so offensive to certain people, leave the legislative process on Holy Thursday and Holy week. I had also listened to debate in the other body, making the case vociferous to hold this Bill for that reason. I knew one had to be on the prevailing side to hold the Bill and it was a snap decision at the last moment for me to pursue that approach. It was for me a basic respect for individuals who genuinely and honestly believe in a constancy of ethics, a respect of life from conception to death, respect for a life which is a seamless garment, a type and belief of behavior that is lived every day. I know full well a pro-life stand implies a responsibility which cannot be assuaged simply by a one-second vote. For some their pro-choice vote is based strictly on respecting other people to make their own decisions and for others an anti-abortion vote is strictly that, a pro-life stand that doesn't extend beyond the womb. Once again Mr. President, men and women of the Senate I appreciate your consideration and would like a roll call.

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

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I noticed a whole bunch of oohs and ahhs when I got on my feet and I won't take very long because I know everyone is ready for dinner. I did need to make a statement regarding the statement by the good Senator from Aroostook, Senator Paradis. Last week when we had the debate and the final vote on this piece of legislation I sort of kicked myself a few times for not moving reconsideration at that point or moving that the Bill be sent forthwith to the Governor and I think that was a bit of a political or procedural faux pas on my part and I blame no one but myself for that. I talked with several members of this body when I learned that the Bill had been held and they assured me that it was because the good Senator from Aroostook, Senator Paradis, had made an error when she voted, and today I learn that the reason it was held was not an error, she did not vote wrong, she held the vote intentionally so that it wouldn't be sent down to the Governor on her religious holiday. I guess I am happy to extend my vote to reconsider legislation if someone did, indeed, make an error, but it will be the last time I extend my vote to reconsider when someone just wants to state their religious preference over someone else's in this political process. I don't think it's the time or the place to do that and I object to it very strenuously. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm glad to have the opportunity to say one last thing about this Bill. I think sometimes this argument has been minimized to the point of arguing about the color blue. The color blue happens to be my favorite color but I wouldn't tell anybody else that they had to like the color blue. I think the point we have to be making here is it is not an abortion argument, it is an argument about what value are you going to place on human life. This reminds me a lot of the argument about slavery. I, myself, would never own any slaves, I think slavery is wrong, but I wouldn't tell somebody else that they can't own slaves. The point was not between the slave owner and the person who didn't own slaves, there was a third party who was innocent. In this argument it is who is going to pick up the tab for the brave new world and such women in it? The tab is going to be picked up by the innocent and unborn babies. Thank you.