

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

tions were proceeding, the Supreme Judicial Court rendered its decision in *Churchill vs. SAD #49 380 A. 2d 186* (Me. 1977) in which the court struck down an "agency shop" provision similar to the Maine State Employees Association proposal. Subsequently, the Maine State Employees Association revised its proposal to incorporate the concept of "fair share" payments by nonunion members. (Attached as Exhibit B) Under this proposal, nonunion members of the bargaining unit would pay the equivalent of 80% of the dues paid by union members within the unit. This "fair share" provision was also included as a recommendation in a later fact finder's report with regard to these negotiations.

On March 10, 1979, a tentative agreement with regard to these proposals was reached between representatives of the Governor and the Maine State Employees Association. This tentative agreement included the "fair share" provision as proposed by the Maine State Employees Association and recommended by the fact finders. The tentative agreement was subsequently ratified by the membership of the Maine State Employees Association and the Governor. The Governor then introduced legislation (L. D. 1447) (Attached as Exhibit C) designed to fund and implement these agreements. Subsequently legislation (L. D. 1573) was introduced in essentially the same form as the preceding legislation, but with some changes to reflect a subsequent independent agreement between the Governor and the Maine State Employees Association with regard to the initial agreements.

QUESTIONS OF LAW

QUESTION I: Does Article III of a certain agreement between the State of Maine and the Maine State Employees Association, incorporated by reference into H. P. 1321, L. D. 1573, which Article contains the so-called "fair share" provision requiring payment by non-Maine State Employees Association members of 80% of the normal member's dues, violate any provision of the Constitution of the United States or the Constitution of Maine, and, in particular, any of those provisions guaranteeing freedom of speech, religion or association?

QUESTION II: Does the aforementioned "fair share" provision on its face violate the provisions for the State Employees Labor Relations Act; 26 MRSA § 979, et seq., and in particular, sections 979-B and 979-C of that Act such that this provision should not have been negotiated absent express statutory authorization by the Legislature?

QUESTION III: If the answer to the foregoing questions is in the negative, is an evidentiary hearing required to determine the validity of the 80% as proposed by the Maine State Employees Association, recommended by the fact finders and agreed to by the State and the Maine State Employees Association or will that figure be regarded as conclusive unless patently unreasonable?

The Order was read.

On motion of Mrs. Mitchell of Vassalboro, tabled until later in today's session pending passage and by unanimous consent, made a special order of the day for 9:15 A. M.

(Off Record Remarks)

House Reports of Committees

Ought Not to Pass

Mr. Jacques from the Committee on Fisheries and Wildlife on Bill "An Act to Remove Weight Restrictions on Black Bass" (H. P. 736) (L. D. 923) reporting "Ought Not to Pass"

Mr. Vose from the Committee on Fisheries and Wildlife on Bill, "An Act to Permit Hunting of Wild Game upon Certain Lands on Sunday" (H. P. 802) (L. D. 1005) reporting "Ought Not to Pass"

Mr. Jacques from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Evidence of Illegally Hunting Deer" (H. P.

274) (L. D. 356) reporting "Ought Not to Pass"

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act to Provide for more Humane Trapping of Wild Animals" (H. P. 1188) (L. D. 1445) reporting "Ought Not to Pass"

Mr. Davies from the Committee on Public Utilities on Bill "An Act Relating to Inspecting Electricity and Water Meters by the Public Utilities Commission" (H. P. 835) (L. D. 1034) reporting "Ought Not to Pass"

Mr. Davies from the Committee on Public Utilities on Bill "An Act to Encourage the Conservation of Electricity by Providing for Promotional and Information Material" (H. P. 839) (L. D. 1042) reporting "Ought Not to Pass"

Mr. Berry from the Committee on Public Utilities on Bill "An Act to Reduce the Charges for Public Pay Telephones" (H. P. 1063) (L. D. 1317) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 22, and sent up for concurrence.

Leave to Withdraw

Mr. Mahany from the Committee on Agriculture on Bill "An Act to Provide Funds for Sterilization of Female Dogs" (H. P. 653) (L. D. 814) reporting "Leave to Withdraw"

Mr. Wood from the Committee on Agriculture on Bill "An Act to Equalize the License Fees for Dogs" (H. P. 453) (L. D. 567) reporting "Leave to Withdraw"

Mr. Carrier from the Committee on Judiciary on Bill "An Act to Allow Officers to Summons Persons who have Attained their 15th birthday to Court for Liquor Law or Certain Drug Violations without Going Through an Intake Bureau and to Repeal the Requirement that Verbatim Records be Kept for Certain Juvenile Hearings" (H. P. 502) (L. D. 609) reporting "Leave to Withdraw"

Mr. Davies from the Committee on Public Utilities on Bill "An Act to Amend the Charter of Mapleton to Increase the Sum Paid to the Trustees of the Mapleton Sewer District and to Amend the Provisions Relating to Liens for Collection of Rates Due" (H. P. 711) (L. D. 884) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Include the Term 'Sexual or Affective Orientation' in the Maine Human Rights Act." (H. P. 673) (L. D. 860)

Report was signed by the following members:

Messrs. FARLEY of York
COTE of Androscoggin
SHUTE of Waldo

— of the Senate.

Messrs. McSWEENEY of Old Orchard Beach
STOVER of West Bath

Miss GAVETT of Orono

Messrs. CALL of Lewiston
SOULAS of Bangor
DUDLEY of Enfield

Ms. BROWN of Gorham

Mr. MAXWELL of Jay

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. DELLERT of Gardiner
VIOLETTE of Van Buren

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Soulas.

Mr. SOULAS: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report and would like to speak to my motion.

The SPEAKER: The gentleman from Bangor, Mr. Soulas, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentleman may proceed.

Mr. SOULAS: Mr. Speaker, Men and Woman of the House: The purpose of this legislation is to make it illegal for homosexuals in our state to be discriminated against in areas of employment, housing, credit or public accommodations.

As was expected, this piece of legislation received plenty of attention during the public hearing. A number of civic-rights oriented groups testified in support. Church-oriented groups voiced strong opposition to the proposal. I personally feel that this act is attempting to change the human rights law by defining sex.

The Human Rights Act states that no one should be discriminated against because of his or her race, creed or sex. They do not define race or creed.

Now, in a brief prepared by Bell and Weinstein, Homosexualities, a study of diversity among men and women published in 1978, I would like to read page two of that report. I quote "As for homosexual social and psychological adjustment, we have found that much depends on the type of homosexual being considered. I am sure disfunctionals and asexuals have a difficult time of it, but there are certain equivalent groups among heterosexual groups and ambi-sexuals, who also have a difficult time. It must also be remembered that even a particular type of homosexual is never entirely like others, even after they are categorized in the same way."

So, let me ask you, isn't that report stating that there are different kinds of sexes within the sexes or how gay is gay? The concept of prohibiting people to discriminate against each other by legislating it sounds good, but we as legislators, have an obligation to the majority of the people and not to just enhance causes. It is one thing to be civilized and tolerant to our fellow human beings, regardless of their so called thing, but it is something else for a society that aspires to certain Christian values and standards of behavior to elevate and condone through the legislature, homosexuality.

Some the statements made at a public hearing urged, we members of the committee, to put aside our fears and prejudices that we shouldn't sit in judgment of peoples lives. Aren't we doing just that, if we enact legislation that is telling and mandating what a civilized society ought or ought not to be? I personally feel the addition of homosexuality under the Maine Human Rights Act imposes a value judgment upon all of us that we, at this time, are not prepared to make.

I hope you will support my motion "Ought Not to Pass" When the vote is taken, I request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am tempted today to write this down in a book I am writing on my experiences in the Legislature under the chapter of fear and loathing in the Maine Legislature.

I do not think that we need to be afraid of this piece of legislation, I know that many of us are. It is a very controversial piece of legislation. It brings out sometimes the worst in us.

I believe that the state has every right to take action to prevent discrimination against people, who happen to be homosexual and there are several precedents before that.

A number of cities have already taken action in regards to discrimination in the areas of employment. The State of Pennsylvania by Executive Order, has outlawed discrimination based on the grounds of sexual orientation in public employment. The Province of Quebec, I repeat the Province of Quebec, our northern neighbor, in December 1977, passed a law outlawing discrimination on the grounds of sexual orientation in December of 1977. 170 large cor-

porations, multi-national corporation have stated, in a letter to the National Gay Rights Task Force that they would not discriminate in employment based on sexual orientation. I won't read you the entire list of 170 corporations that have taken this position, except I will say that two of them, the Scott Company, of which S.D. Warren is a subsidiary, and General Motors are among those.

There is a lot of opposition to this bill in certain segments of the religious community. I would like to read to you a statement that was included in a letter from the Diocesan Human Relations Services, "To live in Jesus Christ, a pastoral reflection on the moral life subsection 2, November 11, 1976, the National Conference of Catholic Bishops spoke to the issue of homosexuality in the following manner. Some persons finding themselves, through no fault of their own, to have a homosexual orientation, homosexuals, like everyone else, should not suffer from prejudice against their basic human rights. They have a right to respect friendship and justice. They should have an active role in the Christian community. The Christian community should provide them a special degree of pastoral understanding and care. They have a great need for understanding and consolation.

Ladies and Gentlemen, there are many things that we consider to be immoral. I submit to you that, what we consider to be immoral, should not be grounds for discrimination in the areas of employment, credit, housing accommodations and public accommodations.

I would urge you to vote against the motion of "Ought Not to Pass"

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Dellert.

Mr. DELLERT: Mr. Speaker and Members of the House: Sexual or affectional orientation means having or manifesting an emotional or physical attachment to another consenting person or persons of either gender or having or manifesting preference for such attachment. I read that definition out of the bill, Page 60. My American Heritage Dictionary, on my desk at home printed in 1969, gives one definition of gay, as slang for homosexual. I would assume that when we refer to L. D. 860 as the Gay Rights Bill, we would be using acceptable English.

Gay people are not going to disappear from our world. They were here many centuries before the birth of Christ and they are not going away. It is 1979, isn't it about time that we developed here, in this grand old State of Maine, enough understanding, enough compassion enough insight, to realize that we are not being fair. There are at least 80,000 gays here in Maine at the present time. They are living in your town and mine. And if through circumstances they are not known to us and they remain unknown to us, they live with us as respected and well like citizens. They have the same human rights all of us enjoy. The gay community have their rights and their fears. As soon as they are identified, they become unacceptable and lose many human rights. This is not fair. Most of us, sometime during our lifetime, have probably had an unfortunate experience.

This bill, L. D. 860, does not legalize criminal acts. Statistically, more heterosexuals do things that give us problems than do homosexuals. Because of the unfortunate acts of a few, whose crimes are widely publicized, the vast majority of homosexuals are denied their basic human rights. If we live up to our responsibilities of being logical, caring law makers, we should be able to provide basic human rights to all our citizens.

I urge you to vote against the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I suppose that some time

in our lifetime, all of us have compassion for all kinds of people. Sometimes, in our lifetime, we have so much compassion that we can't see the good from the evil.

There was a man in this country, just a short time ago, who believed in the theory that he had the "right" to perform sexual acts with his same male companions. Consequently, 30, 31 or maybe it is even as high as 32 young men, have been brutally murdered. I don't know if the state police have found any more bodies or not but at least they have found that many.

It is hard enough to speak on this bill this morning with the other bill that I feel is so important to us; however, I feel that we, as individuals, have to live in our community and we have to live with people, and I truthfully and honestly could care less what two male or female adults do in the privacy of their own home and, truthfully and honestly, I don't think anyone in this House could care less what they do.

But you see, this group of people, and I have promised my very good friends in this House to be very good this morning and to be very kind and not use some of the words that I like to refer to them, and I am going to try to fulfill that promise to them this morning but, you know, this group of people, believe you me, they encourage other people to go along with their thinking. In fact, they even try to raise money for their way of thinking.

When they had their convention in Portland about a month ago, right around there, some very good friends of mine in Portland who travel the bars, I don't go to those places but I can find out all the information I want in the City of Portland without going outside of my living room. So a bartender friend of mine, and I do have friends who engage in alcoholic beverages, called me and he was talking to two of these type of individuals who went to that convention. This woman from the legislature of Massachusetts, who is a self-ordained, self-proclaimed lesbian, made the statement at that convention that Mr. Laffin from Westbrook was invited to speak at their convention. Well, that is not true, I never was invited to speak at that convention. Furthermore, she stated that I have not yet come out of the closet. Well, I am not sure what she meant by that, but I was never put in the closet in my life, so I don't know what she meant.

The other things she said, and her name is Miss Elaine something — 'Miss' standing for misfit — she said that I probably go to bed with a negligee. Well, I can respond to that. If Miss Elaine would like to know, I sleep in the nude. But if I did go to bed, it wouldn't be with a man, and I would like to pass on to anyone who is associated with this Miss Elaine that if she ever went out with me once, she would throw rocks at all her girlfriends, and if I ever took her parking, she would never go to bed with another woman.

I think what we have here today is not civil rights but people's rights. Do we as a legislature have a right to say to a 14-year-old boy or girl, you can't drive a car until you are 15; yes, we have that right. They may think they are being discriminated against, but we have that right. In fact, if 15 and 16 year olds do not act properly, we could even raise the driving age to 20 or 21. Why? Because that is the right of this legislature. We have the right to make laws for the protection and for the well-being of the people of the State of Maine, and that is the function guaranteed those people under the Bill of Rights.

People say, well, civil rights, and you know how lawyers sometimes like to turn things around. They are great and they are noted for that. Lawyers like to get into court with the knowledge of each other's brains and pick this and pick that apart and, consequently, the judge will give a ruling, and that is their job; that is what they have been trained to do.

Well, this bunch of creepy-crawlers will take

a situation where they allow—I am being very nice, I haven't used some of the words. . .

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly, and inquires for what purpose the gentleman rises?

Mr. CONNOLLY: Mr. Speaker, a point of order. I object personally to the language the gentleman uses to describe the individuals that this bill deals with.

The SPEAKER: The gentleman from Portland, Mr. Connolly's point is well taken, and the Chair would ask the gentleman from Westbrook, Mr. Laffin, to be a little bit more careful.

Mr. LAFFIN: Extra careful, Mr. Speaker.

Now I have forgotten what I was going to say; you have interrupted me again.

I don't think that anyone really cares what person belongs to what group, but when they want to push themselves in a community to have what they call civil rights—you see, they like to turn things around so that everything will be in their favor, and I suppose we do the same thing when we are supporting our bills. We look for the words we want to put in there and we fight for it, so that is understandable.

If these individuals want to spend eternity in 'Hell', that is their prerogative, and I don't think anyone really cares. They will have to answer for what they do and I will have to answer for what I do. We can only be held liable for what we as individuals do.

You know, it really is a terrible thing, because there really is nothing funny about these type of people, they are pitiful and they are a disgrace to our society. They are, without doubt, the lowest scum of the earth, but we accept that. If they want to live the kind of life that they live, I don't think any of us really care. And to be pervert that they are and, by the way, as individuals may not always agree on all issues, but I think most of us know what is morally right and what is morally wrong, and when these type of people become fornicators under the term 'fornication', and they have human sexual intercourse between each other, meaning two men or two women, is that the type of person you would want teaching your children or be around your children? You see, this is only the beginning. They are opening the door. They don't really care about being in this Human Rights Bill, but they want to be in that bill and from there on they want to be able to say, now we have been accepted, we want it legal in the State of Maine to have two men married to each other. Then they want to say, we want to adopt children. Don't think for one minute that this is going to be the end of their request in our society.

Twenty years ago, if this legislature had ever received a bill like this, I am sure that the sponsors, and by the way, I have the greatest respect for all of them that have sponsored this terrible piece of legislation, if they had sponsored this 20 years ago, they probably would have been an outcast to the City of Portland and to the Town of Orono, but 20 years later, as my good friend from the other side of the room said, this is 1979, and in 1979 we are supposed to be a very liberal person, we are supposed to allow people to do what they want to do, regardless of whether it is right or whether it is wrong. But you know, there are some people who take exception to this, because some people may not be perfect like myself, but they want their children to be better than they were, and there is nothing wrong with that. They want their children to be better than they were. I can assure you that I would want the same thing.

It doesn't matter too much whether the individual says, well, I am what I am and you accept me as I am. I don't know of any person that has ever been discriminated against.

If this gentleman over here says that there are 80,000 of these in the State of Maine, I can truthfully and honestly say to you this morning that if there is, they never came to me and told

me. The only ones that I know of is that bunch of creeps that came to those hearings. They admitted they were. . .

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly, and inquire for what purpose the gentleman rises?

Mr. CONNOLLY: Mr. Speaker a point of order. I object to the term and use of the word 'creep'.

The SPEAKER: The point is well taken. The Chair would ask him to refer to them as human beings.

Mr. LAFFIN: No, I can't refer to them as human beings, but I will as people.

The SPEAKER: Thank you.

Mr. LAFFIN: The lowest form of people but people.

Well, apparently I can't use some of the words that I had on my paper here, so I will say to you this morning that if we allow these individuals to gain control over our society, then the strength of our nation will surely decay, because they don't believe in God, they don't believe in country and they don't believe in anything but their own selves and what they want to do, and that is the bad thing about them. All the letters I have received on this, you would be surprised. Some of them send me these dirty pictures with no names on them and all that crap. I take abuse. I have received phone calls. Someone called me up and said they feel sorry for me, blah, blah, blah, and they hang up. I am used to that. You know, it is hard for anyone to discourage me because I have been fighting all of my life and I have been on the losing side. I think I lost a couple of battles yesterday. One was to my very good friend from Biddeford. They beat me. I am used to losing and it doesn't offend me when they send me this filth in the mail. If they get enjoyment out of that, I could care less. I am not easily discouraged.

If we believe a relationship between a man and his wife is a relationship built on a happy home and a happy family, then you cannot support this bill this morning. The peace that each and every one of us have within ourselves and the guidance of our own conscience and the direction for family life and the normal relationship between a husband and a woman in raising their children is the foundation that this nation was built on, and nothing else. We believe that sex between two individuals of the opposite sex is what this country, what this nation, what this world and universe were founded on, and I don't care what any conference from any groups of religious people have to say on this. I have received letters from Protestant Ministers, I have never received one from a Catholic Priest, and I am going to answer those letters. I was kind of hoping deep down that I would receive one from a Catholic Priest, but I haven't, because they know that this is one of the most sinful things that man can do on this earth. When we, as individuals, would allow this bill to become law, and I don't care what Canada has done and I don't care what certain cities have done, but I can tell you, the cities in Florida and Dade County and all over this country have said and for every one that my good friend from Portland said condones this type of stuff, I can name you 1,000 that are very much opposed to it. Don't think for one minute, my friends, that this is civil rights because it is not, it is human rights, it is dignity and it is respect. If you have the latter ones that I have mentioned, you will vote to indefinitely postpone this bill.

I feel this morning that I have tried to be nice. I have offended my seatmate and I had no intentions of doing that. I hold every member of this House, I hold every person in this state with the highest esteem until they become murderers or rapists or homosexuals.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I feel sorry for Mr.

Laffin at this point. I think that he is as sick as the people he is talking about. I am going to surprise some of you here, but I hope that you will take this as a sincere gesture. I don't approve of the gay way of life. I think they need help, but I am not about to judge them. There is only one person that can judge them and I will leave that up to him.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: It would be very easy to criticize the gentleman from Westbrook, Mr. Laffin for the attitudes that he expressed in his speech. I think in keeping with the nature of the legislation that I am a cosponsor of, I think it would be inappropriate because what we are hearing from Representative Laffin is perhaps a reflection of the prejudice and the discrimination that is manifested in this society towards people with a sexual orientation that is different from our own. That is the very reason that this bill is before us. It is because there are people in this state whose attitudes are very similar to Mr. Laffin's. Though two individuals commit no crime, under state or federal law, the two individual's behavior is circumspect, is kept in private and they maintain their public lives in an honorable and decent manner, they find that because of their sexual orientation that they face discrimination, discrimination in getting a job and keeping a job; discrimination in obtaining and living in decent housing; discrimination in the opportunity to rent public accommodations or to obtain credit so they can conduct themselves in an economic manner much as we would urge all citizens of the state to do. This engenders fear in them. A fear that their sexual orientation, if it should become public, will bring the wrath of their neighbors, their friends, their employers, cause them to lose their ability to function as citizens in our society. A fear not dissimilar from what blacks felt in the south. They have no one to turn to. If they were black, or if they were a woman, or if they were old or if they have a national origin that is different from the ones that we are most familiar with, they can turn to the Human Rights Commission. If there is a violation of state law that that commission can investigate it, can bring the facts forward, and if legal action is necessary bring it. But for homosexuals, they have no place to turn to. They have no one they can look to to protect their legal rights. This bill would give them this vehicle. It does not condone illegal rights, it does not condone illegal actions. It does not say that homosexuality is good. It merely says that if a citizen chooses that as their orientation, that when discrimination is done to them, they will have a vehicle by which they can ask for investigation to bring the matter to a neutral body, who can attempt to resolve it and if possible to resolve it outside of the court system and to bring that to the legal system so our judicial process can work.

As the good gentleman from Portland, Mr. Baker, suggested there are a number of cities, there are states and thousands of private corporations in the United States who have adopted a non-discriminatory policy for its people whose sexual or affectional preference is different than the majority of the population. He mentioned the Scott Company of which S. D. Warren in Westbrook is a member of that conglomerate and of General Motors. I would hark back to the words of that famous American, Charles Wilson, when in the 1950's he suggested that what is good for General Motors is good for America.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I listened very closely to what my good friend and colleague from Westbrook had to say. On most issues I am with my good friend and colleague because I don't think you can find a stauncher defender of working

peoples interests in this body than my good friend and colleague from Westbrook.

On this issue we disagree, and I disagree with some of his thinking. I was a little horrified by some of it, listening to it because when I heard some of the things, I was harkened back into remembering an incident in my childhood in which I suffered some discrimination.

My good friend from Westbrook indicated that these people do not believe in God and country. Ladies and gentlemen, I do not believe in Trinity. As a result of not believing in Trinity, I was discriminated against in employment at the Scarsdale County Club.

You know, if we carry the logic of discrimination and discrimination has no logic, but if we carry discrimination to its illogical conclusion, it leads to some very disastrous places.

My good friend from Westbrook brought up the issue of what happened to that man that committed mass murder in Chicago, that is a smoke screen. No one is condoning mass murder. But when I heard that, I was reminded of the accusations of the infamous Blood Liable Trials that took place in Tsarist Russia.

For those of you who are not familiar with what those Blood Liable Trials were all about, there was a time in Tsarist Russia and, unfortunately, today in Russian it still exists when anti-semitism was very rampant. In fact, my grandfather came to this country to escape it.

My feelings have been very much opposed to discrimination. You know what happened with the Blood Liable Trial. Jewish people were accused of killing Christian boys and using their blood to bake the passover matzo. That is a ridiculous charge, yet people believed it.

We are talking about people who were sub-human. You know there was a theory a couple of years ago about a class of people known as the Obermation, those of you who don't speak German, that means sub-human being. Let me tell you about that kind of theory and where it led to—I am going to tell you where it led to anyway because I want to. That kind of thinking led to places like Auschwitz, Treblinka, Dachau, Belsen Bergen. These places are infamous for what has happened. Not only Jews, but anybody who did not conform to certain ways of thinking about what the superior master race was all about went to these camps. They all had to wear special badges of identification. Political prisoners had to wear red triangle patches; Jews had to wear the Yellow Star of David; Protestant and Catholic dissenters all had to wear something.

Ladies and gentlemen, homosexuals, too, went to their death in the very same death camps wearing a purple triangle on their concentration camp uniform. So, you see ladies and gentlemen where discrimination and prejudice can lead us.

Now, you are probably saying, "Mr. Baker that is a little bit much, these things don't happen today. You have used a very extreme example." But the kind of thinking that lead to these extreme examples still exists, still exists. That is unfortunate, very unfortunate.

I am going to ask all of you only one more time, the only time this session to do something that I believe will require a lot of courage. I am going to ask all of you to put aside your fears, your prejudices, to think rationally on this issue. That is a very big thing to do, to ask somebody to put aside their fears and prejudices. But I am going to ask it of you, all of you and vote against the motion of "Ought Not to Pass."

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Simon.

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question through the Chair to any member of the committee that heard this bill.

What is the secular rationale for excluding this coverage from the Human Rights Act?

The SPEAKER: The gentleman from Lewiston, Mr. Simon, poses a question through the

Chair to any member of the committee, who may respond if they so desire.

The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: Not being on the committee but having served on the committee last year. I think there is ample secular reasons why this should not pass. What they are advocating in this bill is an expansion of the Human Rights Act to cover a developmental characteristic. That has been admitted by the proponents of this bill in testimony before the committee. The Human Rights Act provides that discrimination cannot ensue because of race, color, creed, ethnic origin, religion, handicap—well, except for handicap and religion, all these items provided for under the Human Rights Act are inherent at birth, they are not developmental. There are other developmental characteristics which are discriminated against today in the case of obesity. People are certainly discriminated in job employment in terms of obesity—I am sure that we don't see too many 400 lb. people modeling bikinis. There are many examples there.

What this bill proposes is to amend this Human Rights Act for one particular developmental characteristic group when there are many others equally deserving. That is secular reason enough why this bill should not pass.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, to meet the deadline. I didn't intend to speak to the issue, but Representative Marshall raises what is known as the congenital argument. It is the argument that he used last year and other members of this body used to try to defeat the legislation and they were successful. Basically, the way the argument works is the term sexual affection or sexual orientation should not be included in the Human Rights Act because the people to whom it applies did not have the thing that causes them to be discriminated against when they were born.

I would just point out for the record, that it has been proven time and time again, and Representative Marshall and others know this, that by the time an individual becomes 3 or 4 years of age, the things that have already happened in that individual's life that cause him to be a homosexual, whether that person is a latent homosexual or an overt homosexual later on in his life is something that has not been decided yet, but once those things have happened to an individual by the time they reach the age of 3 or 4, there is nothing that can be done to reverse that process. It isn't the same—you can't make an analogy between someone who is obese and use that argument and compare it to someone who is a homosexual.

The issue in the bill before you is not one of whether or not you should condone homosexuals or not or the practice of homosexuality, it is question of basic fairness and, as Representative Laffin said, an issue of basic human rights, and it would not encourage or condone any kind of sexual activity that most of us would believe to be abnormal but it would afford adequate protection under the Human Rights Act.

I would hope that you would vote against the motion "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I heard about a smoke screen, if you want to hear about a smoke screen, you take when 50 percent or more the psychologists of the United States who get together and say this is no longer a disease. Masters and Johnson, just lately have discovered that it is something that is acquired, it is not something that you are born with, it is something that can be cured.

I used to be deaf and before I got cured, before I had an operation, I was deaf and if I

had wished to remain deaf, it was my choice and if these people want to be cured, that is their choice.

I hope you support the "Ought Not to Pass" report.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Bangor, Mr. Soulas, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Austin, Barry, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K.C.; Bunker, Carroll, Carter, D.; Churchill, Cloutier, Canary, Cunningham, Damren, Davis, Dexter, Diamond, Drinkwater, Dudley, Dutremble, D.; Dutremble L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gould, Gray, Gwadosky, Hanson, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lizotte, Locke, Lougee, Lowe, MacBride, MacEachern, Mahany, Marshall, Masterman, Matthews, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Peltier, Post, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Simon, Small, Smith, Soulas, Sprowl, Stierney, Stover, Studley, Tarbell, Theriault, Tierney, Torrey, Tozier, Tuttle, Vose, Wentworth, Whittemore, Wood, Wyman.

NAY—Bachrach, Baker, Beaulieu, Brannigan, Brenerman, Brodeur, Carter, F.; Connolly, Cox, Curtis, Davies, Dellert, Doukas, Dow, Gowen, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Kany, Kelleher, Lewis, Lund, Martin, A.; Masterton, Michael, Nadeau, Nelson, M.; Reeves, P.; Rolde, Sewall, Vincent, Violette.

ABSENT—Benoit, Berry, Berube, Brown, K.L.; Call, Carrier, Chonko, Gillis, Peterson, Prescott, Strout, Twitchell, The Speaker.

Yes, 103; No, 35; Absent, 12.

The SPEAKER: One hundred three having voted in the affirmative and thirty-five in the negative, with twelve being absent, the motion does prevail.

The Chair recognizes the gentleman from Bangor, Mr. Soulas.

Mr. SOULAS: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and hope you all vote against me.

A viva voce vote being taken, the motion did not prevail.

Sent up for concurrence.

The Chair laid before the House the following special Order of the Day:

House Order relative to Justices of the Supreme Judicial Court to give to the House of Representatives their opinion on Question of Law pertaining to H. P. 1321, L. D. 1573, which was tabled earlier in the day pending passage.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Lisbon Falls, Mr. Tierney, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Tierney assumed the Chair as Speaker pro tem, and Speaker Martin occupied his seat on the floor.

The SPEAKER pro tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: If you and the members

of the House would look at the calendar in reference to the House Order which we have before us this morning, I would like to spend a few minutes with you discussing the purpose of the House Order and the need, from my perspective and that of the Governor, to request an advisory opinion from the court.

The process under which we operate, in reference to the State Constitution and the Supreme Judicial Court of Maine, provides for a mechanism for us to get advisory opinions on questions of law, on questions of matters that we have before us in this body or the other body may have on issues that we think are a serious problem.

The issue we have before us is, in fact, a most serious one, one that for the first time we have arrived at a strike in this state, a court injunction then, in turn, being issued to return state employees back to work and one that has divided members of this body, members of the other body and members of the general public. It is an issue which has been an emotional one for many and one which I think deserves to have some questions answered.

Late yesterday afternoon, the Governor asked me if I would introduce a House order to ask the Supreme Judicial Court some questions, basically, three questions and they are provided to you in the House Order. The purpose behind this is to attempt to respond to some of the questions that have been raised. I know that this particular method does not satisfy the objections of some of the people that are opposed to the passage of the contract ratification proposed by the Governor as a result of an agreement with MSEA. I know that there are some of us in this body that are, in fact, opposed to the contract because it is too much money. I have been told that by members and I understand and I appreciate that. There are others who are opposed on the basis of fact that it is a matter of principle. There are those that are opposed on the fact that they feel that the Governor went too far and violated the law himself and those are the questions that I think have to be asked.

The Governor has asked, as a result, because of the question posed to him in press conferences and by members of this body, both Democrats and Republicans, by members of the other body of both political parties, the question of constitutionality ought to be asked, as to whether or not the Governor had the legal right to negotiate "fair share" into the contract. Those three questions have been aimed at getting that question responded to.

In the AG's opinion that was requested by the gentleman from Auburn, Mrs. Lewis, back on April 12, 1979, that was one of the two questions approached. One was whether or not this Legislature had any right to turn down a contract on issues other than money. That question was responded to very clearly by the Attorney General and the answer was, no. That question could only be decided as to whether or not we enacted the contract agreement as to whether or not we have sufficient monies to pay for it.

The second question that was posed by the gentleman from Auburn, Mrs. Lewis, the Attorney General determined that it was a very close question based on a past case that had been decided in the state and that he was not really all that sure and suggested that, perhaps, one of the ways that this question could be resolved was to, in effect, go to the Supreme Judicial Court of Maine. Those are three questions that are being posed in court today, in effect, to determine whether or not, absent of legislative history on passage of a specific section, the Governor had the power to negotiate that very question.

It seems to me that this provides us an opportunity to ask those questions in order to try to bring this issue to a final conclusion. The Governor has already indicated to me and asked me to relate to you, that if the courts advise an advisory opinion to the members of this House,