

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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August 29, 1985

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25 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 6 Senators having Paired their votes, and No Senators being absent, the motion by the Senator from Penobscot, Senator **BALDACCI** to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report **PREVAILS**.

Sent down for concurrence.

Off Record Remarks

Under suspension of the Rules, all matter previously acted upon were sent forthwith.

On motion by Senator **CHALMERS** of Knox, **RECESSED** until the sound of the Bell.

After Recess

Senate called to Order by the President

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Include the Term "Sexual Orientation" in the Maine Human Rights Act" (S.P. 446) (L.D. 1249) (C "A" S-221)

Senator **CARPENTER** of Aroostook moved that the Senate **ADHERE**.

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

Senator **HICHENS:** I make a motion that the Senate Recede and Concur and I ask for a Roll Call.

THE PRESIDENT: The Senator from York, Senator **HICHENS**, moves that the Senate **RECEDE** and **CONCUR** and requests a Roll Call. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I know the hour is late, the day is long and the weather is warm, but I think it is important that we discuss this subject a little bit. As you all know, it was not discussed in here yesterday, primarily for time reasons and I'm not going to take very long here.

I've been around this Legislature for eleven years, for eleven years, five times that I can recall, approximately five times, this Bill, in its original version has come before this Legislature and all those time, be they five or six, I have opposed it. This time around I had intended to oppose it as well. In fact, when my dear friend, Jerry Conley, left this Chamber I sort of went "phew." If Jerry couldn't get me to believe in this issue, then probably nobody could.

However, I have come to believe in the amended version that we have before us, and I want to emphasize that because if you have not read the Bill or the press reports, this Bill is a very substantially watered down version.

The way I was characterized this morning in the press was that there were four items that were asked for -- no discrimination in housing, public accommodations, credit and employment. When the Committee, the Minority of the Committee, but nevertheless the Committee on Judiciary finished with the issue it had the, the Minority of the Committee, had recommended the inclusion of two and one half of these four issues in the Maine Human Rights Act.

Now, it may be a illogical but I cannot stand here and logically debate on why we should

go two and one half as opposed to four except to say that what we attempted to do was to separate the economic issues from the morality issues, if you can call them "morality issues." What we did was we tried to look at, focus, on those things that were purely economic interests, the extension of credit. Why should I, as a funding institution or a credit extending institution, be allowed to say that I'm not going to give you credit because you're tall or short or a Catholic or a Jew or black or white or a man or woman, or whether you are heterosexual or homosexual. It has no relationship to the issue. The issue is ability to handle the credit. The issue is ability to repay the debt -- economic issues. That's number one.

Public accommodations -- public accommodations is defined under law. They are hotels, motels, restaurants, service stations. I mean, our Country is such that I don't have to go and knock on the door of the Senator Motel Restaurant and ask if it is a Catholic restaurant or a Baptist restaurant, is this a restaurant that serves only men or one that serves women. Why should it be one that is allowed to discriminate because it is an economic interest. Why should it be allowed to discriminate in the area of sexual orientation.

Employment has always been my problems with this Bill, and, of the three hundred plus letters that I've received, employment seemed to be the biggest concern of the people out there. It is a concern of mine and it is a concern of many of the members of my Committee, some of whom did sign the Minority Ought to Pass Report. We took employment out.

If this Bill were to pass as amended you could still say "this person is still a homosexual, I don't want them working for me." Period, end of issue.

So, there is two in and one out. So then, we took the housing and we sort of divided it. We said "allright, because you believe so strongly against this lifestyle that you should not have to be forced to live with someone who practices this lifestyle. However, if you're holding out these rental units, five units or more, you're not owner/occupier, then it is an economic interest and you should not be allowed to determine based on this kind of rational, who can have that accommodation and who can't.

I told my caucus yesterday that probably the most striking thing that was said that I heard at the public hearing, was an emergency medical technician who came in and told us that he had lost his job because he was suspended at that point, of being gay, and he asked us, he said "What do I do when I go an accident? Do I start to practice "gay-CPR" or "straight CPR," no, I practice CPR." But, more importantly than that or more poignantly that that was what he said was "I pay taxes too, I pay at the same tax rate that you folks all do, but I'm not allowed the same protections." I think that is a very valid point. I think that is a very valid point and one that helped to bring me to the point where I could vote for this issue.

It is not a comfortable position for me because it is a lifestyle to which I find, personally, offensive. But, I'd don't think that my position in this Senate, as a State Senator, I don't think that position gives me the right to play God, and I don't think my Christian beliefs, and they are deep, give me the right to play God, in that regard, to make that kind of a moral judgment.

I'm taught, through my Christian belief, that somebody else is going to make those kinds of judgments about you and about me and about these people and about all of us. Those decisions are going to be made and it is going to be a score sheet run up. But, I'm not going to be the one tallying those score sheets and neither are you.

I don't see how you can disagree with the

economic interest. This Country has stood on the principles for 200 plus years, that all people are created equal and we've digressed from there, if you will. Well, in this situation we have digressed and I think that's too bad, and, I'll grant you that it took me a long while to get to the position where I could support even an amended version of this Bill, but, I submit to you that the fear over this amended version of this Bill tends to be a little bit irrational. I have not yet heard any rational arguments against the inclusion of these two and one half items, if you will, in the Maine Human Rights Act.

Therefore, I would ask you to vote against the pending motion to Recede and Concur, at which time, if in fact, that position prevails, my position prevails, at that time I will make the motion to Adhere. Thank you, Mr. President.

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

Senator **HICHENS:** Mr. President and Members of the Senate. I'm a little bit disappointed that this issue had to come up this afternoon because it is getting very late and I thought that if we were going to have any debate it should be postponed until next week. But it is before us, I do have a lengthy speech, but I'm not going to prolong the agony this afternoon by giving you the whole speech, but, I would like to respond to the good Senator from Aroostook, Senator Carpenter.

This is a watered down version, but it is just a foot in the door. If we accept this this year, you can well be assured that next year they will be back to get all that they wanted in the first place.

The amendment's Statement of Fact states that the amendment does not take a moral stand on homosexuality. The question of morality is left to the judgment of each person as it should be. I advise you this afternoon that the question of morality is the whole basis of the question before us today and cannot be ignored in any way, shape or manner.

During a television debate in which I was a participant a few weeks ago, the President of the Maine Lesbian Association stated that homosexuals are a minority group such as blacks, hispanics and others. This is not true. Blacks have no choice as to their color, as you and I have no choice as to our nationalities, alcoholics are not born alcoholics, drug abusers are not born drug addicts and homosexuals are not born homosexual.

Therefore, Members of the Senate, homosexuals should not be accepted into society and given the rights such as others, male, female, black or white, are entitled to. The homosexual community has become militant in it's quest for the ultimate goal, acceptance of homosexual acts as a normal variant of human behavior and homosexuality as an alternate lifestyle.

I believe this afternoon that if we go along with the motion to Recede and Concur that we are doing what our constituents want us to do.

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

Senator **CHALMERS:** Thank you, Mr. President and Ladies and Gentlemen of the Senate. I'll be very brief.

I stand to make merely a statement of conscience. It seem to me that what we're talking about is the Maine Human Rights Act. And, this is an Act which declares that policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of each of the practices so that the corrective measures, when possible, may be promptly recommended and implemented to prevent discrimination.

It seem to me the issue is very simple. I believe in one God and the brotherhood of man and that means that I can discriminate against

no person and it is as simple as that.

I ask you to vote for human rights.

Senate At Ease

Senate called to Order by the President

Off Record Remarks

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

Senator **STOVER:** Thank you, Mr. President. Mr. President and fellow Senators. To rebut one of the statements made by Senator Carpenter who said he restricts this to five apartment and over, I've told you many times that I have managed an apartment complex for fifteen or twenty years, 238 apartments. We rented to all classes of people, including gays, and certainly, in my area no one of that persuasion that is not housed and I don't know of anyone that's been denied housing because of that.

I may be unique to the Bath area, I don't know. But, I want to read you Article 1, Section 6-A of the Constitution of the State of Maine state's "No person shall be deprived of life, liberty, or property without due process of the law, nor be denied the equal protection of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof."

I'm reminded of a story about the young man that was walking his girl out in the park one night, it was a full moon and he got rather emotional and he said to her, "If I had a thousand arms, I would hug you with every one of them, and she said, "But John, you aren't using the two you have already." I feel that we have laws enough on the books and we don't need any more.

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. Very briefly, there are many things that I could say or would like to say on this issue but I will simply rebut a couple of things that the good Senator from York, Senator Hichens, has eluded to.

That is, one, the morality of this whole issue. Who gives us the right to make those judgments. If you read history, if you study history, you'll see that homosexual lifestyles have been with us as a world for years and years and thousands of years. It's not going to go away simply by ignoring it. The Senator from York, Senator Hichens, has said that you cannot divorce the morality from any of the other issues and I think that's clearly not so. I think that is clearly not so. I just really wonder who we are to be standing here making those judgments.

You know, there's been a great deal said on this issue, both this term, while this Bill has been pending before my Committee and other terms and there have been wild allegations, as I mentioned earlier, irrational statements made. I don't really think that any of us subscribe to those.

You know, I think back to the history of this Bill and when the Bill first came before the Legislature during my tenure here. It used to talk about sexual preference and that has now changed because I think it's now been recognized that this is not a preference issue. And, if you believe that it is a preference issue then you and I, who are straight, believe that we could switch and become gay tomorrow. If you subscribe to the preference issue that you must believe that, must you not? So it has nothing to do with that.

It seems to me that the evidence has been presented to this, to my Committee in particular, but to the Legislature through the mailings that you've received, pretty well indicate that this is an issue that's decided, and we're not quite sure how it's decided or why it's

decided or what part of our body, be it physical or mental, that makes the decision for us, but the decision is decided at a very young age. The decision is there at a very young age.

I can't, I suppose, get out of the morality, most of the letters that I've received have come in, I found one interesting the other day that I received. It was a number of names on a petition opposing L.D. 1249 in any form so that the people who signed the petition would not be deprived of their religious liberty. I don't know what religious liberty has to do with this Bill.

So, what I'm saying is that I went home last weekend after I had made my decision on what I was going to do on this Bill and I started my little weekly radio show like I do every Saturday night for eleven years since I've been in the Legislature. It's a call-in show and the young man who runs the show with me said, "I wish we'd get some phone calls." and I said to him, "Mike, if we don't get any phone calls tonight, that means only one thing, it means there ain't nobody listening out there." We didn't get any phone calls. Maybe there really is nobody listening out there.

My point is, people did talk to me about this issue last weekend and they were concerned, by in large and not exclusively but by in large, the people that I talked to when I sat down and rationally told them how the Committee had separated the economic issues from the other issues, they said, "Well, that doesn't make much sense, it doesn't seem very rational to discriminate in the credit and the public accommodations and the other areas, it really doesn't make much sense." I don't really think that once this Bill is explained to them that your constituency is going to find it all that offensive. Therefore, I would hope that you would oppose the pending motion.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate, I'll be very brief.

I want to go on Record as supporting this Bill today, and, I guess I really do so for one primary reason. As a member of that other Body that I'm not supposed to talk about on the Floor of the Senate, I voted against this Bill, and, after that vote, I took it upon myself to find out the facts. So I talked with the members of the Human Rights Commission and I can assure you that there are hundreds of cases of discrimination in house, in employment, in education, all across the gambit.

As a member of a free and democratic society in this Country, I am going to support this Bill because it is equal opportunity. That is why I am supporting it. I have the same concerns on a moral and religious ground that were articulated by the good Senator from Aroostook, but as a member of this Country and a free society and one who is against discrimination in whatever form against anyone that is doing no one else any harm, I must oppose.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate **Recede and Concur.**

Senator **TWITCHELL** of Oxford who would have voted Yea requested and received permission to pair his vote with Senator **ANDREWS** of Cumberland who would have voted Nay.

Senator **DANTON** of York who would have voted Yea requested and received permission to pair his vote with Senator **BROWN** of Washington who would have voted Nay.

Senator **STOVER** of Sagadahoc who would have voted Yea requested and received permission to pair his vote with Senator **NAJARIAN** of Cumberland who would have voted Nay.

Senator **USHER** of Cumberland who would have voted Nay requested and received permission to pair his vote with Senator **DUTREMBLE** of York who would have voted Yea.

Senator **DANTON:** Just an inquiry, Mr. President. I want to support the Gay Rights Bill and I want to be recorded in favor of the Gay Rights Bill. Am I so registered in this pairing motion that I have made?

THE PRESIDENT: The Chair would advise the Senator that he is not.

Senate At Ease

Senate called to Order by the President.

Senator **DANTON** of York requested and received Leave of the Senate to withdraw his motion to pair his vote with Senator **BROWN** of Washington.

Senator **TUTTLE** of York who would have voted Yea requested and received permission to pair his vote with Senator **BROWN** of Washington who would have voted Nay.

Off Record Remarks

The pending question is the motion of the Senator from York, Senator Hichens, that the Senate **Recede and Concur.**

A Yes vote will be in favor of the motion to **Recede and Concur.**

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Black, Emerson, Erwin, Gill, Hichens, Maybury, Pearson, Perkins, Shute, Webster

NAYS:—Senators, Baldacci, Berube, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dow, Gauvreau, Kany, Matthews, McBreairty, Trafton, Violette, The President — Charles P. Pray

ABSENT:—Senator Sewall

10 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 8 Senators having Paired their votes, and 1 Senator being absent, the motion of the Senator from York, Senator HICHENS, to **RECEDE AND CONCUR, FAILS.**

On motion of Senator **CARPENTER** of Aroostook, the Senate **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE, in NON-CONCURRENCE.**

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

House

Leave to Withdraw

The following **Leave to Withdraw** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Concerning the Courtroom Use of Videotaped Testimony of Juveniles" (H.P. 528) (L.D. 748)

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act Relating to a Grievance Procedure Concerning Discrimination on the Basis of Handicap" (Emergency) (H.P. 925) (L.D. 1327)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-354).**

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-354).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-354) **READ and ADOPTED**, in concurrence.

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

Out of order and under suspension of the