

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

Ought to Pass

Senator KERRY for the Committee on HUMAN RESOURCES on Bill "An Act to Ensure Accessibility to Mental Health Services for Deaf Persons"

S.P. 351 L.D. 1043

Reported that the same Ought to Pass.
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Include the Term "Sexual Orientation" in the Maine Human Rights Act"

S.P. 221 L.D. 602

Reported that the same Ought Not to Pass.

Signed:

Senator:

BLACK of Cumberland

Representatives:

VOSE of Eastport

COTE of Auburn

MACBRIDE of Presque Isle

BEGLEY of Waldoboro

HANLEY of Paris

MARSANO of Belfast

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Senators:

BRANNIGAN of Cumberland

GAUVREAU of Androscoggin

Representatives:

PARADIS of Augusta

WARREN of Scarborough

CONLEY of Portland

THISTLE of Dover-Foxcroft

Which Reports were READ.

Senator BRANNIGAN of Cumberland moved to ACCEPT the Minority OUGHT TO PASS Report.

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

Senator BRANNIGAN: Thank you Mr. President, men and women of the Senate. It is not right that 10% of the people in Maine have to hide a major element in their live or face legal discrimination in the area of their job and where they live. The Committee heard this Bill at length and heard that there was discrimination for homosexuals in housing and in employment. And, that it is legal, there is nothing to prevent this type of discrimination. Studies consistently throughout the United States and here in Maine have shown that approximately 10% of our population have this sexual orientation. That is hard to believe for most of us I think, that 10% of the people around us are gay, lesbian people. It is hard to believe because most of these people have to hide this element in their life. They have to hide it because if they don't they have to face loss of job and housing, as well as other harassment and difficulties. So, they hide, so we don't know. So, we can't know and so we can't get to know them and that is one of the major problems for us. We don't know them, and we can't get to know them as homosexuals. Oh we know them all right, we know them because we work with them, here in the Legislature, the Departments we work with, our relatives, our friends, we know them, but not as homosexuals. Back home as constituents throughout our life, we know gay people. On the whole we don't know them as gay. That makes it difficult, we like them, most of them,

just like we like almost all people. Some of them we don't like, just like there are people we don't like throughout the 100% of people we know.

The gay community has in the last two or three years tried to make it possible for us to know some of them, who do not hide, who brave the difficulties of being gay in a society where they can be discriminated against, legally. They have held gatherings and have invited us to those gatherings in our own districts and here at the Legislature. Some of us have attended. Once we have attended and begun to know people that profess themselves to be gay, that we know more about them. I would like to read on the Record a quote from Larry Connolly, who was really the prime mover in getting this Bill in front of the Legislature on several occasions.

The cosponsor of this Bill, in the last debate before the Legislature, he was discussing what it was like for us to meet gay people in these forums. He said, "they smile, and they cry, they feel, they hurt and they have the same needs for love and personal dignity as the rest of us. That is what the issue in this legislation is all about." We have been given a fact sheet on L.D. 602, that is well done, I think, and lays out what the Bill is doing, how it is including sexual orientation among all of the other categories in which discrimination is not allowed. Making the point that this is in no way saying that homosexuality is admirable or acceptable, but whether discrimination is tolerable. It discusses the issue of AIDS and how difficult it is to deal with this when so many of the population of the gay are in hiding. It goes over some of the misconceptions that we have, many of them, I believe, because we just don't know the people around us are gay. It tells that there is really no evidence in any political liability for those who have voted no, either here or in Wisconsin where it was passed. In other states, people have voted for this Bill and no one has ever been defeated. Last, it gives a long list of groups, here and across the country, that support the passage of civil rights and human rights for gay and lesbian people.

I was looking this over and there are all kinds of people represented, religious groups, Catholics, Protestants, Jews, medical association, bar association, teachers associations, here and across the country. Looking down the group, I was thinking that there was one group missing and two groups that are most important. One group that is missing and one of the two that is most important is this group, the Legislature. The group that can really make a difference in this issue. The Legislature. The other is the parents and friends of lesbians and gays. They are the ones who hosted some of the meetings that we had this year. When parents begin to speak out for their children, it will help to change this unfortunate situation. It must take a great deal of courage for parents to even accept and deal with the situation when one of their children tells them that they are gay, especially in our society. But when parents, and I urge parents to deal with this issue, to come to grips with it and have the courage to speak out, they will do more than anyone else, except the group that we belong to, they will do more for them than anyone else can. For those who need courage this morning, those among us and those who are parents, I wish you courage and I ask you to support the motion. Thank you Mr. President.

On motion by Senator BLACK of Cumberland, supported by a Division of at least one-fifth of the Members present and voting a Roll Call was ordered.

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

Senator ANDREWS: Thank you Mr. President, ladies and gentlemen of the Senate. I rise today to support the Senate Chair of the Judiciary Committee, my friend and colleague from Cumberland, Senator Brannigan. I am the sponsor of L.D. 602, and a proud sponsor of this piece of legislation. The legislation, if you look at it and I hope you do, lays out before us a question, a fundamental question. The question is not one of acceptance or rejection of a lifestyle. And the question is not whether we accept or reject one's personal decision about one's sexuality. The question we have before us is one of law and one of civil rights. The question is namely, "Should the state of Maine support the systematic discrimination of thousands of our citizens solely because of their personal sexual orientation?" That is the question. Should Maine support that discrimination? A vote of opposition to L.D. 602 is an answer of yes to that question. The state of Maine does support and will support systematic discrimination against thousands of Maine citizens. L.D. 602 is very clear. It says no, as an answer to that question. It says no with respect to four specific areas of Maine law, employment, housing, public accommodation and credit, four areas of Maine law that we are saying simply that there will not be discrimination against Maine citizens because of their personal sexual orientation. This is not a new piece of legislation, it has been here before. And when it has come before this Body and when it has come before the other Body, one of the issues raised is whether or not this legislation or this type of legislation is needed in the state of Maine. Whether this protection is necessary. Year after year, we hear increasing evidence, strong evidence, solid evidence, the answer to that question is yes. We heard in the public hearing, before the Judiciary Committee just a few weeks ago, countless members of various accounts, personal testimonies from people who have suffered discrimination in all four of those areas. We have seen a study that documented instances, statistically of discrimination against gay men and lesbian women in all four areas. In fact, according to this study, 46% of the respondents provided evidence of discrimination in employment, 28% provided evidence of discrimination in housing.

The discrimination that is faced by these Maine citizens is often very subtle. Very often it takes the form of subtle discrimination which forces those individuals to hide their sexuality. What we have seen are shocking examples of other forms of discrimination that are not subtle at all. Blatant harassment, violence, persecution in the state of Maine. This legislation says that you may accept or reject that particular lifestyle and you may accept or reject the decision of someone to say openly that they are gay or lesbian. That is fine, you have every right to accept or reject that on whatever personal grounds that you have.

But L.D. 602, says that we, as a state, should no longer tolerate, accept and support discrimination, harassment and violence against those people in the state of Maine who are gay or lesbian. It is as simple and straight forward as that. It is civil rights, its basic decency, it is taking the spirit of our Constitution and the Bill of Rights and really testing the spirit of that document. Particularly if you personally have a very difficult time with accepting someone who is gay or lesbian. Particularly if you reject that lifestyle personally. It is those times when we are called

upon and truly tested of how we we truly feel and to what degree we believe in the Constitution of this country and the fundamental principles in which this country was founded. Our medal is being tested with legislation such as L.D. 602. So, I stand before you today in support of civil rights, fairness and decency. I stand before you in the spirit of this country and the Constitution. I stand before you presenting you a clear documented need for protection for these citizens, protection that L.D. 602 will afford.

I would like to quote one piece of testimony before the Judiciary Committee, I urge in this Bicentennial year to extend the promise of the Constitution to gay men and lesbians. "For what is life if you might, at any moment, get fired from your job for who you are? What is liberty if you can be evicted solely because of your sexual orientation? What is the pursuit of happiness if you live in fear and are able to keep your job and home only by hiding who you really are?" Then I would like to conclude by quoting Representative Larry Connolly, who was a champion of this cause, "the issue that is presented in this amendment to the Human Rights Act, is the same issue as the time it was before the Legislature back during the 108th. It is one of fundamental human rights, despite any misleading attempts that might be made to color the issue otherwise. It is a civil rights issue that is rooted in the basic principles of fairness and justice upon which this country was founded." Presenting this Bill to the Joint Standing Committee on Judiciary was extremely difficult. I had all I could do time wise to drive from the funeral of Larry Connolly to the Judiciary Committee to present this Bill. Larry Connolly was a cosponsor of this legislation, as he has been in sessions past. While we buried Larry Connolly on the day that this Bill was presented, his spirited lived in that Committee room and it lives with us today. The spirit is one of justice, of fairness, of basic decency and a fundamental respect for the spirit of our Constitution in this country. On the basis of those principle for which Larry Connolly stood, I ask you to support the motion Ought to Pass on L.D. 602. Thank you.

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

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I didn't know this Bill was coming up today and I have no prepared presentation. I can assure you that I debated Larry Connolly before, every time this Bill came up, and Larry was a good friend of mine, we had a good time and even made bets on the Presidential election. I won the bottle of scotch.

Larry was fair and I think that I am fair. In being fair, I have to consider my constituents and I have received more letters on this issue than any other issue to date. What is the issue? The issue is fairness, do not the people out there have a right? They have rights too and their concern is that if it is against my religion to accept this forum, I have a right not to live in the same house with that person. I have a right not to hire that person, I have certain rights too. That is what happens in these letters. I accept their concerns, this Bill has not passed in the past, it has been here every year. Talk about rights, we have more rights in this country than anybody in the world. Some countries kill homosexuals.

The thing that personally bothers me the most is that homosexuals flaunt their homosexuality. They do it in the street and they do it everywhere. There is a great concern today about AIDS. I have learned

more about homosexuals in the last two years than I ever wanted to know about them and the practices that they practice. I think it is right to vote against this type of Bill. Thank you.

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

Senator DUTREMBLE: Thank you Mr. President, ladies and gentlemen of the Senate. I am speaking to you today as the Senator from District 34. In the past, I have opposed this Bill and I will oppose it again today. But I do so with mixed feelings and as I hear the debate here I get a little bit look disturbed because, to myself I say, this is not the sort of thing that we should be including in the Maine Human Rights Act. I just don't believe that. The good Senator from Cumberland, Senator Andrews, says that this is a civil right in accepting people, well I do accept it, I accept everybody. Most of the people of this state accept everybody. When I walk down the halls of the State House, I don't look around and ask myself what the sexual preference of anybody is. It does not make any difference. I will not support this simply on the fact that I just don't believe that it belongs in the Human Rights Act. If you look at the other items that are included on that, it is not the sort of this that should be included.

Then I hear remarks from the good Senator from Cumberland, Senator Dillenback, who talks about not hiring people because of homosexuality or not living with people in the same home or apartment because of homosexuality, then I got really disturbed. We are talking about people. I will be opposing this, but I would hope that Senator Dillenback opposes it for the same reason and not for those discriminatory reasons.

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

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. The basis for the statement that I made was strictly on religious grounds and not for any discriminating purpose whatsoever. Thank you.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. The remarks here today remind me strongly of why I support this Bill. Before we put our stamp of this Bill and send it out of this Chamber, I would like to remind everyone of the debate that was waged in the country during the Civil Rights Movement, during the post-slavery years and the remarks of Justice John Marshall Harlan, and in his remarks are the reasons why I will support this Bill today. But in view of the Constitution, in the eye of the law, there is in this country no superior dominant ruling class of citizens. There is no cast, our constitution is color blind and should be people blind. It neither knows or tolerates classes among any citizens. In respect of civil rights, all citizens are equal before the law. The most humble is the peer of the most powerful. The law regards man as man. That is why ladies and gentlemen, I will support this Bill here today.

Talking about discrimination in housing, public accommodation, access, does that remind the members of this Body of a debate waged not so long ago? We have a democracy, and democracy is not easy, it is the toughest form of government known to man. And that Constitution must be protected, it must protect the rights of all citizens or it protects the rights of none of us.

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

Senator BALDACCI: Thank you Mr. President, men and women of the Senate. In the past, I have supported, not this measure, but an amended version of this particular measure. I felt it important because it was one of the more important lessons that you learn in the Bible is that you should love your neighbors and you should show compassion for your neighbors. You should try not to discriminate against your neighbors. Basic Christian values, and I think that is so important today, while we are discussing this, because what we are talking about today is that we are allowing certain classes of people to be discriminated against. I think that it is important that we have a message against that type of discrimination, I am not sure whether the way the Bill was drafted is, in fact, that message. But, I think it is important that we don't send out the wrong message, as has been alluded to in earlier debate that it is all right that you do discriminate against these people because of what we perceive to be a fear epidemic that is going on among most of the communities in the world.

The point here today is that the message be sent out that maybe the Senate was not going along with the particular Bill, not because it didn't want to grant those rights, not that it wanted people to be allowed to be discriminated against, but that may be the way the Bill is drafted. Those happen to be my reasons in that I think it may go a little bit further than what I intended to do and I cosponsored this measure in the past to allow it to be introduced. It dealt with certain aspects of employment, housing and credit. Certain aspects of that were defined and I think that was something that could appeal to a lot of people.

There was a message and at the same time it was protecting people in a certain area. I felt that it was doing a very important justice to us today, but I think today, the Bill that has been drafted is maybe a little broader than I would appreciate and it is only for those reasons.

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

Senator GAUVREAU: Thank you Mr. President, men and women of the Senate. I respect the remarks of the good Senator from Penobscot, Senator Baldacci and understand his concerns regarding the potential breadth of the wording in L.D. 602. But as a member of the Joint Standing Committee on Judiciary and having sat through the rather lengthy hearing regarding the so-called gay rights Bill, it is my distinct impression that those who testified in opposition to this measure and to an advocate for its defeat in these halls today, do not have the same concerns of the Senator from Penobscot. But rather a speech to a more simple and a more disturbing message and theme. That is intolerable. What we have heard from preceding speakers today, is the clear mandates in a democratic pluralistic society, all persons should be accorded fundamental basic civil liberties. In fact, if one review the history of the American experiment, one comes to the recognition that these freedoms and liberties, which we cherish in this, our Bicentennial, year of our Constitution, have not been secured or maintained easily. In fact, they are constantly under challenge, it has been a long and arduous road to secure and vindicate the liberties of the American people. As we are all too painfully aware, when our Constitution was drafted, black persons were not even considered persons, they were considered property. The Bill debate in the Constitution was what weight should be accorded to various states according to the slave populations. Black persons were given 3/5 status as individuals,

it was no until the so-called civil rights amendments, subsequent to the Civil War that black persons were, at least in theory, accorded equality under our law. It was fully another half century before females were in law accorded the same rights.

It seems to me the struggle which we are embarking upon today, is a constant dynamic and it will not end with the debate today, and it will not end with the vote this morning. It will go on and on. Ultimately, I am optimistic, there is a fundamental decency and positiveness in the American people which requires us to explore constantly the commitment which we cherish to equality. We will explore new frontiers. I can count and frankly, I don't believe the votes are here in this Chamber or in the other Body to secure passage of this legislation, this particular year. In fact, there are some who expressed reasoned and principled opposition to this Bill. But I have a deep seeded concern that there are others who for base political motivation, would exploit this measure and would in fact advocate this subordination of a certain class of our people for raw political benefit. I feel that is fundamentally indecent.

I have also heard concerns expressed by some that there has been no demonstrated need for legislation which would secure the vindication of rights of gay and lesbian people in our society. I have a very simple response to that, it seems to me that there are individuals in this Legislature who intellectually agree that these rights should be accorded, but due to fear for political incrimination are reluctant to cast their votes in favor of this legislation.

Men and women of the Senate, if you, the elected leaders of our state, fear to take a positive step to advance civil liberties for our people, how can one reasonable argue that there is no need to protect our rank and file citizenry from incrimination. For these reasons, I strongly support the motion of my good Chair, the Senator from Cumberland, Senator Brannigan, that we accept the Ought to Pass Minority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BRANNIGAN of Cumberland to ACCEPT the Minority OUGHT TO PASS 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 ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, GAUVREAU, KANY, KERRY, MATTHEWS, USHER

NAYS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, GILL, GOULD, LUDWIG, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

12 Senators having voted in the affirmative and 23 Senators having voted in the negative, with No Senators being absent, the motion of Senator BRANNIGAN of Cumberland, to ACCEPT the Minority OUGHT TO PASS Report, FAILED.

The Majority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act to Amend the Liquor Laws as they Pertain to State Brewers"

H.P. 1213 L.D. 1655

Bill "An Act Relating to Property Abandoned by Tenants"

H.P. 1214 L.D. 1656

Resolve, to Compensate Jacqueline A. Caron, Personal Representative of the Estate of Alphee Caron, for Wrongful Death and for Personal Injuries on Behalf of Herself and her Minor Child, Jeffrey Caron, in Excess of Statutory Limits of Recovery

H.P. 1215 L.D. 1657

Bill "An Act to Provide School Approval for Nontraditional Limited Purpose Schools"

H.P. 1217 L.D. 1660

Bill "An Act to Provide Substance Abuse Prevention, Education and Treatment Services for County Jail Inmates and their Families"

H.P. 1218 L.D. 1661

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

House As Amended

Bill "An Act to Divest State Pension Funds from those Businesses or Corporations doing Business in the Republic of South Africa and Namibia"

H.P. 83 L.D. 86

(C "A" H-163)

Bill "An Act to Increase State Funding for Homemaker Services"

H.P. 210 L.D. 262

(C "A" H-164)

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

Senate

Bill "An Act to Clarify the Laws Pertaining to Payment for Medical Services"

S.P. 499 L.D. 1516

Bill "An Act to Amend the Maine Juvenile Code"

S.P. 521 L.D. 1573

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Expedite the Processing of Environmental Permits"

S.P. 81 L.D. 167

(C "A" S-87)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

The following matters in the consideration of which the Senate was engaged at the time of Adjournment, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.