

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 10, 1989 to June 14, 1989

POSTPONE the Bill and Accompanying Papers, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

8 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator PEARSON of Penobscot, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, in concurrence, FAILED.

Which Report was ACCEPTED in NON-CONCURRENCE.

The Bill READ ONCE.

Committee Amendment "A" (H-164) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Reclassify Surface Waters of the State"

H.P. 747 L.D. 1030  
(C "A" H-191)

Tabled - May 19, 1989 by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

(In Senate, May 19, 1989, READ A SECOND TIME.)

(In House, May 17, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-191).)

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Restrict Smoking in Enclosed Shopping Malls"

H.P. 751 L.D. 1055  
(C "A" H-190)

Tabled - May 19, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, May 19, 1989, READ A SECOND TIME.)

(In House, May 17, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190).)

On motion by Senator GAUVREAU of Androscoggin, the Bill and Accompanying Papers RECOMMITTED to the Committee on HUMAN RESOURCES in NON-CONCURRENCE.

Sent down for concurrence.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances"

H.P. 254 L.D. 366  
(C "A" H-203)

Tabled - May 22, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

(In Senate, May 22, 1989, READ A SECOND TIME.)

(In House, May 18, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203).)

On motion by Senator HOBBS of York, Senate Amendment "A" (S-138) READ and ADOPTED.

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

Sent down for concurrence.

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

Bill "An Act to Regulate the Installation of Fire Sprinklers"

S.P. 237 L.D. 567  
(C "A" S-126)

Tabled - May 22, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED (In Senate, May 22, 1989, READ A SECOND TIME.)

On motion by Senator BALDACCIO of Penobscot, the Senate SUSPENDED THE RULES.

On further motion by same Senator the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-126).

On further motion by same Senator, Senate Amendment "A" (S-139) to Committee Amendment "A" (S-126) READ and ADOPTED.

Committee Amendment "A" (S-126) as Amended by Senate Amendment "A" (S-139) thereto, ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on JUDICIARY on Bill "An Act to Prevent Discrimination"

H.P. 413 L.D. 556

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-211)

Minority - Ought Not to Pass

Tabled - May 22, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, May 22, 1989, Reports READ.)

(In House, May 19, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-211).)

The Chair, in absence of a motion from the floor, moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

On motion by Senator WEBSTER of Franklin, 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 Penobscot, Senator Baldacci.

Senator BALDACCIO: Thank you Mr. President. I would like to pose a question through the Chair to any member of the Committee who may wish to respond. Would they explain to me and the members here as to what the amendment is that has been offered by the Committee. What the Bill does and how it would impact communities throughout the state?

THE PRESIDENT: The Senator from Penobscot, Senator Pearson, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from York, Senator Hobbins.

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. It was my hope that I would have the opportunity to explain this particular L.D., the reasons for the Bill, and

in so doing, hopefully answer the question raised by the good Senator from Penobscot, Senator Baldacci.

This Bill, L.D. 556, is an anti-discrimination Bill, plain and simple. The purpose of the Bill is to extend to all Maine citizens, regardless of their sexual orientation, the same civil rights and protections now guaranteed to citizens on the basis of race, color, religion, sex, age, national origin, and physical or mental handicap. Discrimination in the areas of employment, discrimination in the areas of housing, public accommodations, and credit, would be prohibited. As you know, this Bill has had a tumultuous history, having been considered by the Legislature for over twelve years. Ladies and gentlemen of the Senate, the time has come for this Bill to be enacted into law and for silence to be answered with action.

This is not a gay rights Bill. This is a civil rights Bill. The point should be raised that it is not whether homosexuality is admirable, but whether discrimination is tolerable. We, in Maine, are very fortunate. We have a long history of acting out against discrimination, because many of the individuals sitting in this room and their ancestors were the victims of discrimination. Whether it was discrimination because of their age. Whether it was discrimination regarding their religion, or their sex.

Think back, in your own families, to see whether or not you have seen discrimination. I know I have thought back. It is pretty easy for some of us who have gone through the toils and the results of our parents, grandparents, and great-grandparents actions in the past. I remember my grandmother telling me about my great-grandfather who at the age of nine went to work in the mill in Biddeford, having come to this country from Canada. Fortunately, this Legislature and the United States Congress passed child labor laws in order that we would not place individuals such as that in jeopardy at the age of nine. Maine and this country have addressed discrimination, addressed situations where individuals, because of their age, because of their race, because of their sex, have been discriminated. We have addressed those issues. I say it is time for this state to address the issue that we have before us in L.D. 556.

This Bill doesn't do a few things. It doesn't decriminalize any sexual acts or require affirmative action. This Bill does not effect existing laws, regulations and rules, that cover misconduct by any persons, homosexual or heterosexual. Such as sanctions to deal with molesters, with noisy and disruptive tenants, with employees who let their private lifestyles interfere with their work. This Bill does not infringe on anyone's First Amendment Right to the unfettered practice of their religion.

I know that all of us in life have to make difficult decisions and we, as Legislators, must make difficult decisions. Ten years ago when I voted on this Bill as a member of the other Body, it was considered a courageous act. I didn't think it was a courageous act, but it was considered a courageous act, for only thirty-seven people stood up that day to vote for this particular Bill. Only three members of the Judiciary Committee, which I was a member, supported an Ought to Pass Report. As you can see, times are changing. Eight members of a thirteen member Committee voted for this particular piece of legislation and without influencing debate, it is also taking a different fate in the other Body.

I hope that all of you today will look past your past differences in this issue and support this legislation. This is an anti-discrimination Bill, it is not a gay rights Bill, as I said. Sometimes, for

all of us, it seems that silence is the best course to take because we aren't the people who are effected by a particular piece of legislation. We must, as Legislators, represent all the people, represent those who don't have a particular voice in the decision-making process. Six years ago, when I was preparing for debate in the other Body, I kept remembering a quote from Pastor Niemoeller, who was a Christian minister, who became a nazi victim in Germany. He was speaking about the silence before the discrimination he saw in Germany at that time. Let me share with you the quote, which I quoted in my debate six years ago. "First they came for the Jews and I did not speak out, because I was not a Jew. Then they came for the communist and I did not speak out, because I was not a communist. Then they came for the trade unionist and I did not speak out, because I was not a trade unionist. Then they came for me and there was no one left to speak out for me." I would hope today that we will end that silence. Thank you.

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

Senator HOLLOWAY: Thank you Mr. President. Mr. President, men and women of the Senate. First, I would like to address Senator Baldacci's question as to the Amendment and that is just basically the fiscal note that was on the Bill.

I rise also to tell you of my opposition to the Bill and why I voted it out of Committee as I did. Certainly, this issue is not an easy one. It is one of values and it certainly is one of deep emotions, but as the Senator from conservative district #20, my constituents do not wish to provide a special treatment for gay-lesbian citizens. If discriminations exists, as suggested by this group, I believe that a massive educational effort should be formed, by them, to enlighten the general public, who may eventually accept a change of attitude. I was invited, and accepted, the invitation, to meet with a group of lesbians the other night in my district and it was certainly a most informative evening. Although they knew of my opposition to this Bill, I was given the most courteous and listening audience. While I appreciated this opportunity, I did not get a reply from one person who stated, "when I decided to live the gay lifestyle," and I questioned her twice about that and, certainly, my thoughts stayed with that one question on my way home and it is still with me now, because it, indeed, sounded like it was a matter of choice as to her sexual orientation and that does bother me.

Most of the phone calls and letters have been from the female community, with the exception of one letter and one telephone call from males. Two of my telegrams this morning were from males, so that makes a difference in my statement. Also, several letters from mothers of gay sons. Certainly, we all condemn the ridicule and harassment of the homosexual person, but we do have anti-harassment statutes on the books and we must insist that they be vigorously enforced. The result of this Bill asks that we accept homosexuality as a lifestyle, that we give our approval of the orientation and conduct of homosexual persons. That, I cannot accept. Acceptance of passage will be a stamp of approval and, certainly, as elected officials we have a grave responsibility of passing laws that protect rights that are in the best interest of the state. I submit to you that this Bill allows special privileges that the rest of our citizens do not possess.

I suggest that we do a little role play here. Let's pretend that all of us in this front row work together and two of us have been fired from our job

because we are unproductive in our employment and occupation. The one who was fired has only the employment office to go to. But the other, being a gay person, can seek recourse with the Maine Human Rights Commission. That, to me, is a special right for that one person. I urge the Senate today to seriously consider the effects of this proposed legislation and I hope you will join me in opposing the motion of Ought to Pass. Thank you.

Off Record Remarks

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I rise today in support of the motion of the good Senator from York, Senator Hobbins, that this Body Accept the Majority Ought to Pass Report tendered by the Joint Standing Committee on Judiciary. Let me state at the outset that I have had an opportunity and I think a privilege, as many of us have in this Body, to discuss this particular measure with several of my constituents and as might be expected there, in fact, a diversity of opinion regarding the necessity of adoption of this particular civil rights legislation.

I want to state at the outset that I do respect the sincerity and deeply held views of those persons, not just in my district but throughout the entire state, who have urged us to defeat enactment of L.D. 556. In their perception, a perception which I do not share, adoption of this, or similar legislation, would be equivalent to a legislative endorsement on a particular set of values which they do not share. Having stated that, it is my strong belief that this Body, in fact, should amend our human rights statute to prohibit discrimination predicated upon sexual orientation in the discreet and narrow areas of employment, housing, public accommodation, and access to credit. Far from according to a discreet minority special privileges or rights under our law, we would simply be making the provisions of our statutes which preclude and prohibit discrimination in those areas to the broad majority of Maine people applicable to individuals based upon their sexual orientation.

What this measure really represents, in my view, is the deeply held view in our society that all persons should, in fact, be accorded equal justice under our law. Far from trying to grant special rights or privileges to anyone in our society, we are simply allowing all members of our society the opportunity, and the key word is opportunity, to participate. A fair and equal opportunity to share the blessings of our society. One need not share, endorse, or otherwise agree with particular values of any group in our society, in order to accord those persons that particular privilege. It is, in fact, intrinsic in the American pluralism that all members of our society be granted that fundamental right and I submit, men and women of the Senate, it is because of this singular characteristic of our polity that this country has, in fact, attained the respect of all freedom loving people throughout the entire world.

There is no doubt in my mind that we are being asked, by supporting the Ought to Pass Report of the Committee, to stake out a position of public policy which is deeply controversial and which would require members of our Body to explain the rational underpinning extension of civil rights for this particular minority. I believe what we are being asked to do is exhibit a sense of leadership and

that, men and women of the Senate, is what goes with the territory when one offers himself or herself for membership in this public Body.

I mentioned to you at the outset that I had several discussions with members in my district. I cannot report to you today that based upon our discussions all person with whom I have spoken have adopted my particular position. But I am pleased to report to you that some people who, in fact, had major reservations about L.D. 556, now do support the need for this legislation. I suspect that public understanding and appreciation for the ravages of discrimination visited upon this particular group in our society will be a long way off. We must first articulate in our statutes a firm public statement that we will no longer tolerate this type of discrimination before the norms and values of our society. Accept the basic principle that all persons should, in fact, enjoy equal justice under our law.

I must say, although I respect the views expressed by my good colleague from Lincoln, Senator Holloway, that in discharging one's constituent responsibilities, one must reflect the prevailing views of the majority in one's district. There are, it seems to me, occasions when if one harbors sincere and conscientious principles, and I suggest this is such an occasion, that one must respectfully defer with the views, no matter how highly or deeply held in one's district, in order that we can advocate for the cause which we believe is right.

I have no illusions, for I am certain that if we do go on to Accept the Majority Ought to Pass Report we will be held to account for our actions and that is entirely appropriate. Perhaps it makes all of our jobs a little more difficult, but I, for one, welcome that additional burden. I welcome that additional responsibility, because in some small way I know that I will have an opportunity to extend the firm principle underpinning our democracy that all persons should enjoy equal justice under our law. So, I welcome that responsibility, men and women of the Senate.

It seems to me, having heard the discussion and the debate attendant to this measure not just for this year, but for the past several years, that to some extent we have had a breakdown in communication. Many people have talked, but not spoken. Many people have heard, but not listened. We are talking about discrimination which pervades ones basic sense of security in life. Although, as the Senator from York, Senator Hobbins, noted in his presentation this morning, all of us have some sort of intellectual appreciation for the ravages of discrimination, I suspect many of us, fortunately, have not had to labor under the direct and immediate impact of vicarious discrimination. I think we have to thank the women and men who have come before us in our society who have steadfastly and conscientiously opposed irrational, arbitrary prejudices and discrimination in our society, in order that we have had an opportunity to participate in our state and in our country. We have advanced not ourselves, but our families, because we have enjoyed the opportunity to fully participate in our democracy.

There are some people who argue that there is no particular need for L.D. 556, after all, we have statutes which preclude or prohibit assault or intimidation. It strikes me, as it did the members of the Maine Human Rights Commission, that our criminal statutes prohibiting assault and intimidation have not meaningfully addressed the problem that homosexual people in our state experience.

The Committee on Judiciary, in their lengthy hearing on this measure, heard from a number of

people who had personally been victimized. People who had been intimidated, threatened, who had, in fact, lost their employment and otherwise been subject to improper discrimination, solely on account of their sexual orientation. It seems to me that this measure is not put forth because of some desire to effectuate pristine equality for all in our society. It is a very down to earth, common sense, and carefully drafted document which simply puts into our statute rights which, I believe all of us believe, should be accorded to every person in our society.

In my other life, I don't appear before the Legislature, in fact, I practice law. I have practiced now for some fourteen years, I have had the privilege for the last three or four years to represent a gentleman. A person of greek descent, who came to our country in the late sixties. He came with his family, penniless, but he came with hopes, he came with aspirations, he came with a wonderment of what America meant, because to him and to his family America meant opportunity. All he asked was simply the right to be treated as an individual with dignity, to let him and let members of his family enjoy the blessings of our society.

People think that I am fairly laid back and don't often emote, but I must share with you that this gentleman, many times comes to my office and his eyes well with tears. The gentleman loves this country, he loves what taking part in our country and in our state has meant for him and for his family. Because of our democracy and because of our commitment to equality, this gentleman and his family live a good life not just financially, but spiritually. They are, in fact, accepted, as well they ought to be, as equal partners in our democracy.

Men and women of the Senate, all we seek in this measure is the right to extend that basic heritage in American society. The basic right of being an American to another group of individuals who historically have, all too long, been subjected to invidious, arbitrary, and wrongful discrimination.

Many of us serve in the Legislature for a short time period, two, three or four terms, and we go on to other aspects of life in our society. I ask you and point out to you that there will be a time, it may be five years down the road, it may be ten years down the road, but you will hear or read of an incident when people, gays, are subjected to particular violence, hatred, prejudice, and you will ask, why? I ask you today, men and women of the Senate, why not? Why not vote for this measure today? It may constitute an act of political courage and if that is the case that is to your credit, but it seems to me that the issue goes beyond that. It goes to a responsibility that each of us share to allow every person in our society an equal opportunity. The right, truly, to live a life with equal justice under the law. Thank you.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. I have always voted for this measure, but I have never spoken for it. I guess there is some courage involved with speaking for it, I don't know exactly why. I hadn't intended to speak, but the Senator from Lincoln, Senator Holloway, in what she had to say, made me understand that there is still a great deal of ignorance on this issue. You are surprised that you didn't hear from men. Don't you understand and don't we understand that this is a men's issue? There is such prejudice against men who have this style of life compared to women. We tolerate, in

this society, women who live together. We tolerate, in this society, women who travel together. How about the dances we go to sometimes, it is all right for women to dance together, we just have a feeling about that, but men? Men to live together? To travel together? They have to hide. They have to hide, because they will lose their jobs and they will not have credit. Don't you remember who has died in the last few years because they were homosexuals? Men. Don't you know the people who have been beaten up and harassed? Women? No, men. Don't we understand what this Bill is all about? I hope so. I hope we can do what this Body has done before, it is time. Thank you.

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

Senator GILL: Thank you Mr. President. Mr. President, men and women of the Senate. I rise proudly today as a cosponsor of this measure and I don't say that lightly. I have given this a great deal of thought before I signed onto this Bill because in my past life here in the Legislature I have been on the opposite side. I came about my decision to sign onto this Bill primarily because of my work with AIDS and the AIDS Advisory Committee. I was the sponsor of the Bill that set up the AIDS Advisory Committee because we had a problem in the State of Maine, as other states in the union did. The State of Maine decided that they wanted to be in the forefront in how they dealt with this so we set up a Committee. In the setting up of that Committee, I met with the Executive Director of the Human Rights Commission and asked about the need for a legislation change, at that point, in the Maine Human Rights Act. We decided not to approach it at that point and see what the experience would be and what cases came before the Human Rights Commission. This Bill is before us primarily because there were cases that were brought to the Human Rights Commission. Cases of discrimination, some of them against women, some of them against men. The need is now to put the Human Rights Commission in the proper perspective to deal with all people of all kinds.

I hesitate to get into a letter that we received dealing the Christian Civic League of Maine, because in the letter it stated that, "it is a cup we wish would pass from us." I think everybody feels it was a cup, we deal with many issues that we could say its a cup that I wish would pass from us, but I think we have to take a stand on this issue. I don't think you can pass this cup, I think you have to decide on where you are with this and the only human, decent thing to do is to pass the Human Rights Act with this Bill.

I have dealt with the mentally retarded for many years and the mentally retarded are still facing a stigma out there. If anyone is different, people don't want to be near them, they just don't want to be near them. We are trying to address the problem of dealing with the mentally retarded and say it is acceptable.

In my own life, Senator Hobbins from York was absolutely right, there have been bigots through all of the existence of the United States and before that too. I know in my own situation that I am half polish and I am half Irish and I am very proud of both of them. My grandparents on both sides were immigrants, both sides of the family came from the old country. I know when my polish ancestors came to this country they were called Polacks, a derogatory name, but that is what they lived with. Let me tell you that the Pols that came to this country were not educated in the sense of going to school, being educated through the school system, but I am very

proud of the fact that my grandfather was able to come with practically nothing, start a grocery store, and took care of his family and didn't ask anything from anybody. He did the work, they were hard workers and were willing to do that. My Irish grandfather was a skilled person, he was a plasterer, and I can proudly say that almost every church or public building in this state that was built at the time he was doing his craft has his hand print on it. I was told by his boss one time, who had been a former Senator here in this Body, that when my grandfather came to work, he came with a derby and a suit and he was so proud of his craft and the fact that he had a skill that he would change his clothes so nobody knew exactly what he did for work. That was pride. It may have been because of discrimination too, because in those days there were often signs out that said Irish need not apply. He happened to be a lucky person because he did have a skill.

I feel so strongly about this issue. I was brought up in a Christian home and was taught that you love everybody, you don't have to like what they do, you don't have to like what they stand for, but you have to love everybody. When I see testimony from a Christian Civic League who talks about the homosexuals being despised, feared, hated and persecuted, they are, but they are that way because of the bigots that do exist in this country. Oliver Wendall Holmes said, "the mind of the bigot is like the pupil of an eye, the more light you pour upon it, the more it will contract." I think that is what we see today. We try to educate, we try to let people know what is right and what is wrong, but we still have bigotry that exists.

I am not going to judge anybody, maybe it is the maturing factor that has fallen upon me because I am getting up in age, but I have learned through the years that you don't judge anybody. There is only one judge and we are all going to face that one judge and he is the maker of us all. I am not going to get into the argument on whether this is a genetic thing or an environmental thing, but it exists. Let's face the fact that it does exist. I don't like it, it is not my lifestyle. I have to say that one of my phone calls yesterday implied that if I kept on with this Bill that I would be considered a gay person. I think that is telling about the individual who did make that phone call, because if anyone knows me, I have been married for twenty-one years, I have four children, and I like men. I think we have a civilized society here that we have to be accepting of all kinds of people. As you also know, I have worked with the corrections facility and when I look at criminals, I abhor criminals, I abhor the actions that criminals have taken, but you know we set up a ministry in the prisons so we can forgive them and we can understand them better. Here we have a group of people who are out there minding their own business, and I don't care what they do behind their bedroom doors, because I certainly wouldn't want you to come behind my bedroom door and look at me. I think we go too far. I think it is time that we put the teeth in the law that is needed under the Human Rights Act. This Bill is before us strictly because the Human Rights Commission came before this Legislature and said, we must have some teeth and that is what we are trying to give them. Thank you.

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. I had no intention of standing up here today and speaking on this Bill. I have no prejudice against anybody. I

have feelings for everybody and I have feelings for you who are trying to put a Bill into effect which I think is a mistake. This Bill reminds me of a flower, it is a perennial, it comes up every time and it goes down every time. I am not sure how it is going to go today, but I have some problems with this Bill. Other people have rights, also, and you are trying to impose these people's rights on other people. I have had calls, like you have had, and I have had people talk to me. The first question I ask these people is why are you in favor of this Bill? Why are you taking this position? One man said he was a father and had two children and was a veteran and was in favor of the Bill. Well, I don't think they understand the Bill, to begin with, but their answer usually is, that they don't want to see people beaten up and don't want to see people who are hurt. I said, "wait a minute, how do you know a person is a homosexual?" There may be a homosexual in this room, I don't know who is a homosexual, I don't know who is a lesbian. I try to treat everybody fairly and I think that is what we all have to do. Do you know who is a lesbian and who is a homosexual? You know because they flaunt it. That is the reason you know. They parade, carry banners, and they tell everybody what they are. I don't tell everybody about my sexual activity, it is none of their darn business. I don't care what these people do, as has been stated earlier, but let's be personal about it, let's not tell the whole world. Let's not go to the Sunday school class and tell them about it. Let's not go to the school or the day-care center and tell those people about it. Is that what you want? Do you want these people who work in day-care centers, to solicit young boys? Is that the type of thing you want? I don't want that and my constituents do not want it. I think we have to think about this. Perhaps you don't even want those people living in your building, that is a personal decision. We have had people who have been prejudice all through the world.

I went to school in Alabama, you talk about prejudice. You walk down the walks and the blacks, young and old, stepped off the walk. Here I was a twenty year old kid going to college, I didn't understand what they were doing. They had automobiles that you rented down there at Tuscaloosa and I saw these cars coming around the corner on two wheels with blacks holding onto the back of the car. I said, "what are they doing to those poor fellows?" The answer was that those were you-drive-it cars, and the sorority girls have rented the car and will not let them sit in the car with them. I couldn't believe it.

This country has had prejudice all through its history, we have worked out of it and these people have the same rights that I have and will continue to have. We have a Constitution. You talk about prejudice, have you ever seen people come talk to your constituents who have gone to a bank in their old clothes and so forth and couldn't get a loan? If you are Bob Dillenback you can get a loan, other people perhaps can't get a loan. Those things happen and I am afraid that you people are going out on a limb on a Bill like this. Do you realize that there is only one other state in the country that has a Bill such as this? It is ridiculous and I hope you will not be carried away by emotions today. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. Unlike my good seat mate, the Senator from Cumberland, Senator

Gill, I have supported this Bill every year I have been elected here that it has been on the floor. I have been sponsor, cosponsor, and have supported it, and spoken on it. I am proud of that record. This is my fifth term, it obviously has not effected my reelection and I come from a very Catholic, very french, very tradition oriented district. I don't know whether my speaking this way will effect my election next time or not. I don't think I really care and the reason I don't really care is not because I don't care what my constituents think, it is because I think the reason my constituents elect me is because they look at me as a leader. The reason you sit in this Body is because you chose to lead. That is what you are doing. I always remember the quote of Senator Muskie, when he was asked by his constituents, "but I wrote you, Senator, and told you that I wanted you to vote the other way. Why did you vote opposite from what I said to you?" He would consistently say, "You know, I receive all kinds of notes, letters, and calls like that and I listen to all of them and I weigh them into the balance. I can't hear from every single one of them. I suspect that when I vote, I disappoint fifty percent of the people and I satisfy fifty percent of the people, but the reason they send me here is to make that decision."

That is what you are here to do today, is to make that decision. You have to sit there in your own seat, you can't go out and call your constituents, and at the last moment when you say yea or nay, you will say it from your gut, from your heart, from your leadership. That is what this is all about.

It is interesting to me that on this particular Bill that it carries the sponsorship of the name of a former Senator of this Body and a former President of the Senate. The Senator from Cumberland, Senator Gerard Conley. I remember the speeches he gave on this floor, on this issue. They were incredible, nobody in this Body today can present as good a presentation as Senator Conley made at those times. I hope that we carry that tradition that his son has carried in the other Body and that we can carry in this Body if we vote this Bill out today.

We heard that what we ought to do is just wait for the time to come and keep telling people how good homosexuals are and let them keep convincing people out there and eventually it will come to them.

I suspect that is what the students in China thought for a long, long time. You all know what is happening in China right now with those students. We know that they are sitting there to spite the fact that their government has said you cannot protest any longer, but they are doing it. That is what you do here, people. What you do is sit here and do that fight, you make that fight for those people who can't fight for themselves.

I would like to quote the legislation, it is right in your book, it is L.D. 556 and it is on line fifteen of page one, and up above that it starts, "to prevent discrimination in employment, housing or access to public accommodations on account of race, color," and we have added, "sexual orientation, physical or mental handicap, religion, ancestry or national origin and in employment" and it goes on, we have added those two words. If you drop down to Section Two, line twenty-five, "sexual orientation means having a preference for heterosexuality, homosexuality, bisexuality, having a history of that preference or being identified with that preference."

I would like you for a moment to do some more role playing, like you were asked to do earlier. Put yourself in the minority as a heterosexual. What if the majority were homosexual and you wanted to get a

job, or you wanted to get housing and they controlled the housing, the banks, the employment, the businesses, everything. What would you want then in this Bill? Would you want sexual orientation in this Bill then? I suspect that you would be fighting for it to do just exactly that. There is discrimination everywhere, in every aspect of life, not only this one. As has been said before, it is not for us to judge, it is for somebody higher than us. The only thing we can do here is not discriminate. I urge your passage of this Bill. Thank you.

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

Senator ANDREWS: Thank you Mr. President. Mr. President, men and women of the Senate. My colleague and friend from Cumberland, Senator Brannigan, opened his remarks by saying he has never spoken on behalf of this legislation, although he has consistently supported it in the past. I have to say that I have never not spoken on this Bill whenever it has come before me and I was sitting here wondering if perhaps I should sit down and keep my mouth quiet because every time I have spoken I have always ended up in the minority vote when the vote was taken. But, I must speak for this Bill whenever it comes before a legislative Body because of what it means not only for Maine citizens who are gay or lesbian, but what it means for all of us as legislative leaders and what it means for the citizens of this state and this country. Surely if we were to make a historical stand in this Body this morning, the message would go out loud and clear throughout not only this state, but throughout the country, that the State of Maine stands for principle, it stands for equality, it stands for human dignity, and it will not tolerate prejudice and bigotry.

As a student learning about great moments of history in this country, I looked at the Emancipation Act, the 1964 Civil Rights Act, the 1973 Rehabilitation Act for Handicap People, the creation of our own Maine Human Rights Act and I wondered, as a young person, what it would have been like to be involved in one of those historical moments. It often amazed me that there was a time in our history where a whole race of human beings would be enslaved. How was that possible, I wondered. It was just incredible to me. Or that women would not have the basic right to vote. I couldn't understand it.

As I read further, I read that those intolerable acts of discrimination were there because of pervasive bigotry, prejudice, and widespread discrimination and because no one in the position of leadership had the guts to say stop, regardless of how you feel, we as leaders will not tolerate slavery, prejudice, and discrimination anymore. We are bigger than that as Americans, we are bigger than that as Maine citizens. We didn't just work out of that prejudice, as we heard from the Senator from Cumberland, Senator Dillenback. We took stance, there was leadership, there was courage, there was movement from the darkness of prejudice toward the light of equality and human dignity.

I just look at this Chamber and I look at Abraham Lincoln looking at us and think of the courage that it took to do what he did and the fortitude to end that institution of human slavery. I look at F.D.R. and the first acts to protect disabled people. There is a book that was written, not too long ago, and it focused on nothing but the great pains that those around President Franklin Delano Roosevelt took to hide his disability. There are only a handful of photographs in existence that show F.D.R. in a wheelchair or being supported by crutches or a cane. Do you know why? Because of prejudice, because of



discrimination, because the greatest President, in my view, in this country would not have had a prayer at being elected President had people known that he was handicapped.

Courage, yes, principle, yes, going above and beyond the discrimination that has put us in the position of having to enact such a piece of legislation. I really hope, I really do, that this is a true historical moment for this state and for this Chamber. I have sat here with pride as I have listened to the speeches, the eloquent speeches on the floor from some of my colleagues. I was ashamed at some of the remarks of some of my other colleagues. Ashamed at the prejudice revealed in those statements. But, regardless of your personal views, regardless of the pervasive discrimination and bigotry that may or may not be out there, ladies and gentlemen of the Senate, I ask that we focus today on the leaders of our country and of our state that has put principle, human rights, and human dignity first and support this very important Majority Report. Thank you.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. Over the years, and they are many now, I have amassed a rather extensive file on the topic that is before us this morning. I wondered whether I was going to give remarks today on L.D. 602, which was before us last time, because I never did deliver those remarks and they are as appropriate today as they were then. There are a whole host of things that I would say to you this morning, and my greatest fear is that I will, as usual, talk too long and skip something that I think is very important. So, I guess I will focus on immediate issues, for among us in this great Senate of Maine and this lovely Chamber, discrimination has occurred today. It is documented by requests to the Senate Sergeant-At-Arms and Pages and the Senate Secretary that people who have been lobbying as citizens be kept away from them this morning. Has that same request ever been tendered to the hordes of independent insurance agents? Of school children? Of teachers on their lobby days? Of bankers and realtors? I submit the answer is no. Not our proudest moment.

I have received copies of responses from members of this Body to their constituents attempting to explain their position on this issue, or to avoid explaining their position on this issue. Allow me to share a few of them with you. One that has been used by members of this Body, from both sides of the aisle, is Article I, Section 6-A of the Maine Constitution which reads, "no person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protections of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof." It is suggested that no person includes homosexuals. Yet, despite the overwhelming evidence; documented, substantiated evidence that discrimination occurs in 1989, people still use this Section of the Maine Constitution to justify their actions, thus denying that discrimination against members of Maine's homosexual community exists. Substantiating the fact that all people will have equal rights.

I was not privileged to be here in the 105th Maine Legislature, when the Maine Human Rights Act was enacted in 1971. I was here in the 106th, when the first of a series of repealers was introduced to eliminate what had been done in the 105th Legislature. The Maine Human Rights Act has never

succumbed to that effort to repeal it, very positively reflects successive Legislatures. But, unless included in the Maine Human Rights Act, provision as proposed in the Bill before us, then we cannot and that Commission cannot address discrimination. It is the agency of government created by this Legislature the instrument of the people which is used to address blatant discrimination. There is need and it is documented that the Maine Human Rights Commission has been funded for the proposed biennium, to the tune of approximately one million dollars, does not take care of the issue before us this morning. It addresses only the funding needs and the operation of the Maine Human Rights Commission. They still do not have any authority, within their area of operation, to address the blatant, rampant discrimination experienced by at least ten percent of the citizens of our state and we, members of the Senate, would do nothing? We would cite former methods and modes of discrimination and suggest because it existed then and perhaps doesn't exist to the same extent that nothing should be done?

Then there are those responses that suggest that the Senator will cast his or her vote for the majority of his or her constituents. I guess I know what that means. Don't you? The majority of his or her constituents, whether they be yours or mine, are heterosexual individuals and because they represent the majority of the citizens of the state we should do nothing. In sharp contrast to all of the history of the Maine Legislature. We did something about race. We did something about sex, after a struggle. We did something about national origin and ancestry and physical and mental handicap, but we aren't going to do anything about sexual orientation? Deliver me Lord, from the judgement of saints who have never been caught.

I, too, as did you, receive multiple phone calls this weekend and they were in the majority, ninety percent of them easy, the most ugly, biased, prejudiced, nasty, threatening phone calls I have ever received in all my years of public service. One fine Christian said, "we will get you next time if you support that Bill for those people."

I proudly stand here today, with a number of my contemporaries, for all the world to see and the constituents in Senate District #26 to see, I have consistently, proudly, and with honor, been privileged to cast my vote to end discrimination in this great state since 1973. If those good people in that Senate District return me in the 115th Legislature, I will continue to act and to vote, in what I perceive and what has been interpreted by those very same judges, my voters, responsibly.

Opposition has been voiced to the Majority Committee Report this morning on the grounds that homosexual Maine citizens would be accorded preferential treatment. Give me a break. Unfortunately, that is not the reality. While the Bill of Rights and other federal and state law extends civil rights protection to everyone on an equal basis, we know from practice that there are those in our society who believe that some citizens are more equal than others, usually based on their cultural or moral heritage. Albert Einstein pointed out in an address back in 1954, some of you who will be casting your vote today weren't even born then, "the existence and validity of human rights are not written in the stars. Those ideals and convictions which resulted from historical experience have been readily accepted in theory by society and, at all times, have been trampled upon by the same people under the pressure of their animal instincts. A

large part of history, therefore, is replete with the struggle in which a final victory can never be won."

I submit that the legislation before us today is part of that struggle. It is a struggle in which to spite the fact that the Bill of Rights, the Maine Constitution and other statutes express the ideal of civil rights for all. We are called upon to make a strong statement backed by the force of law that these same rights also belong to members of an identified minority, who are being persecuted by those very same people who need to be convinced that some of us are not more equal than others.

The need to reenforce this principle has already clearly been documented not only by the death of an individual in Bangor, hurled off a bridge, because he was a homosexual, to his death, but by the sometimes subtle, yet substantiated and documented, discrimination when it comes to jobs, housing and a host of other situations.

Just recently the Portland papers have carried court accounts involving the so-called gay bashing of two young men. There are a host of untold stories, members of this Senate, untold and unresolved with remedy not possible because the Maine Human Rights Act excludes sexual orientation. Anyone who argues that there is no basis for this legislation is not in touch with reality as it exists in Maine today. To favor this legislation, as some have suggested, does not put Maine Senators on Record as approving or condoning homosexuality as a lifestyle. It does not label those who support the Majority Report as homosexuals either and if that is the way cause and effect, or your brain, works, then you need more help than I can offer or remedy here, now, today. What it does mean is simply that Senators recognize that blatant abuse of a certain minorities civil rights exists and that the Senators of Maine believe that a strong statement is necessary to curb that abuse. For those of us in what demographers would call the statistical majority there are countless lessons interred in history illustrating that when you tolerate the abridgment of the rights of others, as has been alluded in the remarks by the good Senator from York, Senator Hobbins, then you have opened the way to where your rights can be more easily abridged as a subgroup of the majority.

A freshman Senator has said that she finds it shocking that in 1989 this issue is even being debated. I concur. Indeed, how far we have come, but how far we have to go.

Today, Reverend Mather of East Machias prayed that we exercise respect for the life God has given to us and that we would have courage and exercise wisdom. Yesterday in church, I took notes during the sermon delivery, for my mind was here, and it was so easy to relate the sermon with what I knew we would be hearing today. If we search for the beauty in life, we who sit here like lumps of coal can take the easy road or we can ignite these same lumps of coal and bring life and civil rights to a discriminated group of Maine citizens. We can be open and responsive and respectful of other persons, we can be compassionate and sensitive. We can stop discrimination and allow access and remedy and resolution for those who currently experience it. We can get things in focus. We can find, as Plato did and philosophized, beauty, truth, and love and we can be delivered from evil, the evil of discrimination. Thank you Mr. President.

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

Senator HOLLOWAY: Thank you Mr. President. Mr. President, men and women of the Senate. I just want to clarify a point that the Senator from Cumberland,

Senator Clark, mentioned. Back when I came into the Senate in January, I did ask the Sergeant-At-Arms and the Assistant Sergeant-At-Arms at that time if I could perhaps have a desk to myself while doing my work, prior to the Session opening. Until the Senate retiring room was open for us, we, who are in the minority party, did not have a Committee room and that room upstairs is just absolutely great. I did ask, at that time, that I might have a desk to myself without interference so I could do my work prior to the Session beginning. So, it was not the first time this morning. Thank you.

THE PRESIDENT: The Chair would advise the members that it is policy instituted by the Chair to provide all members the opportunity to come in and view their desks and the material that is before them. It is at the direction of the Chair that the staff of the Senate Chamber will not attempt to distinguish between those individuals who the various Senators would like to talk to and not talk to. For that reason, the staff has been instructed that five minutes before the Session is to begin, they are to ask those attempting to visit or to lobby Senators that the well of the Senate Chamber as well as those at their desks be left alone.

The Chair recognizes the Senator from Cumberland, Senator Titcomb.

Senator TITCOMB: Thank you Mr. President. Mr. President, men and women of the Senate. I did not expect that this issue would be maiden voyage on the Senate floor, as a freshman Senator, but listening to the previous speakers, I could not help but say the things that I have to say. I believe that is what I am here for and it is where I come from. Discrimination is a terrible thing. It pains me personally and it should pain each of us personally. It is a poison, it permeates our society, it permeates our attitudes, it permeates our lives. We have heard eloquent speeches today about discrimination. Discrimination of nationalities, of religions, or colors, and of sexual preferences.

I have a new grandson, I want you all to know. A beautiful, ten pound, grandson who is half black. My son-in-law, my wonderful son-in-law is black, so I know from where I come on the pain of discrimination. It is something that is very personal to me.

This Bill deals with discrimination, let us not in any way be confused or drawn away from that. It deals with people judging other people differently and treating them differently and taking away their rights because of their differences.

I wasn't going to speak on this issue as my first issue, but you know when I look into my grandson's face and I look into his eyes and realize the responsibility that what is in his eyes bestows upon me, I knew that I could not help but speak. This issue is extremely important to me. To allow this discrimination for you, or for me, or for my grandson, or for any other person in this country, would be, indeed, a blow to the standards, the ethics, and the quality of life that this country offers to include my grandson or anyone else who might be different in anyway from anyone in this room. I agree that it is time for us to no longer pass the cup. I think today is the day that we must support this Bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the ACCEPTANCE of the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

A vote of Yes will be in favor of ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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, BOST, BRANNIGAN, BUSTIN, CLARK, ESTES, ESTY, GAUVREAU, GILL, HOBBS, KANY, TITCOMB

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, with No Senators being absent, ACCEPTANCE of the Majority OUGHT TO PASS AS AMENDED Report, in concurrence, FAILED.

On motion by Senator WEBSTER of Franklin, the Minority OUGHT NOT TO PASS Report was ACCEPTED in NON-CONCURRENCE.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on BUSINESS LEGISLATION on Bill "An Act to Limit the Sunday Closing Law"

S.P. 436 L.D. 1153

Majority - Ought Not to Pass

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-131)

Tabled - May 22, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, May 22, 1989, Reports READ.)

Senator BALDACCI of Penobscot moved to ACCEPT the Majority OUGHT NOT TO PASS Report.

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

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. This is probably one of the more difficult issues that the Committee on Business Legislation has had this session. It was very difficult for me, because I have a mall in Bangor and I also have a downtown shopping area and a great number of smaller businesses. When the hearing was held on this matter, it took five and a half hours. The bottom line issue, with me, on this particular situation, was the fact that I couldn't guarantee to anybody that is presently working in a large retail facility that they would not have to work on Sunday. I could not guarantee that to them. When I talk to people and most people say they would love to shop on Sunday, why don't you let me shop on Sunday in these large stores. My reply has been that my wife and I, we both work, and it would be tremendously convenient if we could go shopping in the grocery store on Sunday or in a large shopping center on Sunday, it would be tremendously convenient. The fact of the matter is, that there has to be somebody there to unlock the doors, there has to be somebody there to give you change, there has to be somebody to bag your groceries and to make sure the produce is stocked and fresh. Those are actually people. It is a concern for those people. There are only one hundred and fourteen thousand of those people. They are certainly not a majority of the people that are in the State of Maine and they probably would get out voted in a referendum. But it is the concern that I

had for those people who are working or would have to work on Sundays. We have a very tight labor market in our area and we are having L. L. Bean come in with a distribution center that is going to take five or six hundred jobs in that particular area and probably make it even more tight. I have had managers of large stores that would be open on Sunday saying to me that they don't want to open on Sunday because they have a hard enough time staffing their facilities now with the proper number of people and the qualified number of people.

I am sure it is very nice for somebody in Chicago, or where ever they are located, to press a button and see how store X or Y or Z did on Sunday. The fact of the matter is that it is going to impact people's lives and it is not just in the malls or the small stores, and that wasn't the issue. It didn't matter what the lobbyist said on this particular issue, it was the people that I was concerned about. We talked about issues, as far as the Business Legislation Committee, about the additional consumption of electricity, the additional consumption of oil, we talked about the municipal impact of police and fire and other municipal services, we talked about municipal offices being opened on Sundays, we talked about legislative offices being opened on Sunday. We talked about a tremendous amount of impact in a lot of other areas and there are a lot of smaller stores that aren't in these malls that would have to open up for just economic necessity if most of the people were going to be out on that particular day that would have to be open. They voiced opposition not because of a religious thing, it was for a common day off. Because of the employment situation, they already work six days a week and they wanted one day off, whatever it happened to be. That was the day and it has been more or less tradition.

There is a lot of concern on the other side of the aisle on this particular issue about the unfairness of the situation. There are some arguments to that unfairness and there is no question about it. The concern that I had was the impact that it was making on municipalities, the impact that it was going to make on the unemployment situation, the impact that it was going to make on smaller businesses that aren't even part of this structure, and the impact that it was going to have on families lives because somebody is going to have to work. I think it was Ernest Hemingway who said, "no man is an island unto himself, that we are all connected at the main." I think it is very foolhardy for us to think that somebody else is going to be working on Sunday to take care of our concerns. I am willing to give up my selfish needs of being able to shop on a Sunday and trying to get things done to give somebody else a day off and not force them to go to work. I think the priority here is to study the exemptions that are in the law, there are a lot of things that need to be brought out. I wanted to do more of that detailed kind of a study report so we would know what the impact was, but the Committee was very vehement in its opposition and we may have a report of a study before this session is out. I would appreciate your support on the Majority Ought Not to Pass Report. Thank you Mr. President.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. The hearing on this Bill did take five and a half hours and the work session five and a half minutes, but I do appreciate the Senator opening it up again after he was more in control of things. I wanted to say that