

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 2 Senators having voted in negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Prevent Discrimination"
S.P. 175 L.D. 430

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-32).

Signed:

Senators:

GAUVREAU of Androscoggin
BERUBE of Androscoggin

Representatives:

PARADIS of Augusta
ANTHONY of South Portland
STEVENS of Bangor
FARNSWORTH of Hallowell
CATHCART of Orono

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

Signed:

Senator:

HOLLOWAY of Lincoln

Representatives:

OTT of York
HANLEY of Paris
RICHARDS of Hampden
COTE of Auburn
KETTERER of Madison

Which Reports were **READ**.

Senator **GAUVREAU** of Androscoggin moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is with a distinct sense of melancholy that I rise tonight to provide you with the description of what has occurred over the last three weeks in the Joint Standing Committee on Judiciary, and to explain the Committee's rationale for recommending adoption of the legislation before us tonight.

Let me first of all, express my gratitude and appreciation to all members of the Committee, all members of the public, who took time out of their busy schedules to spend the day in Augusta, and to provide testimony to members of the Judiciary Committee. As you may know, we had truly an overflowing crowd, so many people came to Augusta on the day of the Hearing, that we were unable to accommodate all of the members of the public in Room 113. We did receive many telephone calls and notes, correspondence from interested parties after the Committee Hearing, and again, we are indebted to all of those who contributed in the process as we try to find a common ground or solution to the problem which was presented to Committee on Judiciary.

This Bill, as many of you are aware, is hardly a matter of first impression in the Maine Legislature. In fact, as I understand from the historians in Augusta, this Bill, in one form or another has, in fact, been present in our Capitol for the last fourteen years. I am here to report on the goings on attendant to its seventh sojourning. I mentioned at the outset of my remarks that I do have a sense of melancholy about me. I have a difficult time, personally, accepting the notion that discrimination exists today in our society. But even a casual browsing of the news, even a scant attention to the mass media, will tell us, and inform us, that discrimination in many forms persist today, notwithstanding the efforts of all of us to rid our society of such discrimination. In 1991, we still hear, and all too often, of acts of discrimination against members of our country and our state, based upon their race, based upon their religion, based upon their ethnic background, based upon their country of origin, and certainly in my case, and I think I can speak for the members of the Joint Standing Committee on Judiciary, certainly in cases resounding in discrimination based upon sexual orientation. This legislature will have many complex, intricate, and beguiling issues of public policy to resolve over the next eighteen months. Most of which will not go reported in the Maine press, will not be understood by the members of the public. This Bill, though, sees in my view a disproportionate share of the media's attention and the public attention. It is a very important Bill. It is by no means the only Bill, or the only major Bill we have to consider. It does strike me that it is most unfortunate in the year 1991 we have such a difficult time accepting the simple preface that all persons in our society should be treated with dignity and mutual respect, and their access to such basic necessities of life, such as housing, employment, access to places with public accommodations, the

right to live a life in simple dignity. That very issue is seriously in question in the year 1991, and indeed it is.

Let me explain to you what L.D. 430, if it found its way into enactment would do. It would amend the Maine Human Rights Act, which as you know, is found in Title 5 of our statutes. It would amend the Maine Human Rights Act to provide that no person in our state could be denied access to housing, or employment, or access of places of public accommodation, or access to credit based upon their sexual orientation. That is what this Bill would do. There are many people who very sincerely believe the Bill would do many other things, or be a precursor to many other events. There is no basis in law, there is no basis in reason, there is no basis in logic for those ascertains. It simply isn't so. We can no longer live our lives in fear. We can no longer live our lives distrusting our fellow person. Many people have argued over the past fourteen years, in fact, have argued to me and members of my Committee over the past few weeks, that there is in fact, no need for this Bill, that current law adequately protects the rights of homosexual individuals. However, many people argue and express that they have, in fact, discriminated and want to persist in discrimination against homosexual individuals. And they view it as an unwarranted intrusion in their own personal morals as an unwarranted intrusion by the state into their own religious values. If the state were to crystalize the public policy which prohibited discrimination against homosexual individuals. It seems to me that testimony, however sincere, however honest, is simple evidence to the notion that discrimination does persist. And it is not infrequent! It is not isolated! In fact, and unfortunately, based upon the information that I have received, I believe that it is somewhat pervasive in our society.

Let us address the first issue, that the state ought not to intrude into the religious values of others. They have a right, should they so desire, to affirmatively discriminate against their fellow man and woman. Now I have no doubt that the people who came before my Committee, the people who had spoken to me, are devote, are sincere, and are totally honest in their position, and I respect those people, and I thank them for their views. But their position is simply not proper. The Supreme Court of the United States has spoken, and spoken very clearly with respect to the free exercise clause which is found in the First Amendment to the United States Constitution, and its analogue is found in most of our state constitutions. The Supreme Court decided in an Oregon case last year, *The Division of Economic Security versus Smith*, I believe. And the Supreme Court said, very simply, that it is not a violation of one's free exercise of religion if a state were to adopt a statute which affects that free exercise as long as there is a rational relationship between what the state does and the state attempts to do and the statute that it enacts. So there can be no question in terms of law, that if our state were to adopt a statute, which prohibits discrimination based upon sexual orientation, the statute would clearly, clearly pass constitutional muster, of that there can be no rational legal debate. Many people are not happy with the wisdom of the Supreme Court in the Oregon decision, but that is the law of our land.

The principal point we have here, is that our society nourishes, in fact, our society is advanced because of the diversity, because of our commitment to pluralism, because we believe so strongly that people in our society should be able to believe what they want, to think what they want, and the state ought not to interfere with those very private values and beliefs. But that right, like all rights, in ordered society, in ordered liberty, has its limitations. One may not, in advancing his or her own particular religion, trample upon, or invade clear rights of his or her fellow man or woman. And that is precisely what has happened in our state for decades, for centuries! It's what happening in our country, and is happening today. I suggest we can no longer turn a deaf ear to complaints of discrimination.

I wasn't a member of the Legislature fourteen years ago when this Bill was first put into the hopper. I don't know what evidence was offered in support of the Bill. But very clearly, the Committee on Judiciary heard evidence, discreet evidence, of rank discrimination. We heard people, we heard many people that came before us and gave witness to discrimination which prohibited them from securing employment, or which resulted in their losing jobs. We also heard evidence of similar discrimination in housing. The Hearing we had gone over six hours. We didn't hear all the people that came to Augusta that day, but I think it is a reasonable statement that based upon the testimony we heard on that day, and the testimony and the calls we received, and the fortnight since the Hearing, we certainly have a reasonable example of what is going on in our state. And it is instructive to note that not one person, not one person that sits on the Judiciary Committee denied that discrimination exists. The opponents of the Bill recognized that discrimination exists, and I believe also the opponents recognized that most unfortunately. The question here is whether at public policy we should prohibit the discrimination against our fellow man and woman based upon their sexual orientation.

We have also heard it argued that homosexuality is an acquired behavioral characteristic. We have heard it argued that it is not genetic, but it is simply a life style. I have heard no evidence to justify that supposition. In fact, I am not aware of any evidence which would rationalize that position. The Committee has heard testimony in support of this Bill, from a wide variety of groups. In fact, I believe I distributed for your consideration literature showing the wide array of groups which support L.D. 430, and amongst the dozens of organizations in our state which support the Bill are the Maine Medical Association, the Maine Psychiatric Association, and the Maine Psychological Association. The fact of the matter is, science has not yet established the specific basics of homosexuality. However, it is also established that it is in scientific language, a normal sexual expression. In fact, we heard evidence that approximately ten percent of the persons in our state, like in every state in our country, are homosexual. I suspect that you did not know that, or were not aware of how many homosexual people there are in our midst. There is a reason for that, men and women of the Maine Senate, homosexuals are routinely and persistently subject to rank

stigmatization. It is not enough to say that it is unpopular to be a homosexual in our society. A person who comes out and admits his or her own sexuality, if they are in fact, homosexual, is often subject to violence, and to rank discrimination. Now it must be said in all fairness, that many of the people that oppose this Bill, do not visit such violence, do not visit such hatred upon the homosexual community. But it also must be said with equal clarity, that the society indifference to the rights of homosexual individuals fosters, nourishes, and encourages, the small minority amongst us who actively play out their hatred, who actively play out their frustrations, and they do so by visiting that hatred, and that stigmatization upon the homosexual community. And this is not simply an intellectual exercise that we are engaging in this evening. We are talking about devastating impact upon the lives of people. And that is what makes this Bill so difficult for me to accept. It is a step that we have allowed in our state for this type of rank discrimination go on.

We heard compelling evidence from psychiatrists and psychologists that homosexuals, and especially adolescent homosexuals, have major physical and psychological problems. Attendant to the stigmatization of their sexuality, that there are marked elevated instances of depression, of substance abuse, in fact, there were elevated instances of teen-age pregnancy in the homosexual community. That is not to say that is a function of the homosexual community, it is simply to state that there are social problems, the persistent stigmatization upon the minority has, in fact, contributed to those problems. There is major depression among many homosexuals and adolescence. What is most difficult for me to accept, there are marked elevated instances of suicidal ideation, and in fact, suicidal acts among homosexuals. The gist of the matter, men and women of the Maine Senate is, that by tolerating, or being indifferent to this discrimination which goes on in our society, we are allowing a culture and an attitude to go on that is directly adverse to the mental and physical health of thousands of Maine people.

Now I understand that it may not be terribly popular for a politician to advance the notion that homosexuals should have the same rights that others do. It seems to me that a cardinal aspect of our obligation as public officials that we see wrong, we should right it. And I have not seen another area in Maine of such pervasive and rank discrimination in civil wrongs that have occurred. If we adopt L.D. 430, we are not going to compel any religious sector or religious order to promote homosexual behavior. We are not going to compel anyone to believe that homosexual behavior is accepted. People can still persist in their religious values. Now I was thinking the other day, arguments made time and again, that I have got a right to practice my religion, and I have got a right to discriminate if that impedes my values. Well let's play that out a little bit. What if you are a Black Moslem? What if you were of a religious order where you believe that discrimination should occur based on race? Who amongst us will come forward today and say that we should pass a law that allows racial discrimination if it advances the particular views of one religion? I don't think any of us would. But it has taken way

too long in our society for us to recognize the wrongs that were caused by persistent racial discrimination, and we are just today beginning to appreciate the wrongs that have occurred because of discrimination based upon one's own sexuality.

We heard very eloquent and persuasive testimony through a wide variety of groups and individuals, and many of Maine's churches. It should be noted that there is significant diversions of thought in our religions, our religious orders in our state, that you will note that the Maine Counsel of Churches, and many, many religions came forward and provided testimony in support of L.D. 430. And I have thought often to the testimony of Father Chabot, who testified before the Committee in favor of the Bill, and he really spoke to the heart of the matter, because if we adopt this Bill, we are not going to overnight end discrimination against homosexuals, we know that. We know that the mistrust, the fear, the miscommunication, is too deep. It will take years, unfortunately, for the vestiges of this rancid discrimination to dissolve in our society. But as a Legislature, we can adopt laws that will inform social mores. We can begin the process of informing and educating our public that in 1991, we will no longer tolerate as a policy in our state, or permit practices in our state, which discriminate against individuals solely because of their sexuality.

What I found most convincing in this year's Hearing, was the testimony of people who came to the Committee and just asked to be treated like everybody else. How often have we heard the phrase, "This Bill will give homosexual's special rights". I have thoughts about that notion that are probably not appropriate in formal settings. What this Bill will do, is begin to work toward the day when homosexuals will be part of our community, and they will be treated like everybody else, they will have access to basic civil rights such as housing, employment, and places of public accommodation. It has also been argued by some that because the minority is so vociferous, and so persistent, and so sincere, and my goodness, they certainly are sincere people, and I respect their sincerity, it is argued by some that because those opposing the Bill are so set in their ways, that we should recede to their wishes. We should allow the discrimination to occur. How can we stand sound, how can we take no action when we understand the devastating toll that years and decades of rank discrimination have taken upon people in our midst? I truly don't understand that.

It has also been argued that homosexuals pose greater risk of engaging in appropriate sexual behavior, or homosexuals present a greater risk to families and to our children, and that therefore, in order to preserve Maine families, and to protect our children, we should allow this type of discrimination to go on. Once again, there wasn't one bit of evidence to support that proposition. In fact, quite to the contrary, the evidence showed that if anything, homosexuals are less likely to engage in such behavior with respect to their ratio in the general population. We heard from the staff psychologist at the Maine State Prison who works all the time with sex and sex offenders. She pointed out that it is established in the mental health community that abuse of minors is a power matter, it is not a sexual matter, and it is much more aligned with substance

abuse than it is with one's sexuality. There was simply no rational basis to substantiate the proposition that somehow homosexuals were at greater risk than the population at large to harm children. But what really comes across having analyzed all the evidence that came before the Committee, is how difficult it must be to be a homosexual, having people every day questioning your basic worth, your basic contribution to society, your basic decency. It is a feeling, I guess, that I will never know. But it saddens me to no end that we still live in a society where we have a difficult time accepting the notion that we should respect each other, that we should accord to each other the basic dignity of living a life to equally partake in our society. And I know that this Bill may or may not obtain enactment this year, and I know that it will take many years to erode the walls of discrimination that I had spoken to earlier, and that I think is most difficult for me to accept. I have seldom heard such compelling evidence in support of a need for a Bill in my nine years in the Maine Legislature. And I have no doubt, that as public officials, when we are aware of such rank discrimination and the toll it takes upon people, we have an obligation to act.

Earlier this year, we had some fun reciting some phrases from various songs, and in the new tradition of the Maine Senate, let me leave you with a phrase that I think is poignant and most appropriate tonight. Bob Dylan wrote these lines twenty-five years ago, "How many years can a mountain exist before it is washed to the sea? How many years can some people exist before they are allowed to be free? And how many times can a man turn his back and pretend he just doesn't see? The answer my friends, is blowing in the wind. The answer is blowing in the wind."

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to tell you why I voted this afternoon and signed the jacket ought to pass. Many people have called or written to me expressing their views on this issue. And what impressed me was that they took time to do that, and I as a Senator, want to make sure that I listen to all sides, and then seek advice and information in order to make a just decision on such an important Bill.

Although I have been supportive of this proposal in the past, I harbored serious doubts such as that of proprietary rights. I am satisfied that the so-called "Mrs. Murphy Law" will exempt those landlord/ladies residing in their own apartment buildings, and that satisfied me in that respect. Some of the arguments which impressed me also came from the Maine Medical Association, which I called, subsequently, The Health Care Provider. The main reason they were supportive of this Bill, was to treat those HIV infected persons without threat of retribution or shame if they came forward to facilitate treatment. While the cases of infection have stabilized for the Gay Community, statistics indicate an ever-increasing rate of HIV cases among the heterosexual population, and particularly in my county of Androscoggin. Many in this last group will

not seek medical services because they are terrified at being labelled "Gay".

By the way, an employer cannot discriminate against an Aids victim, yet can summarily dismiss a long-time competent employee based on the only fact that he or she may be gay.

A Chief of Police said that this law is needed, because while law enforcement officers must and do protect people and property, they cannot pursue cases judicially, as victims refuse to come forward to press charges. In my view, it's wrong when abused people cannot bring action against a perpetrator because they can't be themselves in this state and in this day and age, as Senator Gauvreau said, and fear job dismissal.

You know, gays are being painted as flaunting their homosexuality. I would counter that there are exhibitionists on both sides. But those few numbers are not indicative of the majority of both sides. Most people, whether homosexual or heterosexual, conduct themselves publicly in a responsible manner. This Bill does not approve, nor encourage irresponsible behavior.

Violence and sexual abuse against women and children are daily news items we're all familiar with, perpetrated mostly by heterosexual males. So the fear of lawlessness on the part of gays is an unjustified fear. Violence, sex crimes are not indicated nor pertinent to a particular lifestyle.

During the Depression we lived under Prohibition, and I am not going to say that I lived under that era, but people found ways to distill and illegally import alcohol, resulting in deaths because of inferior products. We now have legalized alcoholic beverages, and though legal, it is being abused, yet the very people who misuse it are not fired from their jobs, or discriminated from renting an apartment, or buying a condominium.

Extending rights of housing, employment, credit, public lodging to gays or lesbians will not invite more homosexuality, not any more than giving rights to atheists will invite atheism among believers in the Almighty.

Actions of pot smokers may be illegal acts, but they are not evicted from their home, or discharged from work. Civil Rights should not be denied to those who might have a relationship with another person of the same sex.

Taken in the context of a University President that we have read about recently, who squandered millions of dollars from Defense contracts on personal use, compared to public officials who lie, who live luxuriously while causing the loss of billions of dollars in Savings and Loans, of husbands who continue to sexually abuse wives and daughters, taken in these contexts, I assure you that danger to our society from those who engage in a caring, loving, respectful relationship between two people, wishing to share a life with one another, is non-existent.

Passage of this legislation will not mean that we are giving our imprimatur of a personal lifestyle, but it will be seen as a forward step toward a more tolerant society. It is an issue of tolerance and human rights. It will not entirely prevent prejudices and biases toward those who are viewed as acting differently from what social morals are viewed as being the right ones, but it will be a step toward education and away from all stigmas.

You know that I am not known as a flaming liberal, but I honestly and sincerely believe that this is a right Bill, and a correct Bill, and to those whose letters and words have undoubtedly, and sincerely pressed their Biblical beliefs, I would say that the Christian world this weekend is celebrating its greatest feast of renewal and optimism. It commemorates a God/Man who gave His life so that the sins of others might be forgiven, who said, "That He who is without sin should cast the first stone". Who said, That the Great and First Commandment is to Love the Lord". And who said, that the Second Commandment is like it, "You shall love your neighbor, for on those two depend all laws".

The Roman Catholic Diocese of Maine has written, that it is as a person that one has the right to protection against discrimination, and that this does not necessarily mean condoning a personal lifestyle.

A young professional woman placed it all in perspective for me. Educated, intelligent, reasoned, who admitted having formed a relationship with another woman, allayed any fear I might have had. She looked like we would want our daughter to look, she could also be our daughter. And as she prepared to leave, she said that she had not divulged to her mother as yet what she had told me, because she was scared of her reaction. My response was, that if it were my daughter who admitted a relationship which might be different from the accepted norm, I would hold her, and tell her I love her. Her mother would do the same.

I feel this Bill is fair, and I feel very comfortable in supporting it. Thank you.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. As I have sat here like you listening to the two good Senators from Androscoggin, Senator Gauvreau and Senator Berube. I couldn't help but look around this Chamber and see all the people in here. I think back to our Budget debate. We probably had half as many people here. With all the serious problems we have in this state, it is interesting to note that the Chamber would be almost full. It makes me ask why. The reason is, because unlike the Budget Bill, which is about numbers, this Bill that is before us is about people. It is not just about people, but people who hurt. That is something very real to us. Whether you are here and you are gay, or you are a friend of a gay, you know something about what it means to hurt. As I also looked around and looked at some of the people who are here because of those people who are hurt, or because they hurt themselves, I see the pain, the anguish, and the anxiety of the faces in the hall, with the hope that we might finally pass

this Bill, that we might finally get it through these two Chambers, living and hoping that that can finally happen.

I am not unaware that there are people in this Chamber who do not want to see this Bill passed. I would suggest that they are not here opposing this Bill because they have any joy in their hearts. They are not happy to be here or to be against this Bill. It started to make me think about other civil rights measures. Civil rights in the big picture. What has happened in this country? What has happened around the world? I think of people who stood up in favor of those who have been discriminated against. You can think of people just like I can. Martin Luther King, Robert Kennedy, and Hubert Humphrey, people who fought for years to end discrimination. You know I can't think of anybody who stood up against them now. Not one person comes to my mind as to who opposed the things they fought for, and why. Why? Because what they fought for was right, it was the right thing to do. Is it one piece of civil rights legislation in this country, or in this state which we would repeal? Is their one piece of legislation which was a bad idea when it comes to discrimination? No! Because discrimination, no matter what kind is wrong, and we know it is wrong. Coming to find out what discrimination is about is to recognize discrimination, is an educational process, and in no small part that is what has gone on here for the last fourteen years.

As the Senator from Androscoggin, Senator Gauvreau has described, most people don't remember who first sponsored the Gay Rights Bill here in Maine, or the Anti-Discrimination Bill. It was a Representative from Portland by the name of Larry Connolly. No relation to me. As a matter of fact, my father used to tell me that he spelled his name with double n's, double l's, and he said "double cross", because Larry was always up front, he was ahead of his time. He was a visionary, he really learned quickly, and he recognized discrimination when he saw it. When he first put in this Bill 14 years ago, people called him "gutsy". I am the sponsor of this Bill, and it is an honor to sponsor this Bill.

Now, unlike the Senator from Androscoggin, Senator Berube, who obviously knows people around here, they don't know her as a flaming liberal. I spend most of my time trying to dispel that rumor about myself, but I cannot be a flaming liberal when it comes to this issue. I picked up the Sunday Telegram last week, and Jim Bunnell from the Sunday Telegram wrote an editorial in favor of this Bill. I have never known that particular paper to be any clarion for the progressive movement, but he supports it. You have heard of all the organizations which the Senator from Androscoggin, Senator Gauvreau, has mentioned have now supported this. Every year the list grows. Every year more and more people come forward, and more and more organizations come forward to support this Bill, because over the last 14 years people have come to learn, they have become educated about the fact that discrimination against these people actually exists. The testimony was real, literally dozens upon dozens of people, I have just a small grouping of cards here, I probably have hundreds of cards from people, and they are not like the typical post cards asking to please support this Bill. People put personal notes on here, and tell

you examples of what they have gone through. What more of an example do we need to see that this discrimination is real than to look at what happened in the Republican Primary, in my very own District. Now I see the good Senator from Franklin County, Senator Webster up there, and he knows well what I am talking about, because he met with a person by the name of Robin Lambert. He encouraged Mr. Lambert to seek the nomination of his Party, and to run for that position so he could face me in the fall. He knew so capable of a politician as he is that Mr. Lambert would be formidable, that he would be a difficult person to run against. What Mr. Lambert didn't expect was another piece of literature that I had distributed to the people of this Body about a GOP message alert which the Party was not affiliated with. This, obviously, a piece of hate literature aimed at Mr. Lambert because of his sexual orientation, and asking people not to vote for him because of it. How much more hateful of an example does anybody need to see that this discrimination is real. Shortly after Mr. Lambert was defeated, the person who ended up getting the nomination, who claimed no knowledge of this, one of her supporters then when went to my neighborhood tavern, where I am proud to proclaim that I had my very first beer at the age of 18, which we once had in this state, I have not had my last beer there. On the side of that tavern, they had spray painted "Jerry Conley equals Gay Rights". I guess because I had sponsored the Bill before, my support for the Bill is well known. What other example could you have to show that discrimination exists out there? That it is so real, and that people are hurt because of their sexual orientation.

You know, I have spoken on the Record and off the Record about being Irish, and like all of you, proud of my own ethnic background. But I am well aware that over a hundred years ago in the City of Portland, the Irish were discriminated against. Can you imagine now, somebody coming out with a piece of literature like this, saying, "Don't vote for that person because he or she happens to be Irish?" My God! I mentioned to the Committee the only thing the Irish can say now, I saw it in a New York paper, that they are discussing their fall from power in the state of New York, and it is so obvious that they have fallen from power, as one person said, "Because none of them have been indicted lately". That is what a hundred years has done for them, and I can stand here and be certain when I say to this Body, that a hundred years from now, this issue itself, too, will be the same, that we will laugh about it. But now it is important, because now it is very real. Very, very real. And for the people who go through it, there is just no describing how painful it is.

You know my father, when he was a member of this Body, also sponsored this piece of legislation at one time. And he used an example when he spoke before this Body about why he supported it, and I enjoy the example because it is the same example he used with myself, and my eleven other siblings when we were growing up about why you shouldn't call people racist names, or why you shouldn't make fun of somebody because of their religion. What he said, he used to tell us, it is the same story he told here, about a father who had his five or six year old son, on a Sunday morning, and the father wanted to read his

paper and not be disturbed by his son. And of course, he is trying to think of things that would interest his son, and he went through the newspaper and he found a section of the newspaper which had a picture of the world on it, a huge globe, so he tore the globe up into all kinds of little pieces, and gave it to his son, and said, "Son, why don't you try to put that little puzzle together, and come back and see me afterwards," and then proceeded to plop himself down in a chair and read the paper. And within seconds, the son came back, and said, "Dad, I have put the puzzle together". And the father said, "My God, how did you do that so quickly?" And the son said to the father, "Well Dad, I looked on the other side of the picture you gave me, and on the other side was a man, and when I put the man together right, the world came together right." And I would say, that if we pass this law, we will make the state right, and we will get rid of discrimination. Thank you Mr. President.

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

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. You hear Senator Conley say how proud he was to be a sponsor of this Bill, and I must say that as a Polish, Irish, Catholic, Republican Woman Legislator, I, too, am very proud to cosponsor this Bill.

I have had twenty-one years of married life. I have been a widow for nineteen years, and I have four heterosexual children and six grandchildren, and I don't know what their makeup is, I assume it is the same as their parents, heterosexual, but I don't know, they are still small. I just feel so strongly and so right about this issue.

Senator Gauvreau of Androscoggin spoke about not being here fourteen years ago when this legislation first surfaced. I have to say that I was here fourteen years ago, and I voted against it fourteen years ago, and I voted against it because I was very mindful of elections. I was very mindful that I had to play to my constituents, if you will, and I lost my conscience. I have to say that in subsequent years I have found my conscience and I have voted on many issues with my conscience, and probably against my constituents, but I seem to get elected over and over again.

I am very proud to stand here today and be in support of this issue. I also have to say that in my widowhood I developed several male friends. One of them I met through my church, and he used to come to my house on a very regular basis. I had two small boys at the time. One was in his early teens and the other a little younger. They were the youngest of my four children.

My mother, God Bless my mother, used to say, "Why don't you and Bill get married?" He was one of the three or four gentlemen sought from time to time. I could not tell her that Bill, at one time after we had been friends for quite a while, had asked if we could really set down one night and quietly talk to me. He told me about his homosexuality. Thinking that I may say that I don't want anything to do with you or get out of my house, he was very fearful and apprehensive about telling me. When it didn't make

any difference to me, that I respected him for who he was and what he did, the fact that we were friends, he cried, bawled like a baby, and I cried with him.

I never had any fear that Bill would do anything with my boys that I wouldn't want to happen. He took them to cultural events, he took them shopping, he took them a lot of different places they probably wouldn't have got to go. I have to say that I never told my mother. She would never understand. My mother thought he was just absolutely wonderful.

Bill died, he was diagnosed with pneumonia, and then they said it was cancer of the lungs. Within three months, he was dead. I think today, he was one of the very early Aids victims in the State of Maine. I don't know that, because they didn't talk about Aids at that point, but that was my relationship with Bill.

I learned so much from that man. He was sensitive, compassionate, understanding, and he was not different than one hundred other men I know who are heterosexual. I would not brand him because he happened to tell me that. I thought our friendship had really grown because he did share that with me.

I heard the Committee, the Judiciary Committee, I stayed that night and I heard them as they went around and told them where they were on the Bill. Senator Gauvreau indicated that they did all feel there was discrimination, but they felt really uneasy about this Bill, some of them did. I really don't understand.

I am not going to judge because of my religion, my upbringing. I am Catholic, but I don't practice as strongly as I could practice, but I have those tenancies in my Catholic upbringing not to judge. We have to love our brother as ourselves. There were a lot of good Christian feelings there, and I still have those feelings and I understand, and I don't understand how they could be at the point they were at when they said discrimination exists, but this Bill is not the way to go. It is the only thing we have before us. The only way we can stop discrimination, but I am not going to judge. I would like to, but I am not going to. I was told also in my upbringing that there are sins we all commit, that we can commit a sin, it is a sin of commission. We can not tell the whole truth, or not do the whole right thing. That is a sin of omission.

I have to say I read literature, and you have read the same literature, and I think what I read in some of the literature from some so called church groups, not the ones that are mentioned on this list that Senator Gauvreau put out, but by some other church groups, I believe those are sins of information if not downright sins of omission, because they were telling sins of untruth.

The Bill we are dealing with, the Bill we have before us, is strictly a Bill dealing with credit, housing, public accommodation and jobs. It has nothing to do with people getting married, women marrying women and men marrying men, it has nothing to do with adopting children. All it has to do with are the four issues we are talking about in this Bill. I have a difficult time not judging, but I am

not going to judge because everyone has to come on their own.

Father Chabot said something, and I would like to quote, it because it is meaningful. He said, "We must seek creative ways to expand the emphasis on our nations founders on individual rights and freedom by extending democratic ideals to economic life, and thus insure that all the basic requirements for life with dignity are assessable to all." His experience in working among gay and lesbian people tells him that they are to be considered among the most vulnerable in our society.

This proposed Bill is not special treatment, but rather the response to the most basic need and dignity as human beings and fellow citizens. I think that is right where it is. The Catholic Diocese, if Maine says as a person, that one has the right to protection against discrimination, as citizens, we must make every effort to see that unjust discrimination is eliminated in our society. I think that statement is right on target, and I look at the list of names and organizations that are on this list that Senator Gauvreau handed out, and there is everyone there that we all know and worked with.

Through my years here in the legislative scene, I have worked with the mentally retarded, the mentally ill. I have tried to make life better through legislation, I have worked on and they have faced a stigma, in spite of the fact that the Human Rights Act now does cover them.

I think it was right when Senator Gauvreau said it was not going to happen overnight. It is going to take time to do. They are facing the same thing that the gay community will face if we can put this in the Human Rights Act. It is going to take a while to get everybody to accept the bare human rights. I hope that you will look into your hearts, it is difficult. I think that if you think about your reelection, if you think about those constituents at home, this is one issue that you are voting on. You have a whole Record that you will have available for them to look at.

Everyone that has called me on the telephone and has spoken with me against this Bill, once I told them what was exactly in it, we had a nice talk back and forth, then they leave me and say, "Well, I really didn't understand it that way". It is interesting, because I had a letter from someone who, when we lost Representative Don Carter, a lot of us went to the funeral service. One of the letters I received from a gentlemen had indicated that he had seen me in a Catholic Church at Representative Carter's funeral. When he sees my name on this Bill as cosponsorship, that I had nerve to get up and go to communion that day. This was supposed to be a religious person. His business that day, I don't know why he was there unless he was checking on everyone and their religious backgrounds. Whether they were Catholics or whether they were going to communion or not, but he certainly wasn't there to pay his respects to Representative Carter as the rest of us were. People like that, when they approach me, I don't put too much credence in what they say, but I think you people really must look in your souls and in your hearts and do the right thing, and please try

to end discrimination with a beginning here in this Bill.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am very scared and I am very nervous. I have consulted with numerous numbers of you about whether or not I should speak on this issue, and of course you all said I should. I guess there are a few points I would like to make. The opponents of this Bill, or at least some of the opponents of this Bill, said that because gays haven't had to ride in the back of the bus, that discrimination doesn't exist against them, but every form of discrimination is unique unto itself. Jews weren't asked to step to the back of the bus. Women are put on a pedestal, Jehovah Witnesses aren't asked to move to the back of the bus, and disabled people didn't even get to go on the bus until we decided to take some action.

The sexual orientation can be hidden. That is its uniqueness in the constellation of discrimination. Discrimination against gays and lesbians usually happens after they are on the bus or after they are on the job. We have known each other for only a short amount of time, and many of you knew my label before you knew me. I knew that you knew. When we would talk I was constantly wondering whether you were viewing me through my label or whether you were seeing me on my merits. I think that is a desire that we all have, to be seen and judged on our merits, and that is exactly what this Bill does. It extends this to all of Maine citizens. I know that we all have positive feelings for the individuals who we know are gay and lesbians, and I also know that all of us have been struggling this last week with the differences of opinion that are reaching in our districts on this issue. We are the Senate, and we are elected to make decisions.

I wish you had been a mouse in my pocket during my campaign to get to this illustrious Body from which I am very proud to be in. The subject of my sexual orientation was brought up daily in the letters to the editor, it was discussed, graffiti, I received death threats. I was slurred in public. I responded, I think, by never moving off the high road. One day when I was going door to door in Gardiner, I knocked on the door of little Republican woman about seventy years old. We were chatting for a while on the porch, and all of a sudden she said to me, "You are in a rather nasty campaign, aren't you?" That is all she said. That is what two months of slurs and negative campaigning to end all negative campaigning meant to her. That it was nasty.

I learned that people relate to people as people, and they are very goodhearted, and that the voters want to elect people who stand for what they believe. There are two visions represented in this discussion over the last week. The division of the opponents is of a Maine where discrimination is legal. Legal. A very important word for this group of people. Division of the proponents is that all Maine people should be judged on their merits. That is what this Bill would do.

I have been very grateful to the Senator from Cumberland, Senator Summers, for starting the new tradition, the song tradition in the Maine Senate, and I can see that Senator Gauvreau is very glad. I would like to finish today by telling you that there is a song that is the anthem of the gay community. It could only be called an anthem. The song is "I am what I am". Please pass this Bill.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today, this evening, in opposition to the pending motion. I also rise to recognize the distinguished members of the Judiciary Committee, sponsor of the Bill, and those who I disagree with. One can oppose this Bill and oppose discrimination. We have a great society, a democracy that is first all over this globe. It gives us the right to speak out. Seven members of the Judiciary Committee voted in favor of this Bill. Six members of the Judiciary Committee voted in opposition to this Bill. A very close vote within the Committee. There are many issues I believe that are part in parcel of this legislation.

It is not simply a matter of discrimination that the proponents have talked about. I would say as a testament to that as a Senator from Senate District 13, I was also misled. When I was first elected to this Body, and then the other Body, the House, that I am not supposed to mention, I voted in opposition to this Bill. When I came over to this Body I listened to some remarks, and some calls, and other kinds of concerns. I made a mistake. You know ladies and gentlemen of the Senate, I have made my share of mistakes over the years. I fully recognize that. As a member of the Senate, I am one human being, a Christian, who will do his very best for what he believes in. First and foremost, ladies and gentlemen of this Body is my belief in God, my belief in the traditions and the values that have made our country great. My fervent concern as America proceeds into the next century, is that the family as an institution is under attack. We have seen many issues that have come before this legislature.

I recall upon soliciting to the good remarks from the Senator from Androscooggin, Senator Gauvreau, about the turnout at the Hearing. The hours of testimony, those in favor, and I might add, those in opposition. I also remember a debate, a discussion and a Public Hearing here in this State House where nearly one thousand citizens from Kittery to Fort Kent, from Rumford to Machias, took time out of their work day, their families, the things that they have to do as citizens of this great state, to come to the State House and advocate for parental consent. I will never ever forget that day, because that day, ladies and gentlemen, the world of the majority unfortunately was silenced.

I believe today that we are under attack. That family members are certainly being charged at by all sides, and I take great umbrage to those in this Chamber, or in the State House, that say that anyone who opposes this Bill if for discrimination. I would remind my colleagues in this Body that I sponsored the Martin Luther King Holiday Bill, and ended up cosponsoring it out of my respect for the gentlemen

from Eagle Lake. A good friend. I have been a voice in this Chamber for discrimination all over this state and this globe.

I am also Irish, O'Connor Irish, proud of my roots, proud of the trials and tribulations of my family on my mother's side. They fought discrimination as Irish people, but this particular legislation stands the civil rights movement on its head, because now ladies and gentlemen, we have moved from the civil rights arena to the family tradition and values arena. That is unfortunate.

Ladies and gentleman, for the Record, I am proud to be in opposition to this Bill and I wish no malice to anyone in this Chamber who disagrees with me. God bless you. I simply ask as I think those that support my position in this Chamber for respect, for this is America, ladies and gentlemen, and we shall debate and discuss the issues of the day. My constituents have spoken loudly, and I can tell you, and I respect the comments that have been made here about the letters and the postcards. I have received those postcards also, but I have received an enormous amount of letters, handwritten letters, and phone calls from people all over my central Maine district that are in opposition to this Bill. Let us not forget about their voices this evening. I believe this legislation if passed really will begin to open a Pandora's box, one which would be an unfortunate day for the State of Maine.

As I understand it there are two states, two out of the fifty that have this legislation, Massachusetts and Wisconsin. Forty-eight and this state included have rejected this type of legislation. I think I know what it is like to be discriminated against because of my strong views against this Bill. I have wanted to share this with all of you and I shall this evening.

Some of us in this Chamber know what it is like to be sued, not to be sued, from a business point of view, or a personal point of view, or all the other kinds a professional issues, but because you are a Senator who dares to speak out, and probably I am not supposed to say this because the suit is still pending before the U.S. District Court, but I will take my chance on the right of civil liberty to speak out. I have been sued, and one part of this enormous suit charges me with being against gays, and therefore I should be sued. Interesting. Where have we come in America today? Where have we come? I am deeply concerned. I am deeply concerned for those, and I know that there has been an amendment on this Bill in the Committee to persuade the Christian religious groups of the state. They are not buying it. Thank God. An attempt to pass this legislation and start us on a road that I believe is in the wrong direction.

A lot of songs have been mentioned on the floor tonight. I will leave you with a song that I remember in my young days of reading about, I was a bit young to have been able at the time to stand with Martin Luther King. I remember an early black spiritual and it is called, "Go Tell it on the Mountain that Jesus Christ is Lord". There comes as everyone who is a Christian, part of the Judaism Christian faith knows a higher calling, another law, it is called God's law. How easy it would be for all

of us if we did not have to follow the precepts of God's law. That is not the way God intended it. It is called pilgrims progress, ladies and gentlemen. We are called as Christians to stand up for what we believe in and what we cherish. Faith and good works. In my faith, ladies and gentlemen of the Senate, and I think I have said it before, it is first and foremost in my life, more than the Senate, more than anything else. I will vote very proudly this evening in opposition to this Bill. I will speak out when issues come to this floor talking about the real civil rights struggle. Not an issue that begins the process of getting us into immorality, in my estimation. I respect those who disagree, and I only ask for respect in return. Thank you.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I served in this Body on that occasion when this matter was first addressed in 1977. I have not been in residence on a continuous basis during that time, and I have not seen this argued except for two other times than the initial time. In none of those cases have I been a participant in the debate, whether I have listened intently as I have today, and I still seem to find myself in the same position that I was in in 1977.

I read carefully the Bill, and in fact, I have it in front of me now. I was struck by something that I for those that have argued that this is a civil rights issue, I have been unable to determine why they made a religious organization exempt from this Bill. It seems to me that this says that my religious beliefs, that if I don't favor this, that I can discriminate in employment, housing, public accommodations and credit. I suspect that was crafted into the language for a very particular purpose. I suspect that it was in there in order to make the Bill pass. In order to say to those people who belong to religious organizations who do not want to except sexual orientation, that it was built into the picture to keep those people in hand, and if this is a Civil Rights Bill, I have not been able to accommodate that particular exemption in my own mind.

There is another thing that I am rather disturbed about. We hear a lot about pluralism these days, and I think you are all aware of the various Universities and Colleges are attempting, and have attempted for some time to make minorities, woman's rights, and sexual orientation sort of a new thing on campus. Last week I happened to pick up the Atlantic Monthly, and I was reading a piece and it said a few things to me that I would like to share with you. I would like to read just a short piece of this and see if you people get the same reaction that I do. "Most universities now seek to promote pluralism and diversity on campus by setting up and funding separate institutions for minority groups. Thus, one finds Black student unions, Black dormitories, Black fraternities and sororities, Black cultural centers and Black dining sections. There are even Black yearbooks. Universities also seek to mollify minorities sensitivities by imposing administrative sanctions ranging from forced apologies to expulsion for remarks that criticize individuals or policies in terms of racial gender or sexual orientation

stereotypes. 'Diversity' no longer refers to a range of views on disputed questions, but rather entails listening in a whole set of audiological causes that are identified as being for diversity.

Jerome Penn, a graduate student, returned to his dormitory at the University of Michigan to discover that his new roommate had pinned up several pictures of nude men. When the young man confirmed that he was gay, Penn approached the Michigan housing office and said that he wanted to move. 'They were outraged', Penn said. They asked me what was wrong with me? What my problem was. Finally, they agreed that I could move, but they warned me that if I told anyone the reason I would face university charges of discrimination on the basis of sexual orientation."

Have the majority been discriminated against? Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **GAUVREAU** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **TWITCHELL** of Oxford who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **BALDACCI** of Penobscot who would have voted **YEA**.

Senator **DUTREMBLE** of York who would have voted **YEA** requested and received Leave of the Senate to pair his vote the Senator **BRAWN** of Knox who would have voted **NAY**.

Senator **BUSTIN** of Kennebec who would have voted **YEA** requested and received Leave of the Senate to pair her vote with Senator **RICH** of Cumberland who would have voted **NAY**.

Senator **CAHILL** of Sagadahoc who would have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **VOSE** of Washington who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, BRANNIGAN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, GILL, KANY, MCCORMICK, MILLS, TITCOMB**

NAYS: Senators **CARPENTER, COLLINS, EMERSON, FOSTER, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, PEARSON, SUMMERS, THERIAULT, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

ABSENT: NONE

PAIRED: **BALDACCI, BRAWN, BUSTIN, CAHILL, DUTREMBLE, RICH, TWITCHELL, VOSE**

14 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 8 Senators having paired their votes and no Senator being absent, the motion by Senator **GAUVREAU** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-32) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **HOLLOWAY** of Lincoln, Senate Amendment "A" (S-33) **READ**.

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

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I do hope you have read the amendment that was distributed on your desk. Basically, I believe that L.D. 430 is an issue of such great magnitude, and one of such social significance, that I present this amendment that will allow the Maine citizens to vote on whether they wish to include sexual orientation in the Human Rights Act. The Maine Legislature should not approve of this proposed law until it is absolutely certain this is what the people of this state want, and it is truly in the public interest. Polls taken by individuals and legislators indicate that there is a great silent majority out there, who would certainly not ever approve of this bill and the repercussions. I hope you will consider this Bill and vote on the affirmative.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise in opposition to the motion intended by the good Senator from Lincoln, Senator Holloway, and I would like to speak in my opposition.

I strongly oppose having the people of Maine have to go through the expensive and time consuming referendum process on this particular matter. This is, as I mentioned at the outset of my remarks earlier this evening, hardly a matter of first

impressions. It seems to me that the issue of civil rights, or as some have styled gay rights, has been a dynamic on the political scene in Maine for over a dozen years. The issue has had extensive discussion. I hope I conveyed to you tonight the depth of my conviction that people are to be treated fairly and with mutual respect, and that all will have equal rights to participate in our society. You know I feel strongly in this matter and yet I believe that it would be the height of irresponsibility of the Maine Legislature to duck every issue which might arouse controversy in the body of politics. What are we elected to do? We are elected to govern. We are elected to talk to our constituents. We are elected to ascertain what their needs are, and what resources we can bring to bare to address their problems.

You know I am a baseball fan, not a football fan. I am not playing political football, and I am not going to punt this issue. I am going to step up to the plate, and I am going to play hard ball. I believe this is an issue that we should take responsibility for, if we believe in our convictions, if we believe in our commitment to equal participation, then let us have the courage of our convictions. Let us not spend \$75,000, or \$100,000, or whatever it is to test the current public sentiment. Frankly, when I go to the polls, I am a pretty liberal democrat. I go to the polls and choose people according to their intellect based upon their integrity. Their ability to think, analyze and assess, not to fall prey to emotionalism, not to give in to the fears which divide us, but to hear the commonality of our people, and to try to articulate that to our fellow legislators. I mean what I say. It would be the height of irresponsibility of this Legislature to make a decision on a difficult issue of public policy. I truly believe the people of Maine choose their public servants based upon the public's perception of how those legislators deal with difficult issues. Look what Maine has produced in our proud political positions, Margaret Chase Smith, Edmund Muskie, William Cohen, George Mitchell. That didn't just happen. There is something special about Maine people. They choose people who have the intestinal fortitude, and the stamina to make difficult decisions. That is what we are elected to do. The State of Maine is on the brink of fiscal bathos. Let us not spend \$100,000 to do what we know we should do, which is to vote and make a difficult choice. I urge to vote against to pending motion, and when the vote is taken, Mr. President, I ask for the Yea's and Nay's.

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

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

Senator HOLLOWAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would submit to the good Senator from Androscoggin, Senator Gauvreau, that there is an exception here, and he knows what I am talking about. I say those people who came to that Hearing did not have a fair opportunity to hear, or see, or sit! There were special interest groups that know how to get there early, and save seats for each other, and when they got through speaking, they were asked if they could

please get up so that those who were standing in the hall could come in to see, listen, and speak, and they never moved! I don't believe that everyone had the fair chance. That is what I am talking about when I say there is a silent majority out there. And if you think that this is expensive to put on the ballot, you wait until you see what it is going to cost the Human Rights Commission when they go about implementing the law. Thank You.

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

Senator MATTHEWS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise and sincerely hope and pray that the members of this Body will support the good Senator from Lincoln, Senator Holloway, with this amendment. I guess I am a little taken back from my good friend from Androscoggin, Senator Gauvreau, and that is, in his concern that we should not send this out to public participation through the referendum process, that this issue does not merit that kind of decision, I guess and I would hope that the good Senator from Androscoggin, Senator Gauvreau, does not mean to say that other public referendum issues should not have been there to. We had a referendum issue on a missile over our state. We had another issue that dealt with nuclear power. We have had many referendum issues and bond issues.

It has been mentioned in this debate that we are talking about equal participation. Ladies and Gentlemen of the Senate, then let the public decide! Yes, we are here, members of the Senate, elected to do a job. But you know we are a democracy, ladies and gentlemen, and we have a process through petition and through this legislature, that when an issue of statewide importance and national implications is to such magnitude that it should go to the people to decide, the voters, and this is one of those issues. I would hope this evening, that no one in this Chamber will deny the public's right to decide this issue. Yes, we have had this issue here a long time, but one group has not participated. The group of citizens from Kittery to Fort Kent, and Rumford to Machias. The voting public. Not those that couldn't find any room in Room 113, to get on Record in discussion of this issue. That is what this process is for! And there is no issue in my ten years of service here that comes close to the importance of this one for the voters to decide, because we are a democracy, the majority and the minority. All citizens get an opportunity to participate. Martin Luther King fought for that issue, and died for that issue. Let us give that issue a rousing cheer this evening! We will send it to the public. Thank you.

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

Senator CONLEY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise for a couple of reasons. Number one, in response to the Senator from Kennebec, Senator Matthews, concerns about the fairness of the Hearings, and the Senator from Lincoln, Senator Holloway.

I object strongly to their characterization of this Hearing. These Hearings are advertised. People are free to speak. Proponents had to wait until 6

o'clock to speak, people who were there to speak in favor of the Bill. No one was shut out! Given our state of finances we could not rent a room at the Civic Center! It was the only room available. Is it the fault of the Chair that they didn't have Hearing equipment down there? So the people, both pros and cons in other rooms could not hear the debate. It is unfair to that Committee, and the chairs of that Committee to suggest that Hearing was run in an inappropriate fashion. It was not. It was open to all who chose to stay and speak their mind, as it should be!

Now, in response to whether this Bill should go to referendum. I would suggest to Senator Matthews, and I would say so for myself, since he has relied on his Irish heritage, and I will go back to mine. Back in the 1850's if they ever put a referendum out as to whether or not we should have civil rights, we would still be digging ditches! Right now we would be digging them! If the Civil Rights Bill that Martin Luther King fought so hard for, was ever put out to a public referendum, they still would not have the right to vote! When you come to protecting the minority, you cannot go to the majority and ask them to give! It is up to us, we have been sent here to defend all, both minority and majority. This is why this can't go to referendum.

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

Senator TITCOMB: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is interesting to listen to this entire debate tonight. I think the thing that I find most interesting is that when this issue failed during my first term in the Senate, I don't recall any one thinking it was terribly important at that time to bring this very important issue to the voters of Maine. I find now that the issue has not failed, but that it has suddenly become very important that this become a referendum item. Thank you.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would pose a question to the Chair to the good Senator from Lincoln, Senator Holloway. My question is, is there precedent in the history of our state to send out a civil rights question, a statutory civil rights question in referendum?

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

Senator HOLLOWAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I do not know the answer to that question, but anything at this point is worth a try.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. Speaking as the individual Senator from Senate District 26, I would respond to the allegations that the people of the State of Maine have not spoken on this issue.

The issue of civil rights for a certain segment of Maine's population has been not only noted, but highlighted dramatically for a number of members of this Maine Senate.

The Senator from Kennebec, Senator McCormick, has carefully, and gently shared her experiences as a candidate for this Chamber with us this evening. I would submit that she is the result of that referendum. There are those who sit in this Chamber this evening, who have consistently and inconsistently, supported and not supported, a version or a duplicate of the Bill before us, with various amendments and changes, inclusions and exclusions, over the many years in which it has been submitted before many legislators in the past.

Suffice to say, speaking as a veteran member of this Body and of the Maine Legislature, that my vote since the mid 70's has always been an issue of discussion, as I campaign each successive biennium for election to the Maine Legislature. It is always been noted there are those who support, or do not support my candidacy, on the basis of these votes that are Recorded for all to see. I submit for your serious and respectful consideration, that all of us who sit here, are the result of the popular vote reflecting our constituents majority position among many other considerations on this issue.

The Senator from Cumberland, Senator Conley, echoes a former member of this Body, not only in tone, but in name, rather directly I submit, when he suggests that if those who are ethnically classified as Jews, Catholic, Irish or French in the State of Maine, had their civil rights determined by the majority vote, the proud white Anglo-Saxon Protestant Republicans, who reflect my heritage, would still be the only ones in this Chamber. And there would not be a Senator Gauvreau, Senator Berube, Senator Conley, Senator Pearson, Senator Brannigan, Senator Dutremble, for they probably, if we limited their civil rights and exercised, thereof, to within our state, they wouldn't even be allowed to vote. As I glance around my colleagues, I know I have by inadvertent omission, omitted some, whose heritage is a point of pride, and who lend diversity and significant contribution to all that is Maine today, as opposed to what Maine was decades ago.

We who have supported civil rights, and not civil rights in the sense that some interpret, but simply access to a procedure to address their alleged discrimination through the Maine Human Rights Act, have been in jeopardy before, and will be even in further jeopardy this evening if we do not support this amendment.

I take particular pride as the Majority Floor Leader in the Maine Senate, of being unable, ever, to speak knowingly on behalf of my caucus on issues such as is before us right now. For I take extreme pride in the freedom exercised within our caucus to allow our members to vote their conscience and accept the ramifications of their vote. I am not going to support this amendment this evening and know that in the subsequent election that I will be held accountable, for reportedly denying the State of Maine their right to exercise their vote on this issue. I submit to you all that there is a process and it is a proudly, highly trafficked process in

Maine, called the "Initiated Petition", by which this Bill, and this topic can be brought before the people of Maine in a referendum. And that it is indeed more appropriate that initiated process be generated from the grass roots of our state, than from those in this Chamber who I submit are finding it difficult to accept the recent vote. I am not afraid of the consequences of my vote this evening. I dare you to vote against adopting this amendment. Thank you.

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

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to address the past two questions in this Chamber that have been referred in my direction. I think you will find that in 1984, the Equal Rights Amendment went out to the people, and that I consider a civil issue. Secondly, perhaps the reason as the good Senator from Cumberland, Senator Titcomb, mentioned, that when we are on the losing side we ask for a referendum. And the answer to that is very clear, the Committee vote is 7 to 6. The Senate vote is 18 to 17. That is how very close this issue is. Thank you.

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

Senator **CLARK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is necessary to respond to my good colleague and friend the Senator from Lincoln, Senator Holloway, and remind the members assembled here, that the Equal Rights Amendment which went out to referendum was a Constitutional issue, not a statutory change. They are distinctly different. And I have been reminded, as many of you noted, and I would be derelict if I didn't remind you with a smile on my face, that if the issue of women's voting in our state, and women serving in the Maine Legislature went out to a public referendum, even I might not be here. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. There are many reasons not to vote for this amendment, and many of us have been reminded. For those of you that have been here for a while, as I have, you certainly must be proud, especially those of you who served in the other Body. You must be proud of the level of debate, I certainly am. The people of Lewiston must be proud of their two Senators, greater speeches I have never heard from that quarter and I have heard great speeches. The level of the debate here has been tremendous.

But do you remember what it was like a few years ago? Do the people of this Senate want that kind of debate to go on statewide? Do you want a replication of what went on in the Gardiner district, here in Kennebec County that Senator McCormick was involved in? Do you want that level of debate to go on statewide? In certain areas of this state, people who are homosexuals have been killed, threatened to be killed, have been treated not just not being able to live in the place they want, work in the place they want, or to have credit, but have been

physically, and emotionally battered. A vote for this amendment to the Bill, would be a vote for that kind a chaos, I believe. It would be irresponsible. Thank you.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to remind members of this Body this evening that there are many of us in the Chamber that believe that this is not a civil rights issue. I think it is important that it not be forgotten tonight in this case, and also with respect to the concern about the public referendum on this issue would look like, ladies and gentlemen, as one member of this Body, and I am sure all of us would agree to use all of our ability to make sure that it does not happen. My faith in the people of Maine is greater, with all do respect to the Senator from Cumberland, Senator Brannigan, I think this would be an uplifting discussion. I am prepared, ladies and gentlemen, to let the people decide this issue. I have faith in the people of this state. Thank you Mr. President.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Let me clearly state again the reasons for my fervent opposition to this amendment. Certainly, I am not fearful of the results of a public referendum on this particular legislation. My good friend and colleague from the City of Lewiston, Senator Berube and I, often meet with our constituents. We represent a reasonably conservative community, as many of you do. Yes, there are people who for strong religious principles are opposed to this particular legislation. It is my sense, having represented the district over the last nine years, that an overwhelming majority, the silent majority referred to recently, understand the imperative in a democratic society according all basic access to a decent life.

Let me suggest to you, that this issue in terms of whether we should extend to homosexuals certain basic rights has been a dynamic in the political scene in Maine for over a dozen years. I think all of us are all too aware of some of the campaign tactics deployed in 1990. Speaking off the top of my head, I can recall negative campaigns advanced against the Senator from Cumberland, Senator Titcomb, the Senator from Kennebec, Senator McCormick, the Senator from Penobscot, Senator Baldacci, and myself in 1986. The people spoke in those elections. They elected who they believed represented their interests in a wide variety of views, including this one. We are elected to make difficult decisions. Let us not forget that.

In the last six months there has been a good deal of negative commentary in the press and in other quarters in terms of the ability of public officials to make hard decisions. The reality is, that we were elected to make difficult decisions. Lets go forth, dispose of this legislation, and address the two thousand other Bill's we have to address in the coming biennium. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I suspect that some people are wondering why I paired my vote on the last Roll Call. I did that as a courtesy to Senator Rich. I did that because I don't think there is one person in this Body, if they have looked at my Legislative Record, would have any doubt on what side of the issue I am in favor. I always remember that when I come here, and I take these votes from what my best mentor in politics said when questioned about his votes, and that was the Senator from Maine, the great Edmund Muskie. He always said when they questioned him, "Why didn't you vote the way I wrote you. I wrote you. I called you. I talked to you. You should have voted my way". He would consistently say to them, "Sir, I get many calls, letters, and responses to vote one way or the other. What I understood when I was elected was that I was elected to lead, and that I was elected to make those hard decisions, and I continue to make them gladly and willingly, some of them are extremely hard decisions, but I make them because I have found that more than likely I am going to make fifty percent of the people happy and fifty percent of the people unhappy."

Ladies and Gentlemen, that is what we are here. I remember when I first came to this Legislature, that one of the things that I disliked most being a citizen out there was the fact that legislator's consistently sent me referendum items to vote on. I always said to myself, "Why have I gone through all of this pain and trouble to send people to the Legislature, and they send the vote right back to me?" I have never understood that, and I never will understand that.

There are some other things surrounding this issue that I think we ought to consider. And I said before in this Session, and I will say it again. You don't have to go any further than the War that is even now going on, and believe me, we still are in a War in Saudi Arabia, despite any illusion to peace. One of the reasons we are still there is because there is a Civil War there. Why is there a Civil War? Probably for all kinds of reasons that I probably couldn't even fathom because of the culture over there. But one thing I do know, there must be a minority that has been unheard, and cannot make their points except through guns, and knives, and violence. I don't think that is right. I think we have a very good Democracy here. I think we have a very good system of government. I think we have a very participatory system of government in the election process. That, ladies and gentlemen, are what we are here to do, to make those hard decisions. I will stand up, and I will make those decisions every time.

I remember going to Washington, D.C., when I first graduated from high school, and no I won't tell you what year that was, and being appalled that the black people had to sit at the back of the bus. Really, they did. Maybe that tells you how old I am. But they had to sit in the back of the bus. What did we have to overturn that injustice? Civil disobedience, civil strife, killings, people getting killed because they stood up as a minority for what they believed was their right. And finally, through

the vote of Congress we got it! Isn't that tremendous! So the point is, the minority can never win in a referendum, because it is the majority that is out there stopping it. The reason that we are sent here is to try to balance that.

I was at a meeting at the Augusta Mental Health Institute this afternoon from three to five, and what I was discussing was, "Crisis Intervention for Persons with Mental Illness". We still have doctors, psychologists, good people who want to help people with mental illness. And now comes a little bit of education, because I had to get it from my daughter, because I am that old, but there are still calls from consumers there, those people with border line mental illness, those people who may not know what they are doing, those people who are mentally ill. Are you diabetic if you have diabetes mellitus? No, you are still a real person, and you just happen to have a disease. Well, so do the people with mental illness. The reason I say that, is because that is another act of discrimination, except we have laws in the books to protect those people, to protect them in their housing, and their degree of services. You can say the same for mental retardation. You can say the same stigma, and harassment, and everything else that goes on with AFDC mothers, people on welfare, people with red hair! People who have been very poor, believe me, I was very poor growing up. I know what the stigmas are, I know what the discrimination is, but you know what? I was protected by the law then. People who have a different sexual orientation than I do are not protected by the law as I am. That is the important thing.

As I end, I want to tell you this, I have kept these files from the Senate Legislative Record dated May 8, 1981, when I was one of the sponsors of this legislation, and at that time, I read a letter from my minister, who happened to be a gay man. I am only going to read part of this letter because I think it is so significant. "The task before you is an arduous one, for you will have to determine if homosexuals are human. For to not pass this legislation will mean two things. One, that in the eyes of the law, homosexuals are not fully human. The second is equally serious. Not passing this legislation means that we are reinforcing and nourishing peoples needs to have a hate group. It means that it is okay to hunt, attack, harass, and mistreat ten percent of our population, including neighbors, parents, and friends." And then there is one other quote that I would like to read from that same Record, and it was one of our own at that time. "Actually, we know very little about the condition of homosexuality, in spite of centuries of medical and psychiatric investigations. Its causes still remain profoundly mysterious. Psychiatrists today appear to be in agreement on one aspect of the homosexual, and that is, that conversion to homosexuality is about as likely to occur as frogs turning to handsome princes."

I cannot, I do not, I will not tolerate discrimination in any form. I have gotten the same letters, the same cards, the same calls. I was told by one constituent that I was going to die with the sign of the beast on my hand because I would vote that way. But I tell you that we must stand by the human right, by the human condition and by our human convictions that this is the right thing to do, and

no one anywhere should be discriminated against, and we must protect the minorities, especially when we are in the majority.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to address an item that nobody else has, and that is the fiscal cost of this, because I think there is a misconception. If this were to go out to referendum, and I think the fiscal note describes it on the Amendment quite well, that if this were to go out to a referendum, the first thing that would happen is, if this were to be passed, that it would be put on the Appropriations Table, gathered up with all of the other items that would be going out to referendum, so if you were to vote for this, thinking that the Appropriations Committee was going to kill it because it cost money, I don't think you ought to do that, because that is not going to happen. If you were to say that this is going to cost a lot of money to put out to the voters, I think it is likely that we will probably have referendums going out to the voters anyway. So I don't think that is a question that you ought to hang up on your vote. I am only troubled because some members of the Legislature don't understand that particular aspect of the cost.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Again, I want to put on Record here, I think, an excellent article that appeared in yesterday's Bangor Daily News on Gay Rights. "There is no parallel between the political activities for homosexual and lesbian rights. The historic Civil Rights movement that culminated in laws that responded to the age of women, Blacks, and other minorities and ethnic groups that demanded and received legal protection, Gay Rights Legislation, for the first time, brings under the protective umbrella of Augusta, human activities that are behavior related, and to an unknown extent, strictly matters of personal choice. Extending that kind of protection is not, not the proper roll for government."

I am going to add something else on the Record tonight that disturbed me a great deal, and I am sure many of you in this Chamber probably saw the report on the news, the mention about the conflict in the Persian Gulf. We have had, I think, an excellent discussion about our involvement there, and all this Body got on Record in favor of what we did there, and we are proud of our young men and women. But it is interesting to note that one particular city, one particular municipality in this great country did not support our involvement in the Persian Gulf! And guess, ladies and gentlemen, what city that was, San Francisco! Much to the dismay of the majority of citizens, San Francisco did not support the involvement there.

Ladies and gentlemen, this is legislation that should not be enacted. And I was not very pleased to hear that. I hope that you will support an opportunity for the silent majority, those that can't come down to Augusta to have their day to say Yea or

Nay about a behavior, not a civil right. Thank you Mr. President.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I guess from time to time when I get up on the floor of the Senate, I do so because I get angry. You might understand that this is one of those times. If I seem to get loud, please, just calm me down.

I would like to see the day, and I am sure everybody in this Body would too, see the day when everybody can say nobody gets hurt because of any discrimination, of any kind, any place. This particular piece of legislation before us today, I voted against it, believe it or not, every time it has come up from the first time I was a member of this Legislature, I voted against this Bill. I am angry at myself for taking so long to see what is happening right in front of everybody's eyes.

You know, last year, or the year before, I read something in one of the local newspapers, and it dealt with a slur made against Franco-Americans. It upset me so much, if you remember, that I got up on the floor of this Senate and made kind of a long speech about discrimination in the State of Maine towards French people, towards Irish, towards Greeks, towards Jews, towards Italians, towards everybody, including women and Blacks. But that particular day I spoke mainly about the Franco's and the Irish, because I was able to find article, after article, after article in newspapers, in magazines in Maine, concerning the vile and evil French people that had spread throughout the State of Maine. And I really couldn't believe some of the stuff that was being printed about Franco's! In one particular article, I remember that it said the Irish were horrible people, that they did nothing but drink, and dance, and cause problems, and they were almost as bad as the French people! That was in the newspaper! And I remember how angry I was looking back at that information, because I had always heard about how people are treated, Franco-Americans, and I knew that some of the stuff had been perpetrated on my grandfather, and my grandmother, my father who served in the other Body, my mother, and I had seen and heard it with my own eyes.

But when I got up and made that speech that day, I sat down and I said to myself, "Why are you voting if you feel this way? Why are you voting against the Anti-Discrimination Bill?" And from that moment on, I started thinking differently. Now understand that every time previously I had voted no for this Bill, every time! It was a great struggle of conscious for me. This was an issue that I would actually lose sleep over, even though we often say that, but I did. And I always was able to justify my vote for what I called the "Yeah, but" syndrome. It is what my son used to say. I would say, "Don't you think this is a good idea?" and he would say, "Yeah, but". And I would use that on this Bill. "Do you believe this is discrimination?" and I would say, "Yeah, but, I don't think we should pass it because of these reasons". And there were always good reasons in my mind. And I suppose I could still use those same reasons today. But they are the same things that the

people used to use against the Franco's, against the Irish, against the Italians, against the Blacks, against women, against every minority group that we have come to know. So yes, I am voting for it. I guess I will continue to vote for it. I don't guess, I know I will continue to vote for it. And I will also vote today to vote for it, not to send it to referendum, but to vote today.

I do believe that the citizens of the state have the power of the state as the good Senator from Kennebec, Senator Matthews, suggested, and that is what they did last November. They voted. They voted for Senator Dutremble, they voted for Senator Summers, and they voted for all of us to come up here and make decisions. And I will make that decision. And I think I have been talked to by both sides of this issue by members of my constituency, and I have listened, as I will continue to do, and when I come up for re-election in two years, they can take that into account by the power of the vote. They can say, "We feel so strongly on this one issue that we are not going to vote for you this time". And I will understand that, because that is the American political process. We continue to embrace the American political process, we continue to embrace the Constitution, we continue to embrace all the civil rights that we have as Americans, and as Mainer's. Well, I am proud to say, today, that I am going to embrace them totally. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **HOLLOWAY** of Lincoln to **ADOPT** Senate Amendment "A" (S-33).

A vote of Yes will be in favor of **ADOPTION** of Senate Amendment "A" (S-33).

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 CAHILL, COLLINS, FOSTER, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, THERIAULT, WEBSTER

NAYS: Senators BERUBE, BOST, BRANNIGAN, BUSTIN, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, EMERSON, ESTES, ESTY, GAUVREAU, GILL, KANY, MCCORMICK, MILLS, PEARSON, SUMMERS, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

ABSENT: BALDACCI, BRAWN, RICH, VOSE

9 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator **HOLLOWAY** of Lincoln to **ADOPT** Senate Amendment "A" (S-33), **FAILED**.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate off the Record.

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **CONLEY** of Cumberland, **ADJOURNED** until Monday, April 1, 1991, at 5:00 in the afternoon.