

MAINE STATE LEGISLATURE

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One Hundred and Nineteenth Legislature
State of Maine

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First Confirmation Session
October 14, 1999

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January 5, 2000 to April 13, 2000

Pages 1548 - 2331

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BERUBE for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Authorize School Administrative Units to Utilize Alternative Delivery Methods for a Limited Range and Number of School Construction Projects"
S.P. 892 L.D. 2311

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-623)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-623) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-623)**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

Senate

Divided Report

Seven members of the Committee on **JUDICIARY** on Bill "An Act to Ensure Civil Rights and Prevent Discrimination"
S.P. 840 L.D. 2239

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-624)**.

Signed:

Senator:
TREAT of Kennebec

Representatives:
JACOBS of Turner
NORBERT of Portland
THOMPSON of Naples

BULL of Freeport
LaVERDIERE of Wilton
MITCHELL of Vassalboro

5 members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:
BENOIT of Franklin

Representatives:
WATERHOUSE of Bridgton
SCHNEIDER of Durham
PLOWMAN of Hampden
MADORE of Augusta

1 member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-625)**.

Signed:

Senator:
LONGLEY of Waldo

Reports **READ**.

Senator TREAT of Kennebec moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624)**.

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

Senator TREAT: Thank you Mr. President. Men and women of the Senate, I hope you will join me today in finally extending Civil Rights to everyone in our society, regardless of their sexual orientation. This legislation is very much needed here in the State of Maine. Despite what some people may say, it is still legal to discriminate against people based on their sexual orientation. Currently your constituents and mine can be fired or denied a job, evicted, denied an apartment, denied a loan, denied to access to places of public accommodation simply because they are gay or lesbian. In fact, they can be discriminated against in these ways just because someone believes that they have a different sexual orientation. We need to enact this legislation, because in Maine today anti-gay or anti-lesbian discrimination is a real problem. People are being discriminated against in this state simply because they are gay or lesbian. The Judiciary Committee, which I have served on not only in these past two years but in previous legislative sessions, has heard hours of testimony from people who have been fired. Who have been denied access to housing. Who have faced refusals for public accommodation and credit solely on account of their sexual orientation. We need to enact this legislation today, because in Maine this lack of protection in law against this sort of discrimination actually causes problems for law enforcement. Many victims of harassment, hate crimes and anti-gay violence refuse to prosecute for fear of losing their job or their housing or their credit should their sexual orientation be publicly reported as a result of the prosecution of the crime against them. This is

blaming the victim in the worse possible way and we must stop it. Law enforcement officials need to be able to prosecute effectively when violence occurs to keep our communities safe for all of us. And finally, we need to enact this legislation because in Maine today it is simply good common sense. It's good for business, it's good for tourism, it's just the way Maine ought to be.

Now I want to address a couple of concerns about the amendment, because I know that there has been a lot of discussion. This is not a perfect piece of legislation in the sense that we all would like to sit down, as we often do, and write the perfect piece of legislation in our heads and maybe in the first Bill that gets presented. This is a Bill that has had a history that goes back decades. It is a Bill that has gone through the referendum process in past years. It is a Bill that many people have worked many, many months on to try to come up with something that not only will pass this legislature, but will be acceptable to the people of the State of Maine and that will also effectively end discrimination against the people, regardless of their sexual orientation. There are two provisions in this legislation that I would like to address. One of those is the referendum clause. In a perfect world, I would like not to see a referendum clause in this Bill, and even in this world I would not. But this is a piece of legislation that we have passed in this Body and it has been signed into law and yet it was rejected by voters. This piece of legislation we have here today, I believe it's very important that we end this continuous debate between the legislature and out in the public, that we put it to rest. I think we can put it to rest with this Bill. It is going to referendum, one way or another, I believe. This amendment simply acknowledges that fact and says okay we'll do this on our terms. We won't go through the petition process. We're simply going to take it out there and this time it's going to pass. Because this time, the voters in the State of Maine are going to truly be educated about it. It's going to come up in a presidential election year. It's the right time to have this happen. I don't think that the best way to do things is having the majority decide on the rights of a minority. But this is the best we can do right now. I believe it is the right policy.

Now this amendment also has in it an exemption for some religious organizations, and this, too, has been something that has concerned some people. I want to address that as well. One thing we all need to realize is that the Civil Rights Act that we have today, which addresses other issues such as age discrimination, such as gender discrimination, also has a religious exemption in it. That exemption has not been taken to the courts and fully interpreted by those courts, so we don't know quite how broad that exemption is. But there are many who believe that it is already quite a broad exemption, which would be similar to the more specific language that is in this legislation. This Bill respects religious differences which do exist between different religions in the matter of sexual orientation. But what it also does, and this is something that our current law does not do, it also addresses the issue of uniformly imposing a public policy against discrimination when public funds are used. And for all who are interested in turning to this language, it is section VI of the amendment, which makes very clear that state contracts, it is up to the state to put in language if it wishes, which explicitly bars any discrimination that would be covered by this legislation or existing law. This is a very important provision because it does clarify that many services that otherwise would be exempted from this law because they do get state funds, most likely will not be. But I also want to mention that this exemption, whether you like it or dislike it, whether you think it's good policy or not good policy, it is quite consistent with the legislation that we have out in the

rest of the country on this issue. In fact, an almost identical provision, although in most cases lacking the language concerning public contracts, is in the Connecticut legislation, the California legislation, the New Hampshire legislation, the Vermont legislation, the Minnesota legislation, and the Nevada legislation. Language very similar to what is in our current law, which could be interpreted in a variety of ways and we don't know how it would be interpreted, is in the District of Columbia law, the Hawaii law, the Massachusetts law, the New Jersey law, and the Rhode Island law. So, this is somewhat consistent with what is happening in the country. I would hope that the day would come when our public, our constituents with different religious organizations, are comfortable with this legislation without having this language. And I believe that day will come. One thing we need to remember is that we did not start the Civil Rights Act way back when, when we first enacted it. It did not have in it everything that is in it today. It has been a long process. We have worked through these issues. We have resolved them. People have changed their minds. And we have expanded this legislation continuously over time. I believe that that is the direction that we are going in now. I think this is a good piece of legislation. It is a needed piece of legislation. It is a very positive step for Maine and I hope you will join me and the majority of the Judiciary Committee in voting for Committee Report A.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator BENOIT: Thank you Mr. President. May it please the Senate. I want to share with you, and briefly, the reasons why I did not join with the majority report and do oppose the pending motion. First of all, I refuse, respectfully, to support a piece of legislation that is going to weaken our Human Rights Act. And that's exactly what this Bill is going to do, because if enacted, there will be an exception in the law for the first time for religious entities. Right now the closest that we find language in the law to an exception, is what is called a preference. Not an exception. And the preference exists for religious entities to hire somebody who's of the same faith. A legislature allows that and calls it a preference. So first of all, I see this law as weakening the Human Rights Act by writing into it for the first time an exception for religious entities. And, Mr. President and members of the Senate, wouldn't you think that if anybody was going to be in the trenches, fighting against discrimination for any reason, it ought to be religious entities out front? And yet they're not going to be on board the boat. Every one of us, except for religious entities, are at the oars, together, pulling together to end discrimination. Except for religious entities are back on shore. And the thing that really disturbs me, and I hope I can say this as constructive criticism because I do belong to the Catholic Church and this Bill is supported by the church, is it's very convenient for the church to support the Bill when it doesn't apply to it. When the church is exempt. How wonderfully self-serving, how wonderfully convenient. It does not, in my view, reflect well on my church. The good Senator from Kennebec, Senator Treat, just commented and said, you know someday down the road, she would hope, as would I, that the church would come around to support this type of situation. And I would hope that at that time, the church would apologize for its position expressed on this Bill. It doesn't hurt to apologize when you're wrong and to say sorry about it. And I would expect that to happen.

So the first point that bothers me is that this will weaken the Human Rights Act. And then look at what's going to happen

when you look at the religious entities that are exempt. Hospitals in the state will be exempt, some of them, some won't. Colleges will be exempt, some won't. High schools will be exempt, some won't. There's a nursery school, there are others in the state, there's one right here in town that will be exempt, and some won't. There are credit unions that will be exempt and some won't. Now if this is a good law, and I'm not saying it isn't a good effort, why do we exempt anybody? Particularly these entities? Why are we going to have a situation under this Bill, if it passes, that there are so many that are going to be excluded from it. It just isn't, to me, right to have that happen in our society. Particularly where the issue is discrimination. That really bothers me, and the point to conclude, Mr. President, is that we just had a referendum and the majority report suggests we send this out to the people. Gee, it hasn't been too long since we've had the issue presented to the citizens of the State of Maine. And here we are again, with this issue going back out to referendum. And it's going to happen because the Bill came to this Body through sponsorship, as one of the methods by which laws do get into the mechanics here. It would have been better, I think, where the last referendum was one generated by the people that defeated the Bill that was enacted here, for the people to go out again who support this and get some signatures for a referendum and come through that same process. But, that's not going to happen. Mr. President, for these reasons, respectfully, I can't support the pending motion. Thank you.

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

Senator ABROMSON: Thank you Mr. President. Men and women of the Senate, the last time I addressed you in the interest of full disclosure, I allowed how I had been in the rubber business for 25 years and I asked you to vote for your safety and for the safety of Maine's citizens. I now stand before you and disclose that I am a 61 year-old Jew who suffered overt anti-Semitism and discrimination as a youngster, but now have been afforded the protections of the Maine Human Rights Act, another form of safety for many Maine citizens. It is this Maine Human Rights Act, which LD 2239 seeks to amend in order to allow the voters of Maine to ratify what I'd hope we would do today. That is take the first step toward extending to all citizens, regardless of their sexual orientation, basic rights to protection against discrimination on the basis of race, color, religious, sex, or national origin in the areas of employment, housing, public accommodation, and credit. These are areas of discrimination against gay men and lesbians that are as legal today, in most of Maine, as is going 65 miles an hour on the Maine Turnpike. Notable exceptions are Portland, South Portland, Falmouth, and Long Island, which have local ordinances which prohibit sex discrimination. Most in this Chamber will recall that LD 1116 was passed by both the House and the Senate in the 118th Maine Legislature. Most will recall that the Chief Executive of this State signed the legislation and most will recall that on a cold February 10th approximately 15% of the eligible voters of the State of Maine voted in favor of the people's veto, thus nullifying the actions of the Legislature and the government. In the first regular session of this Legislature, I introduced LD 2239 and the Judiciary Committee held it over to consider in this session. During the interim, I called the Diocesan Director of their office of Public Affairs, Mark Muddy, and asked him if we could get together to consider if there might be some way that the Diocese could change from being neutral, as they were with respect to LD

1116, to actually supporting LD 2239. He not only accepted my offer, but he invited me and the lobbyist for the Maine lesbian and gay political alliance, Attorney Susan Farnsworth, and openly gay and Catholic representative, Michael Quint, to join him, Father Henchoke, a former chancellor of the Diocese, and outspoken and published opponent of LD 1116, Lewiston Attorney Michael Poulin, for lunch at the chancery. I'm sure the organization that each leads thought that God was preparing a table before them in the presence of their enemy. But both sides learned a lot and gained an understanding of one another at that table. For their willingness to bring their respective organizations together, for their leadership and encouragement, and for their enthusiasm for the result, I believe that we all owe them, as well as Bishop Joseph of the Roman Catholic Diocese, a debt of gratitude. That lunch began a series of very candid discussions during some seven to eight, often long, meetings spread over some four to five months and culminating in the announcement on January 4, 2000 that the Diocese, the MLGPA, and the Bill's sponsor had agreed on language for a revised LD 2239. It is that revised Bill that you are being asked to consider today. Following that announcement, other groups and organizations from the Christian Coalition to Maine Civil Liberties Union have offered suggestions. All were carefully considered, some were incorporated into the Bill. What we are considering today is a completely revised Bill. Completely revised from LD 1116 and even from the LD 2239, which I originally filed. What is in the amended Bill and how does it differ from the Bill that was submitted last session? One, it makes it very clear that there is no special rights. The special rights often referred to by the proponents of the people's veto. No special rights are conferred on anyone or any group. It does not require any affirmative action or require the setting of hiring quotas with respect to sexual orientation. It explicitly states that there is no legislative approval of any person or group of persons. The term sexual orientation excludes from its definition any sexual attraction to a minor by an adult. It does not require or prohibit employers from offering domestic partnership benefits. And the Bill makes clear that the prohibition against discrimination refers to a person's sexual orientation and it does not endorse any sexual behavior. Now, while the Bill exempts religious entities from the prohibition against discrimination based on sexual orientation, it makes clear that this exemption allows the State to require any religious entity with which it contracts to agree not to discriminate based on sexual orientation as a condition of being awarded those contracts. Bear in mind, that includes such things as medicare with a Catholic hospital and medicaid with a Catholic hospital. It is this provision which has perhaps caused the most discussion for there are those who feel that there should be no exemptions at all, and there are those who insist on a clear separation of church and State. All parties to the discussions that resulted in this provision, that is to say the MLGPA, the Diocese, and the Bill's prime sponsor, felt that the provision was right and fair. Now we have had some talk about this exemption, and I refer you to Title V, section 4553 of the Maine Human Rights Act in the definitions, which exists today, this is not new, under employer, it says "employer does not include a religious or fraternal corporation or association". Under housing, it says "housing accommodation includes any buildings" so on so forth, "accepting the rental of any dwelling owned, controlled, or operated for other than a commercial purpose by a religious corporation". So there are religious exemptions in the law. And finally, this Bill provides for referendum in November of this year during the general election. There are those who object to this

provision, because they feel if the Legislature wants this referendum, the Legislature should go out and collect the necessary signatures to place the issue on the ballot as was done with respect to the people's veto initiative. I don't agree. I believe that the electorate elected the members of the Legislature to represent them and that the Legislature should send, only send, this issue to referendum to make sure that a greater number of the electorate has the incentive and opportunity to vote at a convenient time. There are others who feel that the rights of the minority should be subject to the vote of the majority. And while I agree with that philosophy, I'm afraid the passage of LD 2239 without the referendum provision, would only result in another people's veto attempt. I should point out that none of us take pride of authorship in these provisions. For they and others were not created out of whole cloth. As the Senator from Kennebec said, they exist in the laws and statutes of many other states, and even of the federal government. Joining me in cosponsoring this Bill, and therefore urging your support for the majority report, our diverse bipartisan group, made up of seven democrats and six republicans, or ten men and three women, or five Senators and eight Representatives, or the Senate's President and its Minority Leader and the House's Speaker and its Majority Leader and nine other legislators. This Bill, in one form or another, has been introduced to the Maine Legislature, virtually, every two years since 1977. It will not go away until or unless discrimination on the basis of sexual orientation goes away. Let us take another, and hopefully final, step toward that goal. I urge you to join me in voting for the majority Ought to Pass as Amended report. And, Mr. President, I call for a roll call. Thank you, Mr. President.

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

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

Senator **MACKINNON:** Thank you Mr. President. Men and women of the Senate, I rise today to ask you to not support the majority amendment. I'll try to be very brief. Most of my reasons have been stated by people previous to me. I have been a supporter of LD 1116. I was the original cosponsor of this Bill, also. But I think when this Bill didn't change its direction when the church was involved to get an exemption. When the church was involved, it came in to make a decision and say we will support this as long as we're excluded in certain areas. To me that violated some of the Constitutional rights, which I think are very important to me. One, there was a separation of church and State. We are now expanding that role to the business of the church, which is the hospitals, the schools, some of the organizations which they have at that particular time. I'm also a believer that we passed LD 1116. It was my belief that we would vote here. I don't want to go out and impose the majority upon the minority at this particular time. I think that, to me and along with the expansion of the Constitution to allow the church to have an exemption and raise standard within the balance of powers with the State to be excluded in those areas, really turned me against this compromise. I'm certainly in support of the original intent or the original Bill we passed here, LD 1116. And for that reason I'll be voting against this. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. The good Senator from Cumberland, Senator Abromson, made a comment about the existing Human Rights Act and indicated that there were already exemptions there. If he's right, then we don't need these exemptions. These exemptions are in this Bill because they are needed, otherwise it's superfluous. It's repetitious to have them there. I'd like to say something briefly about this argument of separation of church and State. If, in fact, that was the reason why this law should pass with an exemption for the religious entities, why didn't the chancellor of the Catholic Church, in public testimony before the Judiciary Committee, say so? He never did. Here's what he said was the reason for the exceptions in the law. The primary reason for this exception, quote, is to avoid intrusion by the State into the doctrine of choices made by many different kinds of religious organizations, unquote, and here's the punch line, quote, as they order their internal affairs, unquote. In other words to the State, keep your nose out of my business when it comes to discrimination. Keep your nose out of our business, please. Nothing is stated here about the separation of church and State. And, in fact, it can't be, because presently in our law there are no exemptions. We're all in the same boat together when it comes to discrimination, barring it on the basis of age, sex, race, etc. We're all in the same boat together and if, in fact, there are already exceptions and exemptions in the law, we don't need them in this Bill. But they're there. Now I know that this Bill is going to pass, Mr. President, in conclusion, because a stronger Bill already has passed in the Legislature. This is a weaker Bill. There's no question about that. This is a weaker Bill and it will pass. So nothing I'm going to say is going to change any minds on that. Why wouldn't a weaker Bill pass? A stronger one already has. Frankly, when I look back on the stronger Bill that passed and this weaker Bill, I liked the stronger Bill. I think it was a fairer Bill. And in order to get consensus on this situation, some people who support barring discrimination on the basis of sexual orientation, gave up some rights. Gave up something. I don't know why. This Legislature has already passed a stronger Bill. This is a weaker Bill. Now you can vote for a weaker Bill if you want to. It's a free country. But I don't plan to. Thank you, Mr. President.

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

Senator **DOUGLASS:** Mr. President and men and women of the Senate, when I was a young girl I had the privilege of being very active in the Civil Rights movement. At that time it involved blacks and whites. I can remember marching through the streets of Newark, New Jersey, I grew up in New Jersey, after the death of Martin Luther King. From that age to this, I have always thought that this country is about tolerance and freedom. We are about human rights and against stereotypes. We should be for love and not for hate. We should embrace every one of our citizens and give them full status as citizens. I wasn't here to vote on the earlier measure that was vetoed by the people, but I do believe that we deserve it. We owe it to ourselves to give them another chance to be for tolerance and freedom, to be for love and against hate, and I urge you to vote for the majority report.

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

Senator LIBBY: Thank you Mr. President. Men and women of the Senate, I rise today to oppose this Bill for a number of reasons. Some of them were explained, I think, about two years ago in this same chamber. But I need to explain them again so that people understand that people who do have tolerance, people who do want to be inclusive, people who care about Maine people, also can look at this Bill and see it as wrought with some problems. The first problem is a matter of respect. And I want to say this with the great respect and admiration that I have for the Bill's author. But it needs to be said. When you have a state-wide referendum and then submit the same Bill less than eight months later, after the issue has been decided by the Maine people, Mr. President, I think that is the reason why so many people in Maine lose respect for the political process. It needs to be said. I have great respect and admiration for all the people who support this Bill and for the people who authored it. But it is not right. Second, I don't think that religion is the issue. The issue is how we treat each other. In this particular Bill, what I'm having a hard time understanding is how do we find out the sexual orientation of the individual? It's not an outward appearance. You can't possibly understand whether or not somebody has this orientation. So, again as I said two years ago, if I am somebody who is responsible, a lessor for public accommodation, I see this Bill now as a matter of, unfortunately, more and more and more litigation against people who are knowingly making a decision. And we have to also stand up for the rights of these people. I think there's probably been more people misjudged as somebody of a different sexual orientation then there are people who have been judged correctly. I think that fact needs to play into the decision that we are making here today. There are people who are discriminated against every day and it is wrong. What we need to do to solve that is not to stand up here and pass laws. What we need to do is go back home and talk to our friends and neighbors and educate them. There are more people, I venture to guess, who have been discriminated against because, for example, they might be overweight then there are who would be encompassed by what's behind this Bill. And the question is can we ever pass a law to take care of those kind of folks? And the answer is we just will never be able to do that. What we need to make sure that we do is to teach tolerance, to understand tolerance, but you can't always mandate it. And that's what this Bill does. This Bill will open up to a lessor responsibility. Responsibility that can end up in court. Responsibility that the person cannot even judge correctly because they don't know the orientation of this person. And that's wrong. That is absolutely wrong. We can't hopscotch over certain individuals in Maine in order to give some other group the protection that they think they deserve. We cannot do that. And further, we should not open up those people to the expense of litigation that is so unbelievably difficult to bear. I have friends right now who are going through litigation and again, this is personal opinion, but I think through no fault of their own, are in court. It could be, for example, that the Department of Human Services has come in and taken a child away and the parents want the child back. You're all familiar with that. And those unfortunate people have to bear the expense of the litigation. I know I have constituents that bear expenses of greater than \$30,000 or \$35,000 for the litigation for these kinds of cases. With the passage of this Bill, you're going to do it all over again. You're going to open up this whole new huge section

of litigation that is just an incredible burden on the people of Maine. That's not an excuse to vote against this Bill. It's a valid reason. I care about people in Maine. I have friends of all persuasions. And I respect them. People can do, I think, whatever they want to do with their lives and I have no business messing around with that. But we cannot force things on people when they have spoken. And we cannot force things on people that end up hurting more people than it helps. And that, again, is what this Bill does. It's not a question of religion. It's not Catholics or Protestants or Jews or anybody else. It's a question of what is the impact of this Bill. And the impact of this Bill is to cause more harm to Maine people than it is the good that's behind it. I've said my piece and I appreciate your willingness to listen. I thank you very much, Mr. President.

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

Senator CATHCART: Thank you Mr. President. Men and women of the Senate, I rise to ask you to support the majority of the committee on this report. Maine is, today, the only New England state in which discrimination based on sexual orientation is still legal. And we have the power to change that through our actions here today. Discrimination is wrong. I have known discrimination, having grown up in a racist society where the racism was institutionalized. Discrimination is about fear. You single out a group who look different, who act differently from the majority and you say that those people are somehow inferior and they don't deserve to be treated the same way as the majority of the people. When I was a little girl, if you went to Sears and Roebuck, on one side of the staircase was a drinking fountain that said white and on the other side was one that said black, and nobody dared cross the line with those racist signs there. Same with the doctor's office, the separate waiting rooms. The same with the schools. I went to school on the white side of the tracks. Everyone of color went on the other side of the tracks to their own separate schools. In church, no black person would have ever been allowed in my church. My parents and my family were kicked out of a church in that town. What reason? First, my parents invited a black minister to sit down at the kitchen table and eat a meal with them. Second, my parents were advocating raising some money to build a church for the students at a black college nearby. And they were ostracized for this and it hurt. It hurt them terribly, and it hurt me too. Racism just cannot be tolerated. Neither can discrimination against other groups. And this is, in some ways, the last one. The previous Legislature has tried to change that. I was very proud when we passed the Civil Rights Bill before. And because we had a people's veto and a citizen initiative, that vote was overturned. That's why today we have to support this amendment from the committee. I do not believe that Civil Rights is an issue for the people to decide. I think the legislators who are elected should lead on this issue. But because of our previous experience, we have to face the reality that we could go through that horrible process again. I would say that had Lyndon Johnson, the President, and the Congress in 1964, put the Civil Rights out to the people to vote on, the black people in the South probably never would be working in the stores or going to the same schools as the white people. But I have to set that aside, even though it really bothers me and makes me hold my nose a little bit voting for this. As far as the religious exemption, well so be it, if that's what it takes to bring some churches on board and help them to realize that discrimination is wrong. I'm proud to belong to a church where

we love and accept all of our fellow human beings. And we believe God loves them too and it's not up to us to judge people based on their sexual orientation. So I urge you to vote for this. It is a chance, finally once and for all, to end discrimination based on sexual orientation. It is the right thing to do and I hope that we can move on with this and pass the referendum in the fall so that, for this 21st Century, people of other sexual orientation will not have to face the hate and fear that they have in the past. Thank you, Mr. President.

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

Senator CAREY: Thank you Mr. President. Mr. President and members of the Senate, the good Senator from York, Senator Libby, mentioned people being overweight also being discriminated against. But to my knowledge, no one being overweight has ever been thrown over the railing of the Bangor bridge as happened some years ago to a young boy who was thought to be homosexual. I'm a Eucharistic Minister in my church, which obviously may surprise some of you. But I feel very strongly that all of us should be treated equally, regardless of our private lives. Thank you, Mr. President.

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

Senator RAND: Thank you Mr. President. Men and women of the Senate, I certainly do stand here in strong support of this Bill and hope that you will join with me. I would just like to allay a few of the fears expressed by the good Senator from York, Senator Libby. He expressed concern as to how we are supposed to figure out who is homosexual, who is heterosexual? Well that's just about the main reason for this piece of legislation. Somebody's sexual orientation should not be based on whether they are heterosexual or homosexual. In fact, strictly interpreted without this law, somebody who is, or professes to be, heterosexual can be fired or told they cannot rent a certain apartment or be refused public accommodations because somebody accuses them or thinks they may be gay. So it's this very legislation that alleviates all of that and just simply says, regardless, all people will be the same in the State of Maine. And the other point that the good Senator from York brought up that I would like to address is the one that speaks to the citizen's veto of the Civil Rights legislation that this legislature did pass and was signed into law by the sitting Governor. The fact is that even after that vote, the day after that vote, certainly unlike our municipal laws that govern citizen initiated action, the legislature could have met and once again voted and passed Civil Rights legislation. There is no time limit. There's no period of time that the legislature cannot act when a people's veto is enacted. So on both of those counts, I hope I've cleared up some of the misunderstanding, or apparent to me anyway misunderstanding, and I do hope that the members of this Body will do the right thing and show all of the people in this state that we value each and every one of them and vote yes on this Bill. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator GOLDTHWAIT: Thank you Mr. President. Men and women of the Senate, this issue has had a very long history in our state and I would like to say for the record that I think the

failures of this issue are completely insignificant in our history. It is our attempts to come to grips with this issue that makes Maine the state that it is and it's a state that I am proud of. And I would resubmit this legislation to the people of Maine every 15 minutes if I could until it gets where I think it should be. It is one of those issues that is a defining issue for us. It's not sludge spreading. It's not tax policy. It's not even lobster zones. It is a defining issue for the State of Maine and it needs to be on the front burner of the debate in the State of Maine until it is resolved. I hope someday, once and for all. It may be many, many years from now. I would like it to be this fall. It may not be. It probably won't be, because there are issues with this particular proposal that will, undoubtedly, bring it back for discussion again. But it is worth the discussion and we are worthy of it. Perhaps one of the reasons why this has not become a perfect Bill quickly is, of course, because the issue is a difficult one. But because discrimination in our state is, fortunately, somewhat sporadic. But for the few times we do indulge in those moments of hatred and discrimination, it is worth this fight if we have to do every year from now until doomsday to get it resolved and to put Maine on the record as refusing to discriminate against anyone for any reason. Is this the ideal Civil Rights Bill? No it isn't. Does it take us one step closer to that ideal Bill? I think so. Don't let the perfect be the enemy of the good. I remember very well the day in the Hall of Flags when I saw those men and women on the steps who had worked for decades to advance this issue. I'm proud of them and I'm proud of my colleagues for the debate we engage in when we do this. Each time it raises us one more level. I am looking forward to this vote. I am looking forward to the debate in the fall. We're getting better every time. I know we can do this. I urge your support for this proposal.

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

Senator AMERO: Thank you Mr. President. Men and women of the Senate, I'm proud to be one of the sponsors of LD 2239. In fact, I've been a sponsor of this Bill every time its come before the Senate during my eight years of tenure in the Maine Senate. In fact back in 1993, when the Senator from Cumberland, at that time, Senator Conley, was the primary sponsor of the Bill, I joined him as the Lead Sponsor in the Senate and I believe the House Sponsor, at that time who's sitting in our Chamber today, the former Representative, Susan Farnsworth. I was really proud that at that time, for the first time this Bill went through both the House and the Senate successfully. But unfortunately it fell victim to the veto of the Governor at that time. So I want to commend today the new Senator from Cumberland, Senator Abromson, for all of the work that he has put in on this anti discrimination Bill. And you know he is a master at the art of compromise and I commend him for bringing together so many parties and being able to come up with a compromise. The definition of a compromise is that we are not going to have a perfect Bill. But maybe we have one that most Maine people can agree on this time. And in fact, the Reverend Mark Carron, Chancellor of the Roman Catholic Diocese of Portland, says that we believe that this is a middle ground position, which most Mainers for the first time will be able to accept. I hope that he is right, because you know Maine law today does allow for discrimination based on sexual orientation. And that's just plain wrong and I think it's time to right that wrong. And it's my last chance to right it as a member of the State Senate. So I hope

you'll join with me today in supporting LD 2239, this year's version of the anti-discrimination Bill. Thank you, Mr. President.

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

Senator **LIBBY:** Thank you Mr. President. Men and women of the Senate, I beg your indulgence for one more brief discussion about this Bill. Two years ago I stood up, maybe it was three, but nearly alone in this Chamber explaining the fact that the people of Maine do understand that discrimination is wrong. They do understand that. And I stood up and explained that this Chamber was not in touch with the voters of their districts. Here we are today and I'm able to say that I was right. The majority of Maine people, after a group went out and gathered some signatures, decided to veto something that the Governor and the Legislature passed. How many times does that happen in our history? The reason for that is, I believe and it's just an opinion, that's all it is, is an opinion, that Maine people know that discrimination is wrong, but there are some pieces of legislation that will not lead to solving the problem. I think they know that. We send a message, on both sides or any side of this issue, that we do not condone discrimination. Nobody does. I think that's important. There is no confusion over the issue that there is something wrong about discrimination. There is confusion over the issue that there is something right about this legislation. The legislation, admittedly by the proponents, is a worse piece of legislation, I've heard that said, than the one that was offered previously. So explain to me why it is that we should support it. If there are problems with it, why should it be supported? Why shouldn't we go back to work and find legislation that will help to solve this problem? Let me give you an example of legislation to help solve this problem. Some will disagree with me on this. Hate crimes legislation. Hate crimes legislation is something that is working toward preventing discrimination in Maine. By having legislation that's already enacted, that has a provision for punishment for people who actually commit crimes, what we have is something that becomes preventative measure. With this piece of legislation, the onus, unfortunately, is on people who cannot tell whether or not they are discriminating or not. So they can't prevent it because they can't understand it. They cannot tell. Again I only use the example of housing because that's the part of this Bill that really bothers me the most, if there was a way to come up with a piece of legislation that could prevent discrimination without hurting lessors, for example, without subjecting them to this incredible liability, then I would be the first to vote for it. It's a simple fact. I am for ending discrimination. I think everybody in this room is. But, you're just kidding yourself if you think that this piece of paper is going to do it. It's just not going to do it. What I think you and I need to do is to come together and talk about methods of education that will help people understand that not just sexual orientations but every kind of group needs to be treated with an equal amount of respect. That every kind of group needs to be protected from discrimination. This Bill doesn't do that. If it did, I'd vote for it. That's not a smoke screen. I'm not telling stories. I'm being honest and I don't care if I'm the last man standing. But apparently, I'm in the minority. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Treat to Accept Report "A", Ought to Pass as Amended by Committee

Amendment "A" (S-624). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following results:

ROLL CALL (#316)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CAREY, CATHCART, DAGGETT, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KILKELLY, KONTOS, LAFOUNTAIN, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BENOIT, CASSIDY, DAVIS, KIEFFER, LIBBY, LONGLEY, MACKINNON

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624), PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-624) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-624).**

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Joint Study Order to Establish a Committee on Gasoline and Fuel Prices

H.P. 1774

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-957)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - April 3, 2000, by Senator **O'GARA** of Cumberland.