

MAINE STATE LEGISLATURE

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An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom

S.P. 384 L.D. 1020
(C "A" S-109)

Senator **RAYE** of Washington requested a Roll Call.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Mr. President. Men and women of the Senate, today I rise to speak for the people who were not represented here last week: men and women of faith all over the state of Maine. Persons who listened in and listened to not only our churches and the word of God be used to say that this is not about religion and yet it seemed to be all about religion for some people. Since that was brought up I'm going to bring up a few points. This bill is about religion. For all the people that will be made happy today there will be many others, who are people of faith, who will find they have no protections in this bill regarding their religious liberties. Four law school professors analyzed, without taking a position on gay marriage whatsoever, the provisions in this legislative document and wrote, 'We write to provide you with an analysis of the effects of S.P. 384 L.D. 1020 on religious liberty. Those effects would be widespread and profound. If it is passed in its current form without adequate religious conscience protections many religious organizations and individuals will be forced to engage in conduct that violates their deepest religious beliefs and religious organizations will be limited in crucial aspects of their religious exercise.' It goes on to say, 'Religious organizations and individuals that conscientiously object to same sex marriage will be labeled as unlawful discriminators under State law and face a range of penalties at the hands of State agencies and local governments such as the withdrawal of government benefits or exclusion from government facilities.' All of the conflicts that they list did not exist before this law or will be significantly intensified after the legalization of same sex marriage. Of course we cannot predict the outcome of future litigation over these conflicts and religious liberty advocates will litigate these claims vigorously under any protections available under state and federal law. At a minimum, however, the volume of new litigation will be immense and religious liberty advocates can also be expected to sue state and local governments for implementing, or even considering implementing, policies that harm conscience objectors. On the other side, people who feel they are being discriminated will also have their ability to bring suits against the people and businesses of the state of Maine who chose to exercise their religious liberty to conscientiously object.

Today, when you go forward, you are not just making a historical decision based on whether you think people of the same sex should be able to get married. You are making a decision that is not well founded and as you extend rights to people who are not constitutionally protected, do not have a constitutional right to marriage. If they did, our law saying traditional marriage is between a man and a woman would have been challenged and found unconstitutional. It has not. Therefore, as you extend these rights, do so very carefully because it is at the expense of the people of faith and as you go forward you will receive many thank yous. You have all enjoyed the thank yous. You will also receive calls and visits from your neighbors who are people of faith.

The condemnation that I heard last week was so disturbing I had to not respond that day. There are people who profoundly believe differently. They were referred to as people who could have come for you during the holocaust. The Catholic Church was denigrated for having persons who you wouldn't want to be your neighbor, absolutely, and people of faith sat by and heard that without a voice in this room. The people in this room, who have a job to defend the religious liberties of others, sat still as well. That's not my government. My government would have said enough. Some of the people out there said enough on both sides. Do you think we appreciate the level of debate that this goes to sometimes? Absolutely not. It hurts people of faith. When I heard the people of the state of Maine, who asked for a referendum, referred to as the mob, the angry mob who chose to choose Jesus over Barabbas, I don't see the people of the state of Maine as an angry mob. I see them as people who want to make a decision. I will tell you that before the angry mob decided what to do they made one choice, they said, 'We have no King but Caesar.' Well, I only have one God and it certainly isn't the State of Maine.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Mr. President. I rise as a person of faith to speak in support of enactment of this bill. I, too, have looked at the letters that have been distributed to us from a few law professors from outside of the state. I have to say those letters were long on theory and short on common sense, practical experience, or knowledge of the State of Maine and its laws. They worry about whether religious colleges that offer married student housing will have to house a married same sex couple but they forget to note that none of our religious colleges even offer such housing. As with all such similar issues that have arisen over time, we can cross that bridge if we get there. They worry that businesses will be sued if they won't sell flowers or bake a cake for a wedding ceremony for a same sex couple. Maybe the economy is better in those states that people will turn down business and perhaps they don't know that in Maine, when you hold yourself out to the public for business, you serve all comers: gay, straight, Catholic, Somali, Franco, or anyone. That is true under current law. They worry that a church organist or secretary will sue if they are fired for marrying the person they love. Well, our State employment discrimination laws long ago recognized the balance necessary for the fair treatment with religious autonomy and we have rules about this. It is not a new issue. The letters are also filled with speculation and doomsday scenarios that haven't happened anywhere else and won't happen here in Maine. We respect religious liberties. We respect fair treatment of all in the public domain. We won't be scared off for treating committed gay and lesbian couples and their families fairly. This is long overdue. Let me finally briefly read from the bill itself which affirms the religious freedom that is already granted under the Constitution of the State of Maine. 'This part does not authorize any court or other state or local government body, entity, agency, or commission to compel, prevent, or interfere in any way with any religious institution's religious doctrine, policy, teaching, or solemnization of marriage within that particular religious faith's tradition as guaranteed by the Maine Constitution or the first amendment of the United States Constitution.' As a final note, people of faith come to this in a number of different ways. My particular religious faith does

solemnize same sex marriages already. To date their freedom of religion has not been respected by the State of Maine. Simply extending coverage of marriages to those recognized by a wide variety of faiths instead of narrowing to the few, in my view, furthers religious freedom in this state and supports people of faith, people of all faiths. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Mr. President. Men and women of the Senate, as we review L.D. 1020 there is a fiscal note on it. For the record, I'd pose a question through the Chair.

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Mr. President. To anyone who can answer, could they explain the process that has happened with the Appropriations Committee for the record with regards to L.D. 1020?

THE PRESIDENT PRO TEM: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you, Mr. President. Men and women of the Senate, the Appropriations Committee voted this morning 10-2 with one absent to exempt this bill from the table because there is no quantifiable fiscal note. That's the reason we exempt various bills from the Special Table. I'd be happy to be more specific if anyone would like. Thank you.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#64)

- YEAS: Senators: ALFOND, BARTLETT, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, MARRACHE, MILLS, MITCHELL, NUTTING, PERRY, RECTOR, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT PRO TEM - LAWRENCE S. BLISS
- NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, JACKSON, MCCORMICK, NASS, PLOWMAN, RAYE, SHERMAN, SMITH, TRAHAN, WESTON

ABSENT: Senator: ROSEN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **MITCHELL** to the rostrum where she resumed her duties as President.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator **BLISS** to his seat on the floor.

Senate called to order by the President.

Resolves

- Resolve, To Ensure Transparency in Funding Certain Programs within the Department of Inland Fisheries and Wildlife
S.P. 85 L.D. 244
(C "A" S-65)
- Resolve, To Allow for the Support, Preservation and Maintenance of Maine Monuments in Gettysburg, Pennsylvania
S.P. 100 L.D. 304
(C "A" S-84)
- Resolve, To Develop a Management Plan for the Nonwildlife Components of Swan Island and Little Swan Island in Perkins Township, Sagadahoc County
S.P. 140 L.D. 398
(C "A" S-66)
- Resolve, Directing the Department of Agriculture, Food and Rural Resources To Study Equine Husbandry Practices in the State
S.P. 161 L.D. 458
(C "A" S-70)
- Resolve, To Direct State Agencies To Develop Policies To Guide Employees When Accessing Private Woodland, Farmland or Coastal Lands
H.P. 399 L.D. 561
(C "A" H-103)
- Resolve, To Direct the Board of Dental Examiners To Review the Definition of "Edentulous Arch" in the Rules Governing Denturists
H.P. 403 L.D. 565
(C "A" H-108)
- Resolve, To Establish a Pilot Program To Provide Greater Cooperation and Coordination between the University of Maine System and the Maine Community College System
S.P. 367 L.D. 984
(C "A" S-93)