

MAINE STATE LEGISLATURE

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Senate Legislative Record

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On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-320).

On further motion by same Senator, Committee Amendment "A" (S-320) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Define Marriage

H.P. 891 L.D. 1294

Majority - Ought Not to Pass (8 members)

Minority - Ought To Pass as Amended by Committee Amendment "A" (H-648) (5 members)

Tabled - June 8, 2005, by Senator **HOBBINS** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, June 7, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 8, 2005, Reports **READ**.)

On motion by Senator **DAVIS** of Piscataquis, 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 Oxford, Senator Hastings.

Senator HASTINGS: Thank you, Madame President, ladies and gentlemen of the Senate. I rise as one on the minority report, which was Ought to Pass as Amended. I want to make it clear what is before us and what is not before us right now. The bill, as originally presented to the Judiciary Committee, was a bill to put out to referendum a proposed amendment to our Constitution to do two things. The bill, as originally written, had two sentences. The first said that only a union between one man and one woman may be a marriage valid in or recognized by this state. The second sentence went on to say that this state and its political subdivisions may not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the designs, qualities, significance, or effect of marriage. This bill, as amended by the committee, deleted the entire second sentence so that the proposed constitutional amendment would simply elevate to the constitution what is now Maine statutory law, that a valid marriage is limited to that between a man and a woman. You should understand what is being proposed to you.

Maine's statutory law does have the requirement that to be married one must be a man and a woman. This amendment, if passed, would not in any way, in my opinion and I think in the opinion of most of the committee or the committee as a whole, prevent or interfere with any law that is now enacted by this state. It would not interfere with the registry statute that now exists. In the future, if it came before this body, it would not interfere with the creation of a institution such as civil unions. That is my main point. I did support the anti-discrimination bill earlier in the session. This is not a discrimination bill, in my mind. It simply states one simple and clear line of demarcation, that the institution of marriage itself will be limited to a man and a woman. I urge you to defeat the pending motion and move to the minority report. Thank you.

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

Senator MARTIN: Thank you, Madame President and members of the Senate. I pose a question through the Chair to any member who chooses to answer as to what year we are going to define marriage and under what dictionary? If someone could respond to that question I would appreciate it.

THE PRESIDENT: The Senator from Aroostook, Senator Martin poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator MARTIN: Thank you, Madame President. Obviously, no one wants to respond because they probably think I know the answer and that is true. I would suggest also that you take a look at what country by which you are going to define marriage. In some countries marriage means the woman is owned by the man. Is that the definition? Are we going to talk about marriage the way it was defined in the 1700's? Are we defining it as today? That is the question because to not define it and leaving it without definition is going cause some serious problems. Someone wants to define it, that this is the way it is defined today in Maine on this day, I'll support that, but don't tell me that we are simply going to leave it in another situation and not define it.

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

Senator PLOWMAN: Thank you, Madame President. I'm pretty sure that my husband understands the word marriage and he is expecting me to come back real soon and get back to it, so if we could move on it would be great.

However, we use the word marriage a lot. In fact, we used it to amend the Maine Human Rights Act just a little while ago when we passed the non-discrimination bill that said this does not mean the State of Maine is asking you to recognize that there would be marriage between same sex individuals. That was supposed to be used to make us all feel comfortable, I think it worked because it passed very nicely here and was signed downstairs. I'm bring that up because we just keep doing things with the word marriage and I guess we all have an understanding of what that is.

What I would like to know is, after all is said and done, why did the same committee, after deciding what would be and what wouldn't be a good idea, tell us that a state law is already in effect and defines marriage as a contract or institution between a man

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and a woman. We've already used this as an affirmative kind of statement to pass another law. Why shouldn't we put it out to the people of the State of Maine to ask them if they agree with that? If someone from the committee would tell me why they came up with the Ought Not to Pass recommendation I'd be glad to listen. Thank you.

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

Senator HOBBINS: Thank you, Madame President, men and women of the Senate. I couldn't resist getting up to respond to the good Senator from Penobscot, Senator Plowman. The good Senator from Oxford, Senator Hastings, mentioned that the second sentence of the proposed amendment to the constitution was removed and the first sentence exists as the report of the minority of the Judiciary Committee. Even with one sentence, that sentence still amends the constitution, which I think is a drastic measure because anything contrary to that amendment, in letter or in spirit of the law, is void. In Maine, constitutional amendments, as though in the chamber know, are strictly broadly construed. What do I mean by that? It means that they are accorded a liberal interpretation in order to carry out their broad purpose because they are expected to last over time and are cumbersome to amend. Once this amendment would be in place, if it were adopted and put in the constitution, it trumps all statutes. It would repeal all contrary laws and ordinances that we have in the State of Maine. I ask you this question, why would you risk those protections for all Maine people in order to change the constitution for a problem that presently does not exist? As everyone knows in this chamber, same sex unions are already not legal in the State of Maine. We have had no court cases in which the courts have attempted to sanctify those unions.

When we are dealing with the healthcare issues, jobs, economy, and base closings, this issue is a wedge issue. It's one that I ask you not to support.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hobbins to Accept the Majority Ought Not to Pass Report. 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 (#239)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBINS, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MARTIN, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWEMELLO, WESTON, WOODCOCK

ABSENT: Senator: NUTTING

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator HOBBINS of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PRAEVAILED**.

Senate at Ease.

Senate called to order by the President.

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

SENATE PAPERS

Bill "An Act To Establish the Maine-New Hampshire Cooperative Trails"

S.P. 635 L.D. 1688

Sponsored by Senator BRYANT of Oxford. (GOVERNOR'S BILL)

Cosponsored by Representative MUSE of Fryeburg and Representatives: CEBRA of Naples, PATRICK of Rumford, TRAHAN of Waldoboro, WATSON of Bath, WHEELER of Kittery.

Committee on **INLAND FISHERIES AND WILDLIFE** suggested and ordered printed.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGRAVED**, without reference to a Committee.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senator DAVIS of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator ROTUNDO of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator MAYO of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks