

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

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Pages 1 - 1159

Senator BLISS for the Committee on **JUDICIARY** on Bill "An Act To Authorize an Active Retired Justice or Judge To Conduct Arbitration and Chair Medical Malpractice Screening Panels" S.P. 311 L.D. 803

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-106)**.

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

READ ONCE.

Committee Amendment "A" (S-106) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator PERRY for the Committee on **TAXATION** on Bill "An Act To Exempt Fuel Used by Commercial Fishing Vessels from the Sales Tax" (EMERGENCY)

S.P. 290 L.D. 743

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-102)**.

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

READ ONCE.

Committee Amendment "A" (S-102) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Lower the Cost of State Government in the Departments under the Purview of the Joint Standing Committee on Education and Cultural Affairs"

S.P. 252 L.D. 677

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-103)**.

Signed:

Senator:

WESTON of Waldo

Representatives:

FINCH of Fairfield
CASAVANT of Biddeford
McFADDEN of Dennysville
JOHNSON of Greenville

Reports **READ**.

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Divided Report

Ten members of the Committee on **JUDICIARY** on Bill "An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom"

S.P. 384 L.D. 1020

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-109)**.

Signed:

Senators:

BLISS of Cumberland
HOBBINS of York

Representatives:

PRIEST of Brunswick
BRYANT of Windham
DILL of Cape Elizabeth
CLEARY of Houlton
HILL of York
KRUGER of Thomaston
STEVENS of Bangor
BEAULIEU of Auburn

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

Signed:

Representatives:

NASS of Acton
CROCKETT of Bethel

One 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-110)**.

Signed:

Senator:
HASTINGS of Oxford

(Representative MITCHELL of the Penobscot Nation - of the House - supports Report "A", **Ought To Pass as Amended by Committee Amendment "A" (S-109)**.)

Reports **READ**.

Senator **BLISS** of Cumberland moved the Senate **ACCEPT** Report "A", **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-109)**.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, I would first like to take a moment to congratulate our colleagues from the State Senate of the great state of New Hampshire, to our west, who yesterday passed a civil marriage bill and sent it back to their House, which has already passed a similar bill.

When trade smiths, farmers, and clergy sailed west on boats from Europe with their families in the early 1600's they sought to leave behind the oppression in favor of opportunity and freedom. A century-and-a-half later this vision was recorded in a document, the Declaration of Independence, brining us the idea captured in the phrase 'all men are created equal'. Though imperfectly gender specific, no governing body had ever declared this statement before. On November 4th of last year we saw our founder's vision affirmed in the first election of an African-American to the highest office in this land, but on the same day that founder's vision fell short in the passage of a law in California that withdrew the right of marriage from loving, consenting adults of the same sex. Last July my partner of fourteen years and I took our three kids to California to my nephew's Bar Mitzvah. While we were there we visited the Ventura County Court House and got married. Our children, ages 6, 9, and 12 at the time, were our witnesses. Now that California has withdrawn the right for gay people to marry, and Maine has not yet dealt with this law, my partner and I are once again just partners. This is not my problem. This is not my partner's problem. This is a problem that affects everyone. When a significant percentage of the population faces artificial hurdles in achieving their full potential to contribute to society it works to hold the whole country back at a time when it faces increasing global competition and challenges to its leadership. This is true for our country. This is true for our state.

There are, to my knowledge, three primary reasons that gay and lesbian marriage equality have not been fully supported in the past. First, family. Some believe that gay marriage weakens families. In opposing the legalization of gay marriage in California in 2008, reportedly more than \$30 million was spent. If the money spent to oppose gay marriage had instead been contributed to family counseling services it could have provided monthly counseling services to more than 25,000 families at risk

for a year if the average price for a marriage counselor was \$100 an hour. Strong families provide stability and resources for children to become leaders for tomorrow. Strong families are extremely important, but denying equality to gays is not the answer. If the goal of opponents really is strong families, then opposing gay marriage is a misallocation of resources. We should instead be working together and putting resources towards social programs and counseling services that will support and strengthen families. All families. Gay families, straight families, single mother families, single father families, stepparent families, grandparent-based families, all families. In addition, there are more than one million American children who don't have any homes at all, who don't regularly attend school or receive proper health care, and who would be better able to develop into productive members of society if they had homes, even if those homes are a little bit nontraditional.

Second, nature. Some believe that homosexuality is unnatural. Around the world, in independent populations, researchers have found a substantially consistent percentage of the population to be same sex oriented. This is not a phenomenon peculiar to Maine or peculiar to the United States. Over time gay men and lesbians have been among those who have had the most profound impact on humanity from Socrates to Alexander the Great to Shakespeare. Opposing gays based on nature is like opposing the wind or the sun. You can put up walls, but you would be better off putting up wind turbines or solar panels.

Third, religion. Some oppose homosexuality based on religion. 'For a man to lie with another man as he would a woman is toevah', Leviticus 20:13. Where toevah is commonly translated as abomination or sin, in that same passage it's also declared toevah as meaning to eat shrimp or more to the point, here in Maine, lobster. It literally translates as against ritual. At the time the Bible was written people needed to reproduce to strengthen their community. We're also told that to touch pigskin makes one unclean. That a father may sell his daughter into slavery. That a person should be put to death for working on the Sabbath. Sabbath is literally translated as Saturday. Next time you are watching football on a Sunday ask yourself if, on moral grounds, you should be supporting people who touch pigskin; Leviticus 11:08. If you happen to be someone's daughter, the next time you think to oppose your father's wishes ask yourself, 'What would a fair price for me be?'; Exodus 21:07. If you answer a work related e-mail on your Blackberry on the Sabbath, ask yourself if law enforcement officials should be legally obligated to stone you to death; Leviticus 20:33. Henry David Thoreau once wrote, 'I know of no more encouraging fact than the unquestionable ability of man to elevate his life through a conscience endeavor.' If there is anything that history has shown it is that we can progress, that humanity can progress. I ask you today to make that conscience endeavor, to make that phrase in the Declaration of Independence come alive here in Maine, and to join with me in voting Ought to Pass on Senator Damon's civil marriage bill. Thank you, Madame President.

Senator **COURTNEY** of York requested a Roll Call.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, first I would like to thank and acknowledge

all the citizens from my district and around the state who respectfully and passionately shared their opinions on this legislation with me. I would especially like to thank those who choose to share their life stories with me. I appreciate hearing from everyone, even when I expressed to them my fatigue during this very busy session. Along the way I have not made anyone happy with my position because from the beginning I've been torn about this legislation. My position has always been that the government should stay out of the business of our religious institutions. For that reason this bill is not the path I would have liked to have taken. I recognize fully that government has stuck its nose in where I believe it does not belong. Regardless of the history of marriage, it is considered a religious institution today and I think the debate should be undertaken by religious institutions about what marriage is and is not, evidenced by the many letters coming from the Catholics today. I would have liked to have seen us right the ship and simply get out fully of the marriage debate by going to a contractual binding responsibility agreement for any people wishing to undertake duties of care and responsibility for each other and children. I would have preferred to have seen the State only provide a dry, legal package of responsibilities, benefits, and obligations. Unfortunately government has muddied the waters and we have gotten involved too often in what should be handled by religious institutions, so here we are. The legislation has conjured up all sorts of thoughts about marriage and discrimination. Also emotions. I remember when the town of Orono passed a nondiscrimination ordinance when I sat on the town council. It was to protect people who are gay against discrimination in housing, credit, and so on. We passed that ordinance and after that vote I was taking my trash out. Yes, on occasion even prior to my own divorce, I did put the trash out. I went to pick up a piece of trash which had escaped and I found a large gray roofing nail on my driveway. I looked and there was another and another. Many large nails in my driveway. My driveway goes around in a U, so I decided to go because I thought it very odd that I had about 30 nails in my driveway after this nondiscrimination ordinance had been passed. I went to the other side of my driveway and, sure enough, many, many large gray roofing nails had been put in my driveway. Yes, I know about discrimination. I remember when my former parents-in-law told me their own marriage story. They met on a train during WWII and fell in love. They married several days later. My former mother-in-law was thrown out of the house. She was Catholic and my father-in-law was Jewish. That union was not illegal but what if it had been? A 50 year marriage would never had occurred potentially. I know discrimination. I remember when growing up I had a good friend. She was Greek. She did not like gay people. I decided to take her home one day with me. I didn't tell her much about my family, but I wanted her to meet my family. She did and she fell in love with my family. One of my parents happens to be gay. A person who sent me an e-mail said, 'Vote against L.D. 1020 to protect the family. What kind of family life could a child have if that child has a parent who is gay? Shouldn't a child have two parents, one of each sex, who love and take care of them?' I can tell you if you have these questions I can answer them for you. I am a person who is very blessed to grow up with two loving, caring parents; one happens to also be gay. I share my life story because it is an opportunity to thank both my mother and father for the incredible and wonderful life they have given me. They have made my life incredibly rich. If I am to protect the family then in the deepest sense I must vote in favor of this bill. Thank you.

On motion by Senator **COURTNEY** of York, 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 Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I rise in support of the pending motion. As I was thinking about what I might say today during this historic debate I began thinking of the words of Thomas Jefferson and Martin Luther King Jr. Then my mind drifted to something else. Shakespeare's famous tale of Juliet and her Romeo. That play, first published in 1597, perhaps best reflects the heart of this debate. Romeo and Juliet, two young lovers, were destined to tragedy because of a long-standing feud between their families. Mistrust, fear, and an irrational animosity over time created a barrier to the love between two people. Most of us recognize in that play the falling of both families, caring so much about their time-honored tradition of antagonism towards one another and so fearful of changing what they had come to accept as normal, that they failed to recognize the harm it was causing the children they so dearly loved. As in that play, we stand here today in a society deeply invested in the tradition of recognizing marriages between men and women but not between same sex couples. We tend to be fearful of change and so invested in past practice and long accepted norms that we often fail to see the harm it is causing our children, our friends, and our colleagues, all who share a common dream of getting married but simply cannot. Just as allowing Romeo and Juliet to pursue their mutual affections would not have harmed the Montagues or Capulets, allowing same sex civil marriages will not harm heterosexual couples or any religious institutions.

As many of you know, I have a daughter who will turn two years old in just a few weeks. She has big, beautiful brown eyes and a delightful smile. The cutest dimples in the world and an infectious laugh. All I want in the world for her is that she stay healthy and always find love and happiness and joy in her life. I know that Abigail will one day come to me, hopefully at least 20 or 30 years down the road, and tell me that she's found the love of her life, the person she wants to marry. Standing here today I have no way of knowing whether that person will be a man or a woman. I can't imagine the horror I would feel at that moment, gazing into her eyes, if I knew that when faced with the opportunity to give her the one thing she wanted most, to get married, that I had failed to act. Ultimately, that is what this whole debate is all about. Every day children are born to parents in complete awe of how perfect and beautiful they are. From the dimples, to the eyes, to the tiny fingers, there can be little doubt about the miracle of life. Each child will develop a tremendous capacity to love. None of us know the sexual orientation of children or grandchildren or nieces and nephews in those early years. Nearly all of them, however, will want to get married at some point in their lives. Today we recognize the dreams of some of those children while throwing up barriers to the same dreams held by others. Those barriers exist not so much because of any intentional decision to discriminate over the years, but because of a failure to take action in the face of a long-standing tradition to recognize only some of the loving, committed, monogamous relationships between consenting adults.

In economics there is a concept called the Pareto Improvement. It's a change that makes at least one person better off and no one worse off. That's what we have before us today, an opportunity to do something that means the world to thousands of Maine people and harms no one. It's a chance to recognize the inherent worth and dignity of loving, committed families. Just as the Montagues and Capulets faced a choice between sticking to their tradition of mistrust and fear or burying the hatchet once and for all, recognizing the time had passed and society evolved, we stand here today with thousands and thousands of Romeos and Juliets awaiting our answer. I hope you will join me in supporting love over fear. Thank you.

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

Senator **Craven:** Thank you, Madame President. Men and women of the Senate, I do also want to thank my constituents and everybody that has been in contact with me. I'm delighted to have found out how to get a lot of attention. Trust and loyalty is important in my life and in everyone's life I'm sure. Family, friends, and constituents. I have struggled mightily with this vote because no matter how I cast my vote I'll betray half my constituents and friends. The trust that at least half my constituents, friends, and supporters have placed in me will be betrayed. This is a historical day in Maine and I want to thank the extraordinary work that everybody has done and the civic involvement on both sides of this issue. It is so heartening to see people come out and stand up for their rights. I do want to tell Michael Gerald, who spoke to me this morning, that I will be casting my vote in favor of his request.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **Raye:** Thank you, Madame President. Men and women of the Senate, perhaps no other issue that we will consider this year engenders and evokes such passion among both its supporters and its opponents. What some see as a harmless change in law in the matter of equality others see as a fundamental and monumental change in an institution that has existed as long as society itself has existed. Domestic partnership and civil union laws can safeguard the legal rights and interests of same sex couples and also serve, I believe, as an important acknowledgement of government's recognition of the dignity and the value of committed and loving same sex relationships. I stand before you as a member of this body who has supported every expansion of civil rights for our gay citizens that have come before us since I have been here. It saddens me to see the polarization that has occurred and arisen around the measure before us where the extremes on both sides reject the notion of domestic partnerships and civil unions.

As I reflect back on past debates in this body and others I think of how many times we have heard the refrain and that I have repeated the refrain, 'This is not about marriage. We are not seeking to advance that goal as we expand the rights of our gay citizens.' With this debate we are now there. I think it's important to say, for the record, less those of us who intend to oppose this measure be labeled as unreasonable, uncaring, or out of the mainstream, that we pause for a moment to remember the position that President Barack Obama took very strongly during his campaign for the oval office just this past year when he

stated, unequivocally, his belief that marriage is between a man and a woman. I want to say that I categorically reject the ugly, hurtful, hateful, and judgmental rhetoric from the extremes on both sides of this debate. Nobody on the left or the right deserves to have the fundamental tenants of their deeply held faith denigrated because of their position on this issue. I have heard those on the right say that clergy and laity on the left who support this measure don't understand the tenants of their own faith. I find that repugnant. Likewise I have heard those on the left denigrate opponents of this as bigots and I find that repugnant. I categorically reject the extremes on both sides because neither of them do anything to improve our society nor to advance this debate. The question, to me, is if this bill is necessary in order for the State of Maine to safeguard the legal rights of those committed and loving and valuable same sex relationships and their families or can it be accomplished in a way short of marriage through the protections of civil unions and domestic partnerships that do not engender such divisive concerns among the citizens we represent and such a fundamental shift in the definition of an institution that has existed as long as society itself. If I thought for one moment that there was no other way for the State of Maine to afford these protections it would be a far more difficult question for me. There is another way that we can do it, in the same way that so many states across this country have decided to do so. With that, I will be voting against the pending motion, but make no mistake about it, that vote, which comes from my heart and from my convictions in what I believe to be a reflection of our society, in no way denigrates or devalues the dignity and the value of committed same sex relationships. It is simply a matter of how we do that and I do not believe the measure before us, and all that it will embody in terms of such a fundamental shift, is required to accomplish it.

The President requested the Sergeant-At-Arms escort the Senator from York, Senator **Hobbins** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **BARRY J. Hobbins** of York County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **Mitchell:** Thank you, Mr. President. Early, early this morning I received an e-mail from a colleague in the Senate who said to me, and I must admit it was something I had not considered until I read the e-mail, 'You've not had a chance to speak publicly on this issue before.' Most of you know that I chose not to use the position of President of the Senate to try to influence my colleagues on either side of the aisle because I understand through the comments of those who have spoken that this is very difficult and is very personal for many people. I stand before you today wanting to share my position with all of you publicly and to take a stand before you actually vote. I stand before you and I'll even tell you my age. I'm a 68 year old grandmother. I've been married to the same wonderful man for

44 years this August. I have four adult children and six grandchildren. As far as I know they are all straight. I have no idea. The point is that I also grew up in a time where one didn't talk about openly anybody's sexuality: heterosexuals, straights, or gays. Where I grew up you didn't talk about that ever, ever in public. I went to a school where you weren't even allowed to dance because that made you have evil thoughts. Believe me, it was a very strict Southern Baptist upbringing. When I go home to visit my relatives I won't be able to tell them very much about what happened here in Maine today because they still don't understand. I also grew up in a South where I drank out of whites only water fountains. I went to a all white school and the worst part of it was I thought that was okay because that is the way the world was. Things changed and somehow my sister and I managed, even though she is still there, to learn tolerance, to learn the importance of people's individuality, and respecting them, and taking them from whence they came. How that happened I don't know. I think it was because my parents, who probably would never have vote the way I'm going to vote, taught me to think and to respect stories like those of the Senator from Penobscot, Senator Schneider, and stories like the Senator from Cumberland, Senator Bliss. These are my friends. They share their stories and the talk about adoptions. My husband went to school at Central High School in Little Rock when it was closed. People weren't so concerned necessarily about that because they still played football all season even though they didn't have a school to go to. That was because some little black children wanted to go into the school.

You ask me, what does this have to do with it? It has to do, to me, with transforming how we view other people and how we accept other people as we go forward. The good Senator from Washington, Senator Raye, I very much respect his position. I have never tried to tell anybody that they are bad or good or indifferent, but I wanted to share something with you. You know I went to law school late in life and I was so naive in my late 60's here that when my Family Law professor said she wanted to make sure the class was finished on time because her partner was expecting twins I thought she meant her law partner. It turns out that her partner was one of the leading attorneys on these issues in the country, in the nation, and in the world. She was invited to a brown bag lunch at the law school one day. I still remember this to this day. Some very brave little law student, way younger than me, raised his hand and said, 'What's wrong with civil unions?' One sentence answer, what part of equality do you not understand? That has haunted me for a very long time. I attended an inspirational breakfast, as it was called, for Girl Scouts and leaders about two days ago. Janet Mills, the Attorney General, went with me and the Speaker of the House. We were asked to talk about moments of courage in our lives. The Attorney General spoke about her most frightening moment when she had to speak against a sitting judge. Some of you know her story. The young Speaker said the first moment of courage for her was putting her name on the ballot at age 24. For me, it's been all these civil right issues over time, whether it was parental rights, whether it was choice, whether it was all the things that those old people like me have lived through. Those are very hard because people feel so strongly on both sides. The level of mail you get from either side is very tough. The church and State issue is a very puzzling one to me. I got an e-mail from the Deacon of my church telling me to support this. I think this is an important thing to consider. People have different beliefs. We

need to respect those. The fundamental issue is fairness and equality.

Yesterday the Senator from Cumberland, Senator Davis, read my favorite passage, since we're prone to become religious today, and he said to do justice, love mercy, and to walk humbly with our God. That's all we can do today, whoever that is or whoever she is. There is another quote that I want to share with you, then I won't take up any more of your time but I thought it was important that we all have this moment of sharing such very difficult things. A person very close to me was very much in love with a young man. They were almost ready to get married and this person finally had to deal with his own sexuality. He was gay but he grew up where I grew up and he wanted to know why God made people like him because he could not find where he was because he had an older father who could not accept that. He's gone on now. At that Girl Scout meeting that I told you about I got an e-mail from a woman that I did not even know urging me to dig deep and find that courage today because she talked about how she had to bury her own desires and her relationships, and married someone who she really shouldn't have because she didn't have the freedom to marry the woman that she loved. She hoped that we would recognize that we are forcing people, or causing people, to get into relationships that make unhappiness for both of them. Another Senator in my caucus used this quote this morning. She had no idea it was very much on my mind. I've heard it once in this chamber before on other issues but it's very true. It's hard to stand up. It's very hard to stand up when people are sending robocalls and ugly e-mails on both sides of the issues. I understand the need for civility and I want to congratulate the Chair of the Judiciary Committee and the members of the Judiciary Committee for running one of the best hearings in the State of Maine ever. It was absolutely superb, the civility and the respect. I challenge you to this. The Pastor Martin Niemoller, pastors sometimes are stepping right out there with things that you want to quote. There are two versions, but I'm picking the one that means the most to me. 'In Germany, they first came for the Communists. I didn't speak up, I wasn't a Communist. Then they came for the Jews. I didn't speak up, I wasn't a Jew. Then they came for the trade unionists. I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics. I didn't speak up, I was Protestant. Then they came for me and there was no one left to speak up.' However difficult it is for you today, I know that you will do what is best for you, your constituents, and your conscience. This is not a political issue. This is an issue of the heart and of the conscience. I encourage you to feel comfortable in whatever position you take. Thank you for allowing me to speak to you today.

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 York, Senator **HOBBS** to his seat on the floor.

Senate called to order by the President.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I appreciate the words of the good Senator from Washington, Senator Raye, but there is something that he said that drove me to push my button. It was the idea that people can get this protection some other way. The Constitution says that we all have equal protection under the law so to find some other way to get that protection, a different kind of protection, seems profoundly unfair. Separate but equal were struck down for the public school system because it is fundamentally unfair to do something differently. To treat one class of citizen differently is nothing but unfair and unequal. People who are gay or lesbian want to be married. Why, some people wonder. Because they are raised by straight parents. They have models of long marriages, 50 or 60 year marriages. They grew up in a family and they want to have what their parents have. That is why they are asking for this. Not because they want some special right. They want the same rights that those of us who were born heterosexual have. There has been a lot of talk, and I've gotten a lot of e-mails, about how horrible it is for children to grow up without a man and a woman, a father and a mother. I can tell you from my own experience that it is not easy to do it by yourself. I was a single parent. That's a choice I made. My child is a Senior in high school and not even a child any more because he turned 18 recently. He applied at three schools to go to college and he was accepted at all three and had to make a choice. Because you can say statistically something is bad doesn't mean it's bad for everyone. I dreaded this moment when I'd have to vote on this bill because I have equal numbers of people calling my house and sending me e-mails saying that I must do this, I can't do that. As a politician one can feel afraid of angering people because the majority of people are not gay and they are certainly not lesbian. Majority rule with minority rights is a fundamental principle here in America. I will have to stand up, even though I might be a little bit afraid of what people will say, and say I'm going to vote with hope that they will realize that this is the right thing to do, to allow their neighbors to marry the person they love and have a family, to adopt children, to raise them in a loving home so they don't grow up without parents. We have advertisements in our Sunday papers, you must all see them, about children, who are 15 or 16, waiting for parents. There are problems here and it's not that two people love each other and want to be married. It's that there is not enough love and there aren't enough families. I will be voting for the pending motion and I hope you will join me.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, during our spring break I took a few days to tackle some projects around our house. One of them was to do our bookcases. Take out books we no longer read and put in some new ones and do some dusting. A lot is being said this morning about our history, of our state and of our country. That's what I saw on my bookshelves: a lot of history. Throughout that history marriage has been defined as a man and a woman. I also came across an article that I had tucked away a long time ago. Basically it was a discussion of a doctoral thesis by a young woman who was doing her thoughts on the Victorian era, specifically the pioneers who had lead what she called the party

of openness, to throw away the cloud of Victorian social etiquette. One of those pioneers, over 40 some years later, was still living and she interviewed him. Over that 45 year span she wanted to know if his dreams had come true. His answer was, 'I never meant for this.' His dream had become more of a delusion. If this vote passes today we're taking a marker that has been driven into the ground that defines marriage as we have known it for all civilization and we are moving that marker down the spectrum and staking it in, but we will have no argument left for the next group that wants to come and move that stake down the spectrum even further. No justification because the justification we are using today is 'because I want it to be'. When the next group comes along and asks for a redefinition how will we argue 'no'? This first vote will be the record. It will be whether or not we change what has been known in this state for as long as we have known civilization and we are redefining marriage. Someday one or many in this room will say, 'I never meant for this.'

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, there has been some very eloquent speaking today and there was some very eloquent speaking at the hearing last week. A lot of what we heard was very emotional and what we are hearing today is very emotional. I'd like to bring you back from emotion for a moment and ask you if at any point when we decided that separate but equal was not appropriate for the country did we allow an opt-out clause? Did we say that you may conscientiously object? Of course we didn't. Why is it in here? Why is there an acclamation of religious freedom? You wouldn't have done it under the separate but equal, but you will do it for this. Why? Because you recognize that there is an objection to same sex marriage. Interestingly, under the acclamation of religious freedom it also says that if you don't want to marry someone because object under any other reason you don't have to do that either. I find that very interesting, but that is put in under the acclamation of religious freedom. Why is there an opt-out clause? To make it more palatable. To make it more acceptable. You know doctors who are trained were told that if they objected to performing abortions they wouldn't have to. Now they do. Of course it doesn't specifically say that, it just says that if you want us to train you, and you want to be a doctor, you must perform abortions, otherwise don't bother to apply. I leave you with this thought. In any other situation where we have sought to provide equality we have never left in an opt-out clause, which, in my mind, means it's not right. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, I'm a Christian. In May I will have been married to the same man for 30 years. I am blessed to have a very loving husband. A very understanding husband. A very quiet husband. However, 30 years ago it was a rough beginning. You see my husband was Catholic and I was divorced. The church, his church, didn't recognize our union. It wasn't acceptable. It didn't meet their standards. Because I am heterosexual I was very fortunate, however. Society recognized my marriage. Society allowed me the right to sign legal forms and all as spouse; husband and wife. The church wasn't

important. I was married in the church of my religion. I had the right to that, and the respect of society, even though the Catholic Church, my husband's religion, did not welcome our marriage. He was living in sin. There are days he probably agrees that he was. However, I also teach 7th grade history and we all know 'we recognize these truths to be self evident, that all men are created their maker with certain unalienable rights. The right of life, liberty, and the pursuit of happiness.' I pursued my happiness. I married despite a very unhappy future father-in-law. I might add that I won him over before he passed away. I went through with my pursuit of happiness because that was my right as a citizen. Today I stand before you, not as a Christian, not as a happily married heterosexual woman; I stand before you as a legislator, as you are. Now I have a different criteria to meet. When we were all sworn in we promised to uphold the Constitution of the State of Maine and of the nation. I pledged to uphold that Constitution, that premise of life, liberty, and the pursuit of happiness. The tenant of the separation of church and state. Every single argument I have heard against this bill is based on religion, the very thing that started our country when the Puritans came here seeking religious freedom from the Church of England. Interestingly, when they got their religious freedom they failed to give it to anybody else. They banished Anne Hutchinson to New Hampshire. They banished John Wesleyan to Connecticut. That is how our states became. They had their piece of happiness and they banished anybody who did not believe as they did. My religion may not be your religion. My thoughts may not be your thoughts. However, this government recognizes its citizens as equal. They have the right to pursue religion and to live life within bounds of society. Those bounds of society need to be judged on doing good for other people, for following the law, but not on following any one religion. That fails for us in our original pledge here to uphold the Constitution. The right to life, liberty, and the pursuit of happiness. I firmly believe in the Bible that says 'love conquers all' and 'the greatest of these is love.' You could go through it over and over again. 'God does not make junk.' 'Created in image.' I can take my religion and I can show you a million reasons why I will be supporting this bill. Those aren't important because that's my religion and it may not be your religion. What is important is that we are all citizens. We all have the right to practice our religion. We all have the right to love who we want. It's important. I will cast my vote as a legislator today, as a legislator who believes strongly that we all have the right to life, liberty, and the pursuit of happiness. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Women and men of the Senate, I know we all share the high emotion of this moment. Like many of you I've not slept well for some time as I try to measure my position on this important issue. I have personal feelings and I also have a solemn obligation as a Senator from Knox County to represent the many constituents of the region. I've been afforded that honor and it is humbling to have that responsibility. I also know, as do each of you, that it is impossible to represent the passionate and heartfelt views of those on both sides of this issue with either vote. Only one side will feel victorious after the vote is cast. I've been raised to believe that I am better than no one, that like all of us I'm loved by God and created in God's image. I'm a church going Christian whose church's position has been outspokenly in favor of this

legislation. I have prayed and read and fought about this issue, seeking to reflect a lifetime of learning and understanding in that context. I've also remained intentionally uncommitted since I was first approached about this issue back in December. I've sought input from all and received literally thousands of constituent e-mails, phone calls, letters, postcards, and comments in public places. When asked, I've expressed my desire for as much input from my district as possible so I can effectively serve my role as Senator for that district. That undeclared position has elicited the responses in a way that has allowed me to gauge what I believe is the tenoring tones of my Senate district. I have tried to listen as carefully and as thoughtfully as possible. There are those on both sides of this issue who supported me in my candidacy for the Senate. I appreciate it, for it is with their help that I have this awesome responsibility today. I also appreciate that I will not be able to satisfy them all with my vote. Even those in my own family are divided on this issue. In the end the constituent responses I have received are overwhelmingly on one side of this issue and I believe my first responsibility is to reflect the views of the vast majority of my constituents. As the Senator from Knox County, I will therefore be casting my vote in favor of L.D. 1020. Thank you, Madame President.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, this is a very difficult issue for all of us. I think the good Senator pointed out the level of anxiety is very high in this room right now. I guess I would like to compliment our colleagues for the level of debate that we've seen, not only today but over the course of the last few months. That's very impressive. I also join with my colleague from Washington County for articulating some of the hate and some of the vile attacks, some that were even saw out in the halls today as I walked into the chamber, on some of colleagues. There is no place for that. I don't think there is anybody with any illusions that this won't ultimately be decided by the people of Maine. Let's set the tone for the debate going forward. Let's set the tone for the people of Maine for when this debate goes out to the people of Maine. Let's raise it to the level that has been held in this chamber.

I would like to share a couple of things and I'll try to be very brief. During the debate I had time to read the Bishop's letter that came. With your permission, I'd like to just read a small portion of it. The Bishop says that when same sex marriage was legalized in Massachusetts Catholic Charities in the state were forced to abandon a long established and successful program for adoption of difficult to place children because the State held that it must be willing to place them with same sex couples. Parents in the state lost the right to remove their children from public school classrooms when the issue was taught. There are numerous cases from other parts of the country and other nations in which it is clear, while churches may not be required to marry same sex couples, religious liberties are indeed compromised as a consequence of same sex marriage. For instance, ministers have been charged with hate crimes for verbalizing traditional beliefs regarding sexuality and family. We also heard earlier today about this being a civil rights issue. While I respect people's opinions on that issue I'd also like to quote the Bishop again. He says, 'Some try to liken same sex marriage with the civil rights issue that this nation experienced in the past. Logically this argument

simply doesn't stand up. The civil rights debate had its roots in fundamentally and obviously erroneous belief in racial superiority. The vile laws prohibiting marriage in mixed race couples were also based on this premise and all can agree that revoking them served our society well. As ugly as those laws were, however, they did not fundamentally change the established definition of marriage between one man and one woman as is being considered here.'

Madame President, I'd submit that I offer no ill will to anyone in this chamber on either side of the issue or anyone promoting either point of view. I'd suggest that we're not going to be judged by this Body. We're not going to be judged by the voters. We're going to be judged by one of a higher power. Madame President, I'm at peace with the decision that I'll be making and I'll be voting against L.D. 1020. Thank you for the opportunity to speak.

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

Senator **NUTTING:** Thank you, Madame President. I'm going to be supporting the Majority Report, I've been right up front about that, I think mostly for two reasons. First, in my line of work I deal with genetics. That's one of the reasons I'm supporting this issue. I've got a lot of e-mails, like everybody else has, about somehow somebody becomes gay or lesbian because of the environment. Well, I'm standing here to say that I firmly believe that whether or not somebody is gay or lesbian or straight is in their genes. That is spelled not JEANS but GENES. That's just the way it is.

The second reason, as an Elder in my Presbyterian Church I'm been struck in the last year on this issue by the e-mails I've gotten opposing it, mostly from those that feel strongly with their Baptist and Catholic faiths. I remember the last Baptist wedding I attended. Lovely service. The couple was really, really in love with each other. You could see that. Big crowd of people. The minister gave a long lecture over how, in the church's view, the wife should be subservient to the husband because that is what it said in the Bible. I showed absolutely no reaction to that at all and got a gentle elbow in the ribs from my wife anyways. I read a newspaper article a couple of months ago about a tragic situation where a little girl who was 9 years old was raped and was pregnant. Her parents decided that the best thing was for her to have an abortion. They were kicked out of the Catholic Church for doing so because the Bible literally says you can't do that. I'm reading the Bishop's letter that came today. In the last part of the last sentence of the first paragraph it says, 'The church's position is based on what we believe is best for our state and our nation.' I have trouble with, once again, this particular church, I guess, not believing in separation of church and state and wanting to somehow inject themselves into state's business. As an Elder in our Presbyterian Church we are taught that God loves those who love others. Period, simple, that's it. That's why I'm supporting the Majority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bliss to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (s-109). 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 (#52)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, MARRACHE, NUTTING, PERRY, RECTOR, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, JACKSON, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SHERMAN, SMITH, TRAHAN, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **BLISS** of Cumberland to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-109), PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-109) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **HASTINGS** of Oxford, Senate Amendment "A" (S-112) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President. This amendment is the exact duplicate of the report I voted for in the committee. It's a report to submit the question and the terms of this bill to the public for referendum at an election on the election this November. Before I describe the amendment further and my reasoning for it, I want to echo the President's words regarding the skill and ability and the fairness that the Senator from Cumberland, Senator Bliss, and his counterpart from the other Body showed in the manner in which they conducted this hearing. Probably the most difficult hearing I've been involved with in my three terms. There were 3,500 people, a hotly contested issue. Senator Bliss ran an A-1 hearing and I congratulate you for that. Don't let it go to your head, Mr. Chairman, but you did a wonderful job.

I offer this amendment, as I did in committee, not as a compromise but as what I think is the right thing to do: submitting the question to the public. This bill, we've heard so much about this bill. What this bill does is one basic thing, redefines the definition of marriage from a union between a man and a woman to a union between two individuals. That's its core, and virtually that's what the bills does. We've heard it over and over what a personal, personal core value that is to people in the state. We know our state. I know my district. I'm sure you know all of your districts are deeply divided over this issue. The paper industry has profited from this and certainly the e-mail systems have been clogged up over it. We know how divided our districts are. I have heard arguments from both sides, from people I respect

tremendously. It's not really a question to me. What I keep hearing, and I do believe this, is that this is not about discrimination. This is about a core, fundamental value that our citizens hold. In some cases it comes from religion, but it's all about religion. It can't be because we had so many religious leaders on both sides of the issue. I think, as the President indicated, it is just an intensely personal fundamental belief, no matter which side of this issue you are on. As a legislator, I cast my vote but I believe that ultimately this goes to such a core societal issue that we should be, and this is one of those questions that must be, submitted to the public for referendum. I don't think there is any question in any of our minds that it will be anyhow through Constitutional provisions and the people's veto. I believe what we should do is just get that out there. Let's get the question out to the public in a simple, straightforward manner. What the amendment proposes is to submit to the voters, 'Do you favor amending Maine law to permit marriage between individuals of the same sex?' A vote of yes means yes and a vote of no means no. How often have we heard complaints about people's vetoes where it gets turned around? No means yes. I think we need to let the people of the state of Maine decide this basic issue. I think it's clear to me that people can vote on either side of this and it's not about discrimination, it's about just the fundamental belief that's often hard to explain.

This bill really isn't about making everybody equal. Under this bill, if enacted, so many of the accoutrements that go with marriage now still will not flow. A joint tax return will not be available to a same sex couple in Maine, not only at the federal level but on the Maine level as well. Our laws will still not allow that because we've conformed with the federal code. As many have said, if that is what this issue is about, those issues can be dealt with. I've heard so many people that oppose this bill say that they are fine with the civil union. That's where they are. That's where their core belief is right now. Let's let the people of Maine decide. Madame President, I urge the adoption of this amendment. Thank you.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **HASTINGS** of Oxford to **ADOPT** Senate Amendment "A" (S-112).

On motion by Senator **BARTLETT** of Cumberland,
RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

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

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

Tabled - April 30, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **HASTINGS** of Oxford to **ADOPT SENATE AMENDMENT "A" (S-112)**

(In Senate, April 30, 2009, Reports **READ**. On motion by Senator **BLISS** of Cumberland, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-109) ACCEPTED**. Committee Amendment "A" (S-109) **READ** and **ADOPTED**. Under suspension of the Rules, **READ A SECOND TIME**. On motion by Senator **HASTINGS** of Oxford, Senate Amendment "A" (S-112) **READ**.)

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

Senator **BLISS:** Thank you, Madame President. When last we were here the good Senator from Oxford, Senator Hastings, said some unwarranted things about my abilities and I want to take a moment to disabuse you all of those things. My job, at both the public hearing and work session, on this particular bill was to sit there and hold the gavel and pretend that I knew what I was doing. The real work was done by the incredible collection of Senators and members of the other Body who sat for hours attentively listening to testimony and engaging in what was happening, also by the incredible staff of this Body and the other Body, the clerks and the analysis and the pages, the members of the capital police department and the Augusta City Police, and the staff at the Civic Center who did yeoman's work helping to make both of those events incredibly easy for those of us who were sitting there listening and particularly easy for me. I hear my good friend, the Senator from Oxford, Senator Hastings, but the truth is that it was very much a collective effort of everyone involved, including him, that brings us to this point today.

I will be voting no on this amendment. I will be voting no because, from the depths of my being, I believe that it is wrong for the majority to ever vote on the rights of the minority. That's exactly what this amendment will cause us to do. Last night, very late last night, I received an e-mail from a good friend of mine who teaches art at the University of Southern Maine. For those of you who would like a religious reason to vote no, I will read you his e-mail to me. 'Larry, remember Mark 15, when Pilate had the fate of Christ in his hands and he knew what the right thing to do was. What did he do? He washed his hands and he asked for a referendum.' Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I may be one of the few people in this room who has not lost any sleep or has had any doubts about this issue. I have taken the position from the very beginning that this is a matter that has to be and will be decided by the people of Maine, probably in November. It is because 100 years ago, in January of 1909, the people of Maine adopted an amendment to the State Constitution that provided for a people's veto, it provided for initiative, recall, and referendum. We have been living with those Constitutional provisions for the last 100 years, for better or for worse. I personally think that there are two inevitabilities about the issue that we have been discussing this morning. One is, I think this will become the law in Maine and