

MAINE STATE LEGISLATURE

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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

probably in many, many, many other states. I'm not disturbed by that prospect. It will not become law until the people of Maine vote on it, whether they vote affirmatively in November or some other November or some other June. It will take a people's vote to make it happen. That may be right. It may be wrong. Argue with the people of 1909 who created those rights for the people. It strikes me that all of the e-mails and letters that I have received, begging me not to support an initiative or a referendum in this case, have built inside of them a message of arrogance. A message that says the people of Maine should not be trusted with this issue. Somehow between now and November those who are proponents of this proposition, and I respect them, need to overcome that message because it's November, one way or the other, where this important issue will be decided. I've lived here in this chamber for 15 years and voted on eight or nine issues relating to the rights of gays and lesbians in our society. Before I came here the Human Rights Act was passed in 1993 and vetoed by the Governor because it did not contain a referendum clause. In 1997 the Human Rights Act was passed again. I voted for it. It went out to people's veto and it was defeated. In 2000 it was passed again by this chamber and the other chamber. It went out and was narrowly defeated by a people's veto. Just a few years ago, in 2005, it was passed a fourth time. It was passed overwhelmingly. It was supported overwhelmingly on that fourth occasion. Quite remarkable. There is a change going on in our culture. People my age need to get used to the change. It's happening. I accept that. The idea that we shouldn't send this out to referendum, that we can't trust the people of Maine to vote on it, is an issue that was taken away from us a hundred years ago. The reason I voted against this bill is because I was waiting for the other report coming out of the Judiciary Committee and I'm very glad that the good Senator from Oxford, Senator Hastings, has offered a floor amendment to accomplish the same thing, to move this important issue, this important moral issue, out into the people's sphere, where it properly belongs. Thank you.

Senator **BARTLETT** of Cumberland requested a Roll Call.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, as Senator from Washington, Senator Raye, mentioned earlier, I also was a supporter of the Domestic Partner Registry legislation. I also support civil unions. I have heard from many people on this issue, from the 10,000 signatures delivered to our desks to the hundreds of e-mails and calls we received from the other side. Each of us is here to represent all the people of our districts; those who supported us in our election, those who did not support us in our election, and the many, sometimes majority, of people who do not have or take the time to contact us on every issue. I try to take that duty very seriously, to represent all of the people. This issue will get to referendum one way or the other. We have the choice today to impede that or facilitate it. I think we owe it to the people of Maine in this case to facilitate that and therefore I am in favor of the pending amendment. Thank you very much.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I said this before, this vote for me was extremely tough. It's something I've worried about since before we even got sworn in here. I voted the way I did and I have to live with that. As the Senator from Knox, Senator Rector, said, he voted the way his constituents, a majority of them, did and I voted the way I thought the majority of my constituents did. Now that it has been voted on I think we should let it stand. It is going to get to referendum, I believe. I believed that in the beginning. I would have voted yes on it if it had had a referendum clause to begin with. I honestly feel that now that it's passed it might be even more cowardly to send it out to referendum now. Even more cowardly than the vote I just took a while ago.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I only stand to briefly assure my good colleague from Somerset that this is not a matter of trusting or not trusting my constituents. I trust that there will be a referendum vote on this issue eventually. It's how we get to that place and so I am going to vote against the pending motion. It's not been an easy decision for me based on the fact that this legislation was not the path I wished to take from the very beginning. I had very much intended on voting for this to go out to referendum. Up until this very moment I really have been debating in my own mind about the way in which to get there. I am trusting my constituents. For those who wish to bring forth a referendum, I assume that they will attempt to do that, but I am going to stick to my original vote and vote against the pending motion. Thank you.

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

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

Senator **TRAHAN:** Thank you, Madame President. Members of the Senate, I sit here in my seat while I'm pondering the comments of the Senator from Aroostook when he used the word cowardly. I just wanted to rise for a moment and just explain that my vote to support the pending motion for the amendment has nothing to do with cowardly. It simply has everything to do with allowing the constituents in my community who don't support the bill that we just passed a much easier path to getting this on the ballot. I believe it will be on the ballot. What concerns me about the question being on the ballot is how it's worded. If we force folks to go out and get the signatures it will be worded much differently than I think folks want it to be. I want the question to be very clear. If we adopt this amendment it will be a clear question about whether you support gay marriage. If we force the other folks to go out and get the signatures it'll be worded much differently. I just want the record to show, I want history to show, a clear vote up or down. By doing it this way it's a much cleaning opportunity for folks and a much clearer question and I think it will set the record straight for the future.

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

Senator **GOOLEY**: Thank you, Madame President. I did have a lot that I wanted to say but it has already been said about genetics, non-genetics. I had a couple of cell phone calls driving down here this morning. One in support and one not in support with reasons why. One was from a mental health person, talking about how young children are affected emotionally. I'm not going to get into that. I just wanted to get up and say that it is the right thing to do, to send this out to referendum and to put the trust in the citizens of the state of Maine. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Hastings to Adopt Senate Amendment "A" (S-112). 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 (#53)

YEAS: Senators: BRYANT, COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, MILLS, PLOWMAN, RAYE, SHERMAN, SMITH, TRAHAN, WESTON

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

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **HASTINGS** of Oxford to **ADOPT** Senate Amendment "A" (S-112), **FAILED**.

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 pending question before the Senate is Passage to be Engrossed as Amended. 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 (#54)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-109)**.

Sent down for concurrence.

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

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act Authorizing Colleges and Universities To Regulate Public Safety on Their Campuses"

H.P. 365 L.D. 520

Bill "An Act To Amend the Laws Governing Certain Reports and Reviews Related to Utilities and Energy and Certain Positions at the Public Utilities Commission"

H.P. 796 L.D. 1152

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act To Clarify the Definition of Hard Cider for the Purposes of the Returnable Container Law"

H.P. 43 L.D. 50
(C "A" H-106)

Bill "An Act To Fund Fully the Purchase of Military Time" (EMERGENCY)

H.P. 88 L.D. 104
(C "A" H-111)

Bill "An Act To Enhance the Safety of Forestry Workers and Contracted Farm Workers"

H.P. 133 L.D. 154
(C "A" H-112)

Bill "An Act To Provide Tax Relief to Workers Who Lose Their Jobs Due to Business Closure"

H.P. 162 L.D. 197
(C "A" H-118)