

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Third
Legislature*

OF THE

STATE OF MAINE

Volume II

May 10 to June 15, 1967

**KENNEBEC JOURNAL
AUGUSTA, MAINE**

SNOW of Cumberland
MacLEOD of Penobscot

Representatives:

BAKER of Winthrop
LEVESQUE

of Madawaska

CARROLL of Limerick
ALLEN of Caribou

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under a new title: "An Act Creating the Maine Higher Education Commission." (S. P. 665) (L. D. 1693).

(Signed)

Representatives:

HANSON of Lebanon
RICHARDSON

of Stonington
SHUTE of Farmington

(On motion by Mr. Snow of Cumberland, tabled and specially assigned for Tuesday, June 6, pending Acceptance of Either Report.)

Divided Report

The Majority of the Committee on Election Laws on Bill "An Act Relating to Recount and Other Election Procedures and Changing the Primary Election Date." (S. P. 649) (L. D. 1657)

Reported that the same Ought to Pass As Amended by Committee Amendment "A", (S-226).

(Signed)

Senators:

BERRY of Cumberland
COUTURIER

of Androscoggin

Representatives:

BOUDREAU

of Cumberland

HAWES of Union
HENLEY of Norway
BOURGOIN of Fort Kent
BERNARD of Auburn

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

(Signed)

Senators

ANDERSON of Hancock

Representatives:

HODGKINS of Greene
JANNELLE

of Scarborough

(On motion by Mr. Anderson of Hancock, tabled and specially assigned for Tuesday, June 6, pending Acceptance of Either Report.)

Divided Report

The Majority of the Committee on Judiciary on Bill "An Act Relating to Unjustified and Justified Abortions." (S. P. 215) (L. D. 478)

Reported that the same Ought Not to Pass.

(Signed)

Senator:

HARDING of Aroostook

Representatives:

DAREY

of Livermore Falls

BERMAN of Houlton

DANTON

of Old Orchard Beach

BRENNAN of Portland

QUINN of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft (S. P. 667) (L. D. 1695)

(Signed)

Senators:

MILLS of Franklin

HILDRETH of

Cumberland

Representatives:

HEWES of Cape Elizabeth

FOSTER

of Mechanic Falls

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hildreth.

Mr. HILDRETH of Cumberland: Mr. President and Members of the Senate: None of us, including the signers of the Minority Ought to Pass report, are in favor of abortion. On the other hand, I think most of us recognize that on certain occasions an abortion is medically justified and medically advisable. We recognize that there are religious overtones involved here, that some people, because of philosophical or religious beliefs, look upon any kind of an abortion as something that is wrong and evil. Others of us look upon it as something that occasionally is called for, but also recognize that making the performance of abortion easily and simply done may

lead to other evils which we recognize.

We redrafted, or suggested a redraft, of this bill, which is designed to control any danger that a liberalized therapeutic abortion law might be subject to abuse. In other words, we have changed the original bill to tie down the fact that permission and conscious permission of the woman involved must be obtained, and have gone so far as to say that if she is physically or mentally incapable of giving consent that the consent of the probate judge in the county in which she resides must be obtained in her place. Furthermore, instead of leaving this up to a single doctor who might get the consent or approval of another doctor as suggested by the original bill, which was an American Law Institute bill, we decided it would be wise to go further and attempt to put the responsibility on the hospital itself by requiring that no therapeutic abortions could be performed unless it was performed in a licensed hospital and only if all of the members, and there have to be at least three, of a special hospital board believe and find in writing that such an abortion was medically advisable so that, therefore, a doctor with a patient couldn't be swayed by his own perhaps emotional involvement and it would be left up to a more objective group. We couldn't see how, with this system, abuses could creep into this and make the State of Maine, as some people would suggest, an abortion mill.

As you all know, a law somewhat similar to this has been passed in the State of Colorado. It is perhaps interesting that this state has already performed two abortions since the law went into effect a month or so ago under this law. Curiously enough, both abortions arose because of a possible rape. One of them was a twelve year old girl.

I move that we accept the Minority Ought to Pass report.

The PRESIDENT: The Senator from Cumberland, Senator Hildreth, moves that we accept the Minority Ought to Pass in New Draft report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I rise in opposition to the motion of the Senator from Cumberland, Senator Hildreth. I think that this is a very dangerous piece of legislation. I am speaking on this, however, only as a member of the Judiciary Committee. I have no particular religious convictions which would prevent me from voting for this bill if I thought it was a good one. I think it is not a good one and these are some of my reasons.

First of all, we will go down through the various areas of where a therapeutic abortion may be permitted. The first one is in the case of the probably death of a woman. That is the law now. Abortion may be performed where the possible death of the woman will occur.

The second instance is where there is serious impairment of the physical health of the woman. This is where I suggest to you that the door is starting to be opened and opened a long ways. These are questions of judgment, it is true, but I think there are areas where grave abuses may occur. Also, if there is a serious impairment of the mental health of the woman, and this, I suggest to you, is where the barn door has been opened a long, long ways and is extremely dangerous.

Another instance is where there could be the birth of a child with a grave and permanent physical or mental deformity. Here again, this is a question of judgment, and there is no doctor who can say for a certainty that any child is going to be born with grave and permanent mental or physical deformity. We understand that in these cases where it is problematical, it may be one child in ten who would have such a deformity, so the question is this: Do you kill nine healthy children to make sure that you don't have the one who may have a grave deformity? And the second question which you must answer to yourself is what right do you have to kill the child who may have the deformity? He may turn out to be a genius in other respects

and compensate a great deal for the deformity which he has. So I suggest to you that in no event do we have the right to kill this unborn child because of this probable deformity which we mentioned.

We also come into the area of rape or incest. We know from the testimony which was presented by the physician, which was uncontested, undisputed, that if you have what I call a legitimate rape, perhaps that's a play on words, but if you have a real rape where a girl has been assaulted, it is no cooked up deal, she makes a complaint to her parents, she goes to a doctor. If she does that within five days of the assault, the chances of her becoming pregnant are practically non-existent, so I suggest to you that if a girl has been assaulted and it is a real rape, she is going to do that and the chances of her being pregnant, as I say, within that five-day period, are practically non-existent if she goes to the doctor and receives the treatment which is now available.

Then you get into the area of incest. This is one of the most pathetic of the situations. The testimony before the Committee was that in this instance a father or brother may be involved, and the girl is very reluctant to make the complaint. She will not make it until the last possible moment. It is usually in the sixth, seventh or eighth month, so as this bill provides, it must be within sixteen weeks' gestation so it would be rare, if ever, that a complaint would be made in the case of incest and the actual abortion was performed.

I will also mention to you that I have a doctor friend in Presque Isle who is a gynecologist. He is a member of the American Boards. I think that he is one of the top men in the field, not only in Aroostook County, but in the State of Maine. He took the pains and the trouble to write me and to write other people in the Legislature on this because he fears this bill. Now, I will tell you also that his fears do not relate to religious convictions. That has nothing to do with it, but his fears relate to the abuses which would occur under

the bill. Now, he has been practicing for some ten or more years, and he tells me that in his practice, and this is his specialty, gynecology, that he has not seen the need of killing an unborn child yet, and it is his feeling that he will not see the need.

Now, I know that we read that the sociologists say this is the kind of thing we must do, we must cut down on our population, and so on, that it is only a question of time before it will come, but I don't think that the question of time has arrived in the State of Maine. We are a sparsely populated state. We certainly couldn't justify this on the grounds that we need to keep our population down. I think that this is a very unfortunate bill. I think it would be very unfortunate for the people of Maine. I don't believe that the need has been shown for it. In order to justify legislation like this, where you are killing unborn people, I think you have to feel a need for it, and I suggest to you that there was no testimony whatsoever of the need for this kind of legislation in Maine.

I, therefore, Mr. President move that this bill and all of its accompanying papers be indefinitely postponed, and when the vote is taken, I ask that it be taken by the "yeas" and "nays".

The PRESIDENT: The Chair recognizes the Senator from York Senator Farley.

Mr. FARLEY of York: Mr. President and Members of the Senate: In all the years that I have been here in either branch there was not any bill that I talked about to my wife nor was she interested, but in this bill my wife was interested, so much that we talked it over possibly for a month now and then. I have no religious beliefs on this matter, and have only one letter from a young lady in the City of Saco who is single who is against it. My wife and I between us raised a family of ten children. At no time when a child was delivered was my wife in the hospital over twenty minutes. We checked our family tree back on both sides as far back as we could, we came up with how

I should vote here today; I should vote against the bill and support the Senator from Aroostook County.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Mrs. Sproul.

Mrs. SPROUL of Lincoln: Mr. President, there are probably a good many people who will wonder why that I should have submitted a bill like this. I will say that I read the bill as presented; I saw merit in it. I knew what would happen. I knew that it would cause a great deal of comment. I knew that probably it might, shall we say, in some quarters hurt me politically, and yet I felt that this was a subject that needed to be presented to the Legislature, needed to be argued.

I say to you in all honesty that there were two times that I can recall in my lifetime when I resorted to the physicians. One as I waited for a long-awaited child, and another time in a bitter despair for something else, and I say that at neither time have I found the physicians anything but cooperating, doing everything which they could to help. At no time in my lifetime have I found the physicians trying to put something over on people that they do not want. This bill here provides, in both drafts, that the woman herself and the physicians, there are three under the redraft, or at least the hospital staff, no abortion is going to be performed unless the woman herself has requested it, her husband or a board of the hospital staff. It seems that there are adequate safeguards here.

I quote in part from a letter written to me by the gentleman who submitted the bill in Colorado, and on page three he has said the following: "The bill provides for individual freedom and responsibility and minimizes punitive measures. The human morals factor is directly proportional to freedom and responsibility. The bill is permissive and not mandatory, and in no way demands the interruption of a pregnancy. It safeguards, even honors, the different views of the individuals and groups since no particular viewpoint can become dominant."

I have a wealth of material. I could speak, I think, a month without stopping if I started to read it to you, but it would serve no particular purpose. I think you have all heard the pros and cons of this bill, and I myself feel that I can support the bill, particularly in the redraft, and I commend those who take the unpopular side politically in having supported the bill. I am grateful for their support. I also respect the reasons for those who signed against the bill. Frankly, I have no personal interest in this, obviously. I certainly am not going to need it as far as my family goes at this point, so I would expect that everyone would vote according to their convictions, and I respect and admire them for the way that I know that they will vote. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, Ladies and Gentlemen: This is perhaps the most interesting bill of the session to me. First of all, it got Harvey Johnson's name in Playboy magazine, and I found that this was an offshoot of an interesting piece of legislation.

Second, I think that the public hearing on this bill was the finest public hearing I have ever attended. It did everything that a public hearing should do, that you hope it will do. It brought out factual, meaningful, professional opinion on both sides of the subject.

The third reason I find this bill so interesting is that I find that its sponsorship has called for more political courage than any other bill this session, and I shall be very proud to vote with Senator Sproul on this one.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Stern.

Mr. STERN of Penobscot: Mr. President, Fellow Members of the Senate: I argued for this abortion bill before the Committee. I don't intend to argue lengthily here, I just want to state briefly that when I was younger in my practice, I ran across a number of cases that

brought this matter to my personal attention. There was an occasion when the court appointed me to defend a father who had raped his daughter. It did not become apparent for some time that the child was pregnant. I know personally that the child tried to commit suicide several times. It had also come to my attention, as I handle a great deal of criminal cases, many cases that I knew personally, that people had attempted illegal abortions. I know personally of people who died in the attempt. I know of many people who went out of the state and went out of the country, and I think, and I believe now, that where Colorado has passed the abortion laws that there will be many who are well off, who are wealthy, who will go to Colorado to attempt abortion in a legal manner, in a sanitary manner, in a safe manner, and I feel that this would put a burden on those who are poor and unable to go, and I feel that we should pass a similar law.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, this measure, of course, is one of the most sensitive measures, in fact probably the most sensitive measure that has been before the Legislature this winter, and a person doesn't like to allow himself to be in a position where the opposition feels that he is taking the side of those who would murder or kill. I do take strong exception to those implications because certainly that is not the motivation, that is not the thinking of the philosophy of those who agree with Senator Sproul who introduced this legislation.

I have had numerous discussions during the winter with various women in connection with this bill and it has crossed my mind many, many times that perhaps the appropriate thing to do would be to let the women decide an issue like this. Because after all, they are the ones who go through travail, they are the ones who bear the next generation, and they are the ones who are most sensitive to the rights and wrongs of a thing of this kind. That, how-

ever, is not a possibility because of the make-up of our Legislature, of course, but I do wish to say that I don't feel the moral charges, the charges of recklessness that are leveled at those who have joined with the good Senator Sproul are appropriate.

There is one further comment that I would like to make in regard to the State of Colorado. That law has been in effect some weeks or months now, at least an appreciable period of time, and we have had reports from there that there has not been an influx of people seeking to take advantage of that law. I think the good Senator from Penobscot, Senator Stern, would be mistaken if he felt that Maine would encounter an influx of people seeking benefits under this legislation.

As a matter of fact, during the winter, doctors brought to my attention an instance in my own county of a girl of 15 or 16 years of age, unmarried, who in the first months of pregnancy, an illegitimate prospective pregnancy, did have German measles and it was reported to me that she went to Massachusetts, and there in a legal way had such an abortion. It surprised me because I felt that Massachusetts probably was much more conservative in its views than others, so for that reason I signed the Minority Report, joining with Senator Sproul and Senator Hildreth and the others in the House on this measure.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: On this particular bill, I do disagree with the other two members of the Judiciary Committee.

I want to make it very clear that I certainly challenge nobody's motives for the introduction of this particular piece of legislation or voting for it. I expressed at the Committee hearing a great deal of admiration for the courage of the Senator from Lincoln, Senator Sproul, for introducing the legislation.

However, that in no way lessens my opposition to it, and no matter how nicely we coin the phrase,

whether we call it abortion or whatever you may call it, therapeutic abortion, the fact is this: that this bill proposes that the life of an unborn child shall be terminated. Now, the question which you must ask yourself is whether the provisions in the bill justify the killing of the unborn child. I will suggest to you that there has been no testimony presented at the hearing nor in this Senate which in my mind justifies the killing of these unborn children, and this is the reason for my opposition.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senator from Aroostook, Senator Harding, that the bill and its accompanying papers be indefinitely postponed. The same Senator has asked that the vote be taken by the "Yeas" and "Nays".

In order for the Roll Call to be entertained, there must be the expressed desire of at least one-fifth of the members present. Those in favor of taking the vote by the "Yeas" and "Nays" will please stand and remain standing until counted.

A sufficient number having arisen, a roll call was ordered.

ROLL CALL

"YEAS": Senators Albair, Anderson, Barnes, Boisvert, Brewer, Couturier, Curtis, Duquette, Farley, Harding, Norris, Reny,

"NAYS": Senators Beckett, Berry, Ferguson, Good, Greeley, Hildreth, Hoffses, Johnson, Katz, Lund, MacLeod, Mills, Ross, Sewall, Snow, Sproul, Stern, Viles, Young, and President Campbell.

ABSENT: Senators Girard and Wyman.

A roll call was had.

12 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion to indefinitely postpone the bill and its accompanying papers did not prevail.

Thereupon, the Senate voted to accept the Ought to Pass in New Draft report of the Committee and the bill, as Amended, was Read

Once and tomorrow assigned for Second Reading.

Final Report

The Committee on Education submitted its Final Report.

Which was Read and Accepted.
Sent down for concurrence.

Second Readers

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

House

Bill "An Act Relating to Additional Appeals Under Liquor Laws." (H. P. 1185) (L. D. 1685)

Which was Read a Second Time and Passed to be Engrossed in concurrence.

House - As Amended

Bill "An Act to Authorize General Fund Bond Issue in Amount of Two Million Eight Hundred and Fifteen Thousand Dollars and to Appropriate Moneys for Construction, Extension and Improvement for Airports." (H. P. 1166) (L. D. 1667)

Bill "An Act Relating to Minimum Wages for Firemen." (H. P. 516) (L. D. 729)

Bill "An Act Revising Laws Relating to Licensed Small Loan Agencies." (H. P. 468) (L. D. 681)

(On motion by Mr. Harding of Aroostook, tabled and specially assigned for Tuesday, June 6, pending Passage to be Engrossed.)

Bill "An Act Relating to Joint Accounts in Banks and Loan and Building Associations." (H. P. 1001) (L. D. 1463)

Which were Read a Second Time and Passed to be Engrossed As Amended, in concurrence.

Bill, "An Act Establishing Maximum Legal Interest Rate on Personal Loans in Excess of Two Thousand Dollars." (H. P. 345) (L. D. 493)

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD of Penobscot: Mr. President, I move that the Senate reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: Is this the pleasure of the Senate?