

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, March 1, 1973

Senate called to order by the President.

Prayer by the Hon. Walter Hichens of Eliot.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mr. Sewall of Penobscot,

ORDERED, the House concurring, that when the Senate and House adjourn, the House adjourns to Monday, March 5 at 2 o'clock in the afternoon and the Senate adjourns to 4 o'clock in the afternoon. (S. P. 394)

Which was Read and Passed.

Under further suspension of the rules, sent down forthwith for concurrence.

Papers from the House Non-concurrent Matter

Bill, "An Act Pertaining to Unlicensed Dogs." (S. P. 345) (L. D. 1044)

In the Senate February 22, 1973, referred to the Committee on Judiciary.

Comes from the House, referred to the Committee on Agriculture, in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Joint Resolution

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Three

Joint Resolution Memorializing Congress to call a Convention for the Purpose of Amending the United States Constitution Relative to Abortion

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Sixth Legislative Session **assembled**, most respectfully present and petition your Honorable Body as follows:

WHEREAS, medically and scientifically a human embryo or fetus exists as a living and growing human individual from the moment of conception; and

WHEREAS, the moment of birth represents merely an identifiable point along the course of human development and not the beginning of human life; and

WHEREAS, respect for human life has been a hallmark of civilized society for millennia; and

WHEREAS, the Maine Legislature has supported and shown concern for the life of the unborn child by rejecting all attempts to liberalize, modify or change the State's abortion law; and

WHEREAS, the United States Supreme Court has withdrawn all legal protection from an entire class of human beings, namely, the unborn; and

WHEREAS, the Maine Legislature wishes to voice its disapproval of the United States Supreme Court's decision; now, therefore, be it

RESOLVED: That we, your Memorialists, pursuant to Article V of the United States Constitution, do hereby make application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing to the several states a constitutional amendment which shall provide as follows:

1. As used in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States, dealing with the deprivation of life, the word "person" shall apply to every human being from the moment of **conception**, regardless of age, illness or infirmity.

2. Nothing herein shall prohibit any state from adopting such laws as are necessary to preserve the life of the expectant mother.

3. Congress and the several states shall have the power to enforce this amendment by appropriate legislation; and be it further

RESOLVED: That this application shall constitute a continuing application for such convention pursuant to Article V until the Legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by this

One Hundred and Sixth Legislature; and be it further

RESOLVED: That certified copies of this resolution be immediately transmitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to each Member of the Maine Congressional Delegation and to the Legislatures of each of the several states attesting the adoption of this resolution by the One Hundred and Sixth Legislature of the State of Maine. (H. P. 857)

Comes from the House, Read and Adopted as Amended by House Amendment "A" (H-67).

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: Ever since the Supreme Court ruling on abortion, people have been asking what can be done to question that decision. A joint resolution very similar to the one before us is on my desk, which I was prepared to offer.

This one is acceptable to me and, regardless of the credit for such presentation, I am very much in favor of passage of this resolution. I could go on this afternoon into a lengthy discourse explaining my reasons for passage of the resolution, but feel that a letter signed by 29 members of many religious organizations throughout the State tells it as it is, and I would read that letter.

"To All Men of Good Will,

"We, as citizens of the State of Maine, and as moral leaders wish it known that we believe:

I. A vote for this memorial is a vote for precious time; time to debate a most serious issue of human rights, time to allow all feelings for and against to be heard in a national forum.

II. And furthermore, a vote in favor of this memorial is a vote that affirms the right of all citizens of Maine who respect life be heard above the all-consuming decision of the United States Supreme Court.

"If you believe in open debate, if you believe in citizens rights,

if you understand the seriousness of what you will do here this afternoon vote in favor of this memorial. We refuse to be consumed in the fire of expediency and muted by a court decision which has not allowed us to control what we feel is most precious: that is, the right to debate issues bearing directly on the right of all men to life.

Sincerely,

Reverend Alfred Hunt, Bradley Baptist Church, Bradley, Maine

Reverend Charles A. Bray, Court Street Baptist Church, Auburn, Maine

Reverend Jack Christenson, Old Town United Baptist Church, Old Town, Maine

Reverend Kenneth Connor, Trinity Episcopal Church, Lewiston, Maine

Reverend Daniel Downs, Indian Island Baptist Church, Indian Island, Maine

Mr. Donald Fadden, Layman, Columbia Street Baptist Church, Bangor, Maine

Reverend Herman C. Frankland, Bangor Baptist Church, Bangor, Maine

Reverend Robert Gass, Pentecostal Assembly, Bangor, Maine

Reverend Stanton W. Gavitt, Stevens Mills Church, Auburn, Maine

Reverend Louis George, Essex Street Baptist Church, Bangor, Maine

Reverend Jon K. Gray, Church of the Nazarene, Bangor, Maine

Reverend R. Paul Heath, East Auburn Baptist Church, Auburn, Maine

Reverend Philip Hughey, Brewer Calvary Baptist Church, Brewer, Maine

Rabbi Henry Isaacs, Bangor, Maine

Reverend Karl Kingsbury, Rumford Point Congregational Church, Rumford Point, Maine

Reverend Anthony Lombardi, South Lewiston Baptist Church, Lewiston, Maine

Reverend Hubert O. McGeorge, Wesleyan Methodist Church, Bangor, Maine

Reverend Donald Miller, Trinity Orthodox Presbyterian Church, Lewiston, Maine

Reverend Harold McElwaine, St. Paul's Episcopal Church, Portland, Maine

Reverend Lawrence W. Shaw, Church of the Good News, Rumford, Maine

Reverend David Smith, First Congregational Church, Brewer, Maine

Reverend Bernard J. Stonehouse, Pilgrim Orthodox Presbyterian Church, Bangor, Maine

Reverend Charles A. Waugaman, Harpswell Baptist Church, Harpswell, Maine

Reverend William White, St. Paul's Episcopal Church, Brunswick, Maine

Rabbi David Berent, Lewiston, Maine

Reverend Clyde Bailey, Glenwood Square Baptist Church, Portland

Rev. Louis Berube, Pres. Senate of Priests, Catholic Diocese of Maine

Rev. Thomas Powell, American Sunday School Union

Rev. Donald Cogle, Assembly of God, Lewiston

I, therefore, Mr. President, move adoption of the joint resolution as amended by House Amendment H-67.

The PRESIDENT: The Secretary will read House Amendment "A".

House Amendment "A", Filing No. H-67, was Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: In past decades in our country the rights of all of our citizens, various people in our society, have been expanding through legislation and through judicial decision. Several weeks ago a United States Supreme Court decision abruptly closed off the expansion of rights in one area; that is the area of abortion and the area of unborn children.

I don't think this is the proper forum to discuss the pros and cons of abortion, but all this memorial attempts to do, Mr. President and Members of the State, is to give our society, our people, a chance to debate this all-important issue because it will provide in the Congress, if the issue is debated, a

public forum where the constitutional amendment to which the memorial makes reference can be discussed and debated by all people in society.

Even if it passes the Congress, it still has to come back and be debated in all 50 states and passed by three-fourths of them, or 38 states. So it seems to me, Mr. President, that the issue really is not the pros and cons of abortion, but whether or not an issue as important as this, affecting a large segment of our society, the unborn children, should have a public forum and, rather than be closed off, that the issue should be allowed to continue in the Congress of the United States and the legislatures of the 50 states.

I join Senator Hichens in urging adoption of this resolution, Mr. President. Thank you.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I am speaking now not as the Majority Floor Leader but as a member of this body, and I am speaking in opposition to the motion for passage.

I disagree with the statements of the two previous speakers that the issue is not abortion. Very plainly the wording of the memorial is abortion and it so states therein. The issue of at what state a fetus shall be considered life is stated in here from the very beginning. I find, however, that it is not the philosophy that we are discussing here that I consider the principal issue, but rather the interference with the balanced doctrine of our lawmaking and enforcing process in the United States.

One of the whereases in the memorial says this: "Whereas the Maine Legislature wishes to voice its disapproval of the United States Supreme Court's decision. . ." I think this is a particularly important thing for us to consider today. Are you prepared, as a member of the Maine State Senate, to say that you in your capacity as a member of the Senate, representing approximately 33,000 people from your district, are you

prepared to say that you represent the thinking of a majority of your people when you vote that you disapprove of the United States Supreme Court decision? I personally am not.

Of course, I have not canvassed the people in my district to the extent that it would be necessary to determine how 33,000 people of all ages felt on the subject. I do honestly believe that the majority of the people in my district do not believe this, and this is the major reason for me voting against the passage of this memorial.

I say again that we are interfering with the balanced American lawmaking process in that we are tying down very specifically what the resultant constitutional amendment will be as outlined in the first section where it says "As used in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States, dealing with the deprivation of life, the word 'person' shall apply to every human being from the moment of conception, regardless of age, illness or infirmity." Now, that very plainly is the basic doctrine of abortion as we have discussed it here in the halls of the legislature for many, many sessions. Consequently, I do not think we can slough off today the responsibility for voting intelligently on this issue for two reasons: First, we are voting on the issue of shall every person have the right to determine what she wants to do; to not have inflicted upon her the doctrine of another religion which may not be hers. Are we willing to say that those of particular religious persuasions can follow their own convictions and their own teachings without the law to tell other people that they must conform with the doctrines which they do not believe in. I think these are the two issues here.

As a Senator representing your district, are you faithfully voting in accordance with a majority of the people in your district? Secondly, are you voting to determine that everybody in the country, every woman, shall be subject to the laws and religious doctrines of a particular religion

without total freedom of choice? I hope you will vote against the passage of this memorial.

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

Mr. TANOUS: Mr. President and Members of the Senate: I rise to oppose my good friend, Senator Berry from Cumberland. When he mentions that we are attempting to interfere with the Court's prerogative, I certainly disagree with his conclusion. It is a right of the people, an inherent right that the people have under our Constitution, to take action in the manner which this memorial seeks to take to bring about a constitutional convention in the hopes of amending our Constitution. And if we are to vote in favor of this particular proposal, are we to believe in his statement that we are interfering with our individual rights? Certainly he cannot be serious when he suggests that this action would be an interference with our system. We should have no Constitution in this country if this is the law of the land.

When we speak of the Constitution, I think it was the understanding of the vast majority of people in this country that the unborn child had also the protection of our Constitution, for if you will recall, every citizen under the Constitution has a right to life, liberty, and the pursuit of happiness. But because of a ruling by the U.S. Supreme Court, apparently they have considered the unborn child as a nonentity, an individual without life. And so, apparently, because of this ruling of the U.S. Supreme Court, we must now seek to change our Constitution so there will be no doubt in the minds of men of exactly what we mean by "the right to life", and this is what this concerns.

Many of you through discourse in this chamber have often questioned the rulings of our U.S. Supreme Court. Certainly all of you have questioned the right of the Supreme Court to rule that our children can no longer pray in schools. Yet, ironic as it may seem, ladies and gentlemen, we here open up every session with

prayer, and yet we are not permitted to allow our children to open their classroom daily activities with prayer, and only because the Supreme Court of this country has said so. This is certainly an irony upon ironies.

Some of you have told me many times as you have appeared before the Judiciary Committee or in this particular chamber that our U.S. Supreme Court has tied the hands of our law enforcement officials in the areas of search and seizure. You have often debated that they have set the criminals free on the street. And finally our U. S. Supreme Court has ruled that an unborn child doesn't have the right to life. I ask your support on this resolution. Thank you.

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

Mr. JOLY: Mr. President and Members of the Senate: I rise to support this resolution. I might point out that sometimes our courts are forced to render their decisions on their interpretations of the law. Sometimes when we are aggravated by decisions made by our courts, it is really that they are limited. When they are limited, and when they make decisions that the general public and the majority of our people do not want, it is up to us to change the laws. This is what we are attempting to do today.

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

Mr. BRENNAN: Mr. President and Members of the Senate: As I see this resolution, it is merely a message being sent down to Congress to tell the Congress that the State of Maine wants to go on record through its legislature that it is not particularly happy with the decision rendered by the U.S. Supreme Court on January 22nd last.

I don't think it is anything unusual because abortion bills have been presented to the Maine Legislature several times during the past sessions, and it is my recollection that they have been defeated by a substantial margin. So I do think we have some feeling

for what the views are of the people in Maine in reference to abortion, if they can be reflected by the fact that these abortion bills have been defeated in the past.

Personally, I am opposed to the concept of liberalizing abortion because I wonder what the next step is. I frankly feel that the next step would be as far as euthanasia, killing the deformed, severely retarded, or the aged. So I think this is the proper process, the proper vehicle to use to put our people in Congress on notice of what the Maine Legislature feels about that decision. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: The purpose of my speaking again is merely to point out something which the distinguished Senator from Cumberland, Senator Berry, indicated was in the memorial which I believe has been removed, and that is the part that says the legislature wishes to voice its disapproval of the United States Supreme Court decision. It is my understanding that that has been amended out of the resolution.

The second area I just wanted to discuss was that he seemed to indicate that this was something that was being pushed just by one particular religion. I think if we will recall the list of names read by the Senator from York, Senator Hichens, it seems to me that all major religions in our society were represented on that list. I really think it is an issue, not of religion, but of civil rights. Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question? Is it now the pleasure of the Senate to adopt House Amendment "A"?

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I request a roll call please.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll

call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the adoption of House Amendment "A" to House Paper 857. A "Yes" vote will be in favor of adopting House Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Anderson, Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Peabody, Roberts, Sewall, Shute, Speers, Tanous, and Wyman.

NAYS: Senator Schulten and President MacLeod.

ABSENT: Senators Katz and Richardson.

A roll call was had, 29 Senators having voted in the affirmative, and two Senators having voted in the negative, with two Senators absent, House Amendment "A" was Adopted in concurrence.

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

Mr. BERRY: Mr. President, I would urge that the members of this body vote against passage of this measure, and I would ask that a roll call be taken.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The question now before the Senate is the adoption of Joint Resolution Memorializing Congress to Call a Convention for the Purpose of Amending the United States Constitution Relative to Abortion, as amended. A "Yes" vote will be in favor of adopting the resolution, as amended; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Cyr, Danton, Fortier, Graffam, Greeley, Hichens, Joly, Kelley, Marcotte, Minkowsky, Olfene, Peabody, Roberts, Shute, Speers, Tanous, and Wyman.

NAYS: Senators Berry, Cummings, Huber, Morrell, Schulten, Sewall, and President MacLeod.

ABSENT: Senators Katz and Richardson.

A roll call was had, 24 Senators having voted in the affirmative, and seven Senators having voted in the negative, with two Senators absent, the Joint Resolution, as Amended, was Adopted in concurrence.

(See action later in today's session.)

Joint Order

WHEREAS, the Lisbon High School basketball team was undefeated in regular season play; and

WHEREAS, the "Greyhounds" were the clear champions of the Mountain Valley Conference for the 1972-1973 season; and

WHEREAS, this outstanding and exciting team has represented their families, schools and community in an exemplary way, both on and off the court, in the true tradition of champions; and

WHEREAS, the Town of Lisbon is proud of these young men for their hard work and superlative accomplishment; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the 106th Maine Legislature, now assembled in regular session, take this opportunity to extol and commend the Lisbon High School basketball team and their head coach, Laddie Deemer, for their accomplishment in the field of sports and wish them continued success in their efforts to honor their school, community and State; and be it further

ORDERED, that a suitable copy of this Order be transmitted to the principal, Keith Cunningham, and the aforementioned coach. (H. P. 953)