

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 6, 1973 to July 3, 1973

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

WHEREAS, such an extension will require extensive research and revision of the Site Location Law to lawfully accomplish this theoretical objective; now, therefore, be it

ORDERED, the House concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of the bill, "An Act to Amend the Site Location of Development Act," House Paper No. 1375, Legislative Document No. 1831, as introduced at the regular session of the 106th Legislature, to determine whether or not the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the committee present its findings and recommendation as a result of the study to the next regular session of the Legislature; and be it further

ORDERED, that the State Bureau of Environmental Protection be respectfully directed to cooperate with the committee and provide such technical and other assistance as the committee deems necessary or desirable to carry out the purpose of this Order; and be it further

ORDERED, that upon passage of this Order, in concurrence, that copies of this Order be sent forthwith to said bureau as notice of the pending study. (S. P. 655)

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

Committee Reports House

Leave to Withdraw Covered by Other Legislation

The Committee on Liquor Control on Bill, "An Act Permitting Liquor Licensed Clubs to Sell Tickets to its Members and Guests for Prizes to Raise Funds for Club Purposes." (H. P. 1248) (L. D. 1625)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass — As Amended

The Committee on Marine Resources on Bill, "An Act Extending Regulation of Fishing Methods and Quantity and Types of Gear Used." (H. P. 1376) (L. D. 1832)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-490).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Judiciary on Bill, "An Act to Revise Functions and Purposes of the Panel of Mediators." (H. P. 977) (L. D. 1291)

Reported that the same Ought to Pass in New Draft under New Title. "An Act Expanding and Clarifying the Functions and Purposes of the Panel of Mediators" (H. P. 1562) (L. D. 1996)

Comes from the House, the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

The Committee on Judiciary on Bill, "An Act Relating to Immunity of Persons or Hospitals Refusing to Perform or Assist in Abortions." (H. P. 740) (L. D. 953)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Provide Protection of Fetal Life and the Rights of Physicians, Nurses, Hospitals and Others Relating to Abortions" (H. P. 1559) (L. D. 1992)

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-493).

Which report was Read.

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

Mr. BERRY: Mr. President, I wonder if a member of the Committee would explain the impact of the bill, its relation to the Federal Supreme Court Decision, and the impact of House Amendment "A"?

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

Mr. TANOUS: Mr. President and Members of the Senate: The bill in new draft that came out of the Judiciary Committee relative to abortions is comprised of five bills. The Judiciary Committee has six abortion bills before it to consider, and we took the five bills that deal with one subject, dealing mostly with conscience, and we put these in one new draft.

This means that your doctor can refuse to perform abortions if he so desires without being chastised for doing so legally. Hospitals can refuse to have patients in their hospitals for purposes of abortion, under this bill, without again being chastised legally.

Also the bill provides that a fetus may not be sold for experimentation purposes. The bill also provides that a fetus that is aborted and born alive, I suppose at this point you have got a live birth, that this child, the aborted child that is born alive, has a right under our law to medical care. There were incidents shown that in New York there were children aborted in one or two instances that were born alive and just left to die. This bill provides that such a child be given medical care just as any other human being. Also it describes live birth.

So what we have done is taken five bills and came out with one draft, because it deals with conscience mostly and philosophy.

We do have another bill in Committee that deals directly with the amendment that was tacked onto this bill somewhere down the hall, and I plan to move indefinite postponement of that amendment because we do have a bill in Committee which is coming out shortly, either tomorrow or Friday, which is the deadline anyway, but it probably will be coming out tomorrow. That bill, as I mentioned, deals directly with the

amendment, or it is the entirety of the bill actually, and my reason for moving indefinite postponement of the amendment would be because, in my opinion, it frustrates the committee system of the legislature. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I would direct an inquiry to the Chairman of the Judiciary Committee. In view of the Supreme Court decision, is it right that a woman in a situation where an abortion would be necessary on an emergency basis should find herself in a position where there were neither a hospital or a doctor available who would be willing to perform that necessary operation? Is this right?

I will rephrase the question. Is it right, in view of the Federal Supreme Court decision on the abortion matter, that a woman who had to have an emergency abortion performed found herself in a situation where the only hospital and doctor available would take refuge under this proposed law and fail to perform this operation?

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

Mr. TANOUS: Mr. President and Members of the Senate: In answer to the question of the Senator from Cumberland, Senator Berry, if I grasp his question properly, it would seem to me that any individual who doesn't wish to perform certain services, that there is no law in the world that can force an individual to do this.

Certainly, I don't see the relation to this particular bill. This is a conscience bill which determines that a doctor or a hospital may not have to participate in these procedures. I would think that a legislature should certainly not try to mandate that these people should do certain acts against their own conscience. When we commence to do this, mandating doctors, lawyers, or anybody to do things against their own conscience or convictions, then aren't we, in essence, telling them what their religion or philosophy is going to

be? I would think that anyone who in good conscience doesn't want to perform an abortion, or a hospital that doesn't wish to participate in abortion procedures, that they ought to be given the protection of the law, if this is their conscience, the same as anybody else who wishes to practice any religion of their choosing.

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

Mr. BERRY: Mr. President and Members of the Senate: I will put the problem and the question in words that perhaps we all can understand. If a woman is brought to a hospital in a state of crisis, and her life depends on an immediate abortion, is somebody going to stand at a hospital door, if we pass this legislation, and say this woman cannot come in here and receive the necessary treatment to save her life?

Now, I agree 100 percent with the right of a doctor and a hospital to say no, except if they are the only source that this woman has to save her life. If there is another hospital or another doctor available, fine. But if there are not? That is my question.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: As I understand it, under the prior Maine law, which was abrogated by the Supreme Court decision, that kind of procedure described by the Senator from Cumberland, Senator Berry, was allowed and lawful under the law. As far as I know, there was no doctor in the state then, nor is there any doctor now, including those doctors who are interested in this legislation, there are none of those doctors whom I know and whom I have talked to about these bills that would refuse to perform that kind of operation in order to save the life of the mother.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: As I understand it, the legislation that is before us provides freedom

for those who are perhaps in the healing arts to exercise a decision of conscience as to whether or not they wish or do not wish to perform abortions. I support that concept.

As I understand it, this bill would prohibit the sale of fetuses for experimental purposes, and I support that.

The thing that concerns me is that apparently there is an amendment on this bill which some people are saying should not have been allowed as not being germane, but whatever the procedural niceties might be, we are now confronted by, I think, some very major legislation having a very significant impact on what legislation, if any, is going to be passed to implement the Supreme Court decision.

I have talked with members of both sides of this controversy and, very frankly, Mr. President, I am surprised because it seems to me that the roles have been reversed: that the Right to Life Committee ought to be sitting in a different chair than it is sitting, and the Abortion on Demand proponents ought to be sitting in another position than they are now. What I am trying to say, and not very aptly perhaps, is that if the Supreme Court decision stays as it is now, and there are no statutory guidelines governing the operation, including the so-called conscience amendments, we have no real guidelines other than the Supreme Court decision.

I am not sure why there is objection to the amendment that was placed on this bill in the other body and, in all sincerity, Members of the Senate, I think we ought to have ample opportunity to review this legislation very carefully before voting on it. Not having had an opportunity to do this myself, I would appreciate it if this matter could be tabled by some member of the Senate for perhaps a day or two in order to permit those of us who have very severe reservations about this concept to look at it in good faith because, as I say, I fully support the right of a physician who finds it morally repugnant to terminate a human

pregnancy, I fully support his right not to do that, but I think, under the decision, he would be subject to a civil action if he refused.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I believe it was the intention of the Chairman of the Committee on Judiciary, the Senator from Penobscot, Senator Tanous, to postpone House Amendment "A", not to debate House Amendment "A" on its merits, because the bill which is the same as House Amendment "A" is still in the Judiciary Committee.

I think the points made by the good Senator from Cumberland, Senator Richardson, are very valid, that the original bill, this 1992 in its original form, most people agree should pass, and that the House Amendment is the more controversial bill and really should be taken up separately. I think that is the point that Senator Tanous was making, that 1992 was reported out of the Committee on Judiciary for a purpose, the five bills were reported out together, and that the bill which is incorporated in House Amendment "A" is going to be reported out separately, because it does involve a different issue, it is a more complex situation and, therefore, should be taken up on its own merits.

I would hope that this morning the bill could be read, that House Amendment "A" could be indefinitely postponed, and this bill could proceed. Then debate could be had on the bill which is still in Committee and which will be reported out on the merits of what we should do to comply with the Supreme Court decision.

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

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending acceptance of the Committee Report.

Divided Report

The Majority of the Committee on Labor on Bill, "An Act Relating

to Employment of Women." (H. P. 525) (L. D. 707)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

HUBER of Knox

KELLEY of Aroostook

Representatives:

FARLEY of Biddeford

ROLLINS of Dixfield

McHENRY of Madawaska

BROWN of Augusta

HOBBS of Saco

GARSOE of Cumberland

McNALLY of Ellsworth

BINETTE of Old Town

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-497).

Signed:

Representative:

CHONKO of Topsham

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Taxation on Bill, "An Act Exempting Gas for Cooking and Heating in Homes from Sales Tax." (H. P. 379) (L. D. 508)

Reported that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington

COX of Penobscot

Representatives:

MORTON of Farmington

DRIGOTAS of Auburn

DOW of West Gardiner

MERRILL of Bowdoinham

MAXWELL of Jay

IMMONEN of West Paris

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

Signed:

Senator:

FORTIER of Oxford