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LEGISLATIVE RECORD

OF THE

One Hundred and Ninth Legislature

OF THE

STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

INDEX

First Confirmation Session

August 3, 1979

INDEX

First Special Session

October 4-5, 1979

INDEX

Second Special Session

October 10-11, 1979

INDEX

Second Confirmation Session

December 7, 1979

INDEX

Mahon, McPherson, McSweeney, Nelson, A.; Nelson, M.; Nelson, N.; Paradis, Paul, Payne, Peltier, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Rollins, Sherburne, Smith, Sprowl, Stover, Strout, Studley, Theriault, Tierney, Torrey, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, Wyman.

PAIRED — Mitchell-Pearson.

Yes, 30; No, 108; Absent, 10; Paired, 2.

The SPEAKER: Thirty having voted in the affirmative and one hundred eight in the negative, with ten being absent and two paired, the motion does not prevail.

Thereupon, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (8) "Ought to Pass" in New Draft under New Title, Bill "An Act Relating to Abortions" (H. P. 1394) (L. D. 1612) — Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-413) — Committee on Judiciary on Bill, "An Act to Limit Abortions in the Second and Third Trimesters to Certain Specified Situations" (H. P. 865) (L. D. 1061)

Tabled—May 15, 1979 by Mr. Tierney of Lisbon.

Pending—Acceptance of either Report.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, I move the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call on this.

Mrs. SEWALL: Mr Speaker and Members of the House: This is the first of the so-called abortion bills. This bill is aimed not at doing anything particularly about abortions itself, it is aimed at making it more difficult for a doctor to perform an abortion, perhaps to throw him in jail if he makes an error in judgment. I would hope that you would defeat this bill.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I can assure the members of this House that this certainly does plenty. This bill will prevent abortions after the first three months of a woman's pregnancy. Right now, the State of Maine does not have an abortion law and my bill will allow that no woman would be allowed to have an abortion during the second and third trimesters.

I have done a great deal of checking on this and I found out through the Attorney General that worked with me on this bill that the State of Maine, at the present time, our abortion law has been struck down and is illegal by the findings of the Supreme Court. Consequently, we have to live by their ruling whether we like it or not.

I say to you today, my friends, that abortion is nothing more than a brutal form of murder. I say to you today, how can you justify murdering a live, unborn child; yet, when a big, six-foot man commits a vicious murder, you don't want to put him to death. You can't be right on both cases.

I say to you this morning that abortions, up until the 1973 ruling by the Supreme Court, has been universally illegal and immoral, but because we have come so far in 2,000 years and we have had so many educated people in 2,000, they know better than our rights, and when woman say they have a right to choose, it is nothing more than the ignorant spot that they got themselves into in the first place.

We are adults, and, you know, we know what we as individuals must do and should do if we are to raise or not raise a family. And this part that they use about unwanted pregnancy is a scapegoat to commit brutal murder. A child is alive and it is all right to murder that child.

We have had people down through the ages who have been put to death because they have committed an abortion. I don't know how many people can justify abortion and still be opposed to capital punishment; they don't know themselves.

Many times in our society, we have to face reality as reality is. How many people have been—and I call them people even though they are not born but there is life—

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, I request that the gentleman stay with the bill and not argue the entire issue of abortions.

The SPEAKER: The Chair would advise the gentleman, if at all possible, and I know it is difficult for the gentleman to do that from time to time, but if he would restrict his remarks only to the issue which, at this point, would be the new draft, An Act Relating to Abortions. The Chair would, however, make note of the fact that the new draft allows just about everything to be debated, because the redraft, as it came out of committee, says under new title, Bill "An Act Relating to Abortions," and if you can't talk about anything under that subject, you can't talk about anything.

The gentleman may proceed.

Mr. LAFFIN: Thank you, Mr. Speaker. I have told several of my friends today that I would not get upset on abortion and I have no intention of getting upset. I certainly don't want to offend anyone, I certainly don't want to offend any woman of this House, I certainly don't want to offend any woman anywhere, but the motives that they use for abortions is what I am talking about, and it is nothing personal.

What my bill does is just what it was intended to do, because we have no laws in this state on abortion. My bill, if the people of this Legislature should pass this law, would make it illegal for an abortion to be performed after we have followed the guidelines of the Supreme Court. In fact, as the good gentlelady knows, I have even consented to go down on my abortion. My original bill called for a 10-year imprisonment for any doctor or any butcher, and we have got plenty of them around that perform abortions, and a $2,000 fine. I was willing to go along with the advice of several of the members of the committee when they felt that was too strict, so we dropped the class down so that now it is a 5-year term and a thousand dollar fine.

So, I have compromised and usually when I compromise, I am always the loser, but I did in this case because of the fact that we don't have an abortion law in this state and that is what my bill contends with. It prohibits anyone who is licensed in a medical position to perform any abortions at any time. What is wrong with that? I think if we are going to have abortions, if people want to have abortions, if they want to murder, and I repeat if they want to murder their children they are giving birth to, then at least we should have some guidelines to say how they are going to do it and not have the butchers do it.

I realize that there is a place in this state where about 200 abortions a month are taking place. If a woman can live with that, whether she is married or not, I say that a woman is a sorry person.

It prohibits an abortion after viability except to save the life of a mother; what is wrong with that? I think that is a pretty good compromise. That is what my bill says and I am sticking to the bill. If the mother's life is in jeopardy, yes, an abortion may be performed What is wrong with that?

The second part of my bill is incest or rape, what is wrong with that? Many of us today want so many privileges, so many people's rights, that they forget about the right of life, and the right of life is an unborn child, whether that child is wanted or not.

I feel if we are to have laws in this state governing everything that you can possibly think of, for the State of Maine to not have an abortion law, we are wrong. I don't care what your beliefs or anything else are. I am saying that we should have laws that govern the actions of the people.

Many times they say, well, certain groups are for certain things. I have been in touch with a priest out in Nebraska that has been put in jail for weeks because he refused the Supreme Court's ruling that abortions become legal. Literally weeks he served in prison because he broke the law for his beliefs. I am not going that far this morning. I will abide by the Supreme Court's ruling. But, I say to you my friends this morning, we need abortion laws in this state. We should not be a state to be recognized as allowing wholesale murders. We should not be in a position today to say, well, we will have a law for labor, we will have a law for management, but there will be no laws for abortions, this would be wrong, this would be dreadfully wrong.

If we, in this society, are going to survive, bring up children, then they must have at least some kind of education that was better than our own. When we endorse wholesale murders by butchers, when we endorse this type of thing, then we, as a legislature, are not doing the work that we were sent up here to do. If this House and the other body want to have wholesale abortions, then let's put it on the books. Let's say, yes, you can do it but, you see, no one has put a law in to say that you can't do it. These groups that are supporting the Supreme Court ruling that abortions be allowed in the first trimester, that is fine and good, they want that but they don't want any other law to stop them there. Yet, you don't see them putting any bill in. You don't see them putting any bill in because they want to keep the law we have which is unconstitutional. That is what they want to do, they want to leave it just the way it is.

But I am telling you, my friends, the child's life that you take, suppose that child came into this world and wouldn't it be wonderful if he turned out to be a doctor to find the cure for that dreadful disease of cancer? Wouldn't that be remakable? How many then would want to deny the woman's right? And while we are on the subject, do you know how many poor women die each year because of breast cancer? Wouldn't it be a wonderful thing if a child was born in this world that could cure that?

I don't think there is anything funny about abortions! I think it is a sick and sorry society that allows it in the first place. I may not agree with their ruling, but I have a right to stand on this floor and give my viewpoints. If you want to agree with them, you can and we will have to live with it, but I certainly do not have to give to it.

I think my bill will at least be the right step forward and young babies will have a chance to live in this world, and that is all I am asking.

I suppose some of you are saying right now, that if my mother had had an abortion, I wouldn't be here, and probably you would be happy. That is your choice to think that, but that is not what happened, is it?

I ask the members of this House this morning, in the good conscience that you have, let little unborn children live.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: You may wonder why I am standing here. Yesterday, I was met in the corridor by a very fine lady and she immediately told me what her qualifications were to speak to me. She was a mother and had two daughters, so I guess perhaps in order to speak

on this bill, one should lay out his qulifications. I am 60 years old, I am a husband and a father. I have two daughters and a son. I have grandchildren and I want you to know that the women in my family all support the position I am going to take.

The gentleman from Westbrook said he didn't want to offend anyone this morning. I trust that he was sincere in that, because I want him to know at this point in time that he has offended me. To equate from the position that I might take with such words as butchering and wholesale murder, I don't think is proper for this assembly. The Supreme court has said that a right to choose exists and doesn't equate it with ignorance. It doesn't indicate that the people who wish to make their own choice are "sorry people"

I believe that the bill is patently unconstitutional and I am going to tell you why in very short terms and then I will sit down.

The bill has some definitions and probably the key definition in the bill is viability and viability means the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life-supportive systems. I submit to you that that is an impossible standard for a physician to have to adhere to in making a decision. Therefore, I believe that it is unconstitutional. The physician cannot know when he makes his decision whether viability has occurred or not, but under section four, if he makes a mistake, he is subject to the penalties of a Class B crime. That is much too strong a sanction. It completely eliminates the free choice between a woman and her physician, which is the Supreme Court's decision.

It is my understanding that the Supreme Court has made no decision with respect to viability. Therefore, I trust that the motion that is presently before you will be defeated.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, does a request for a point of information take precedence over debate?

The SPEAKER: The Chair would answer in the affirmative.

Mr. BRANNIGAN: Mr. Speaker, given not Mr. Morton's debate but the previous debate by the gentleman that I am glad is here, Mr. Laffin, there seemed to be a great deal of confusion to me as to which bill we are talking about. This new draft is something new to me as a Freshman, and he was discussing at times what he called his bill, which was second and third trimester, rape, incest, a lot of things that are not in the new draft. Are we, Mr. Speaker, speaking only about the new draft?

The SPEAKER: The Chair would advise the gentleman and members of the House that we are, in fact, at this point, because of the position in which we find ourselves, dealing with the Committee Report, which, in fact, contains both the new draft and the original document plus Committee Amendment "A". So at this point in time, all of the issues are, in fact, before us. After we have disposed of the initial vote and if this were to pass, then we would be dealing only in the seond reading with the new draft.

Mr. BRANNIGAN: Mr. Speaker, the motion before us now, please, Mr. Speaker?

The SPEAKER: The motion before us is acceptance of the Majority "Ought to Pass" Report from the Committee on Judiciary.

Mr. BRANNIGAN: Mr. Speaker, which is?

The SPEAKER: That report, the Majority Report, is acceptance of the new draft. That means, in effect, that you can be debating against acceptance of the new draft and in favor of the original bill or, for that matter, opposed to all bills and all matters before us.

Mr. BRANNIGAN: Thank you for your excellent understanding of this.

The SPEAKER: The Chair recognizes the gentleman from Lewiston Mr. Simon.

Mr. SIMON: Mr. Speaker and Members of the House: I rise to respond to the point made by the gentleman from Farmington, Mr. Morton.

I believe that the good gentleman said the Supreme Court has never dealt with the definition of viability. In Planned Parenthood of Central Missouri versus Danforth, the United States Supreme Court, in a decision that was unanimous on this point, upheld the definition of viability that is contained in the new draft, L. D. 1612, a new draft I urge this House to support.

Following the good Speaker's instructions, I will be brief.

L. D. 1612 only does what the United States Supreme Court, in 1973, in the case Rowe versus Wade and Doe versus Fulton said what a state could do to regulate abortions. L. D. 1612 is perfectly consistent with the letter and the spirit of Rowe versus Wade. One may or may not disagree with Rowe versus Wade but it is the law of the land. Rowe versus Wade establishes the state's right to do several things. One of them is to require that all abortions be done by licensed physicians. L. D. 1612 requires that all abortions be done by licensed physicians.

The rationale for the Supreme Court's decision on this point was that prior to viability, the abortion decision is a medical decision, not a moral issue. In order to preserve its integrity as to medical decision, L. D. 1612 requires that it be a decision of the pregnant woman and her attending physician.

The second thing that L. D. 1612 does is prohibit abortions after viability. The Supreme Court's rationale for drawing the line at viability is that after the fetus is viable, after the fetus fulfills the criteria set forth in the Danforth decision, whose language is incorporated in 1612, the state has a compelling interest in the potential life of that fetus.

A few days ago, on our desks we received a bright yellow handout from the National Abortions Rights Action League—and about three quarters of the way down the page, it says on the pro-choice side of the ledger, "the court, referring to the Supreme Court in Rowe versus Wade, did not give women abortions on demand. It must be a decision between the woman and her doctor," the first phase of L. D. 1612. "The states may prohibit abortion in the third trimester except to preserve the life or the health of the woman." In actual practice, abortions are rarely, if ever, performed after viability of the fetus. What NARAL recognizes in its handout is that the third trimester and viability are about the same and what L. D. 1612 focuses on is the flexible standard of viability, which the Supreme Court has approved, rather than a flat 24-week criteria.

In other words, the assertion that this bill is unconstitutional is without foundation. All we are doing is replacing an unconstitutional law with a constitutional law, a law reflecting what the Supreme Court has expressed as the state's compelling interest in the potential life of the fetus and reflecting the sentiments of the people we are here to represent.

Therefore, Mr. Speaker, I ask that the House vote in favor of the "Ought to Pass" in New Draft Report, and when the vote is taken, I ask that it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBINS: Mr. Speaker, Ladies and Gentlemen of the House: I was hesitant to speak on these particular issues, and it is interesting to note that most of the speakers are men and I suppose the sensitivity to the subject I don't think can be felt unless you are a woman, as much as it can be for a man.

We had four bills before the Judiciary Committee addressing the abortion issue and, as you know, it is probably one of the most controversial issues that has hit this country in years.

In 1973, the Supreme Court decision of Rowe versus Wade struck down every statute relating to abortion in this country. In fact, it struck down the statute under Title 17 which regulated abortions in the state.

Out of the four bills before the Judiciary Committee, we have three bills left. I should add that the four bills that were before the Judiciary Committee in their initial form, I felt were unconstitutional and did not meet constitutional muster.

After much debate and much work on the committee, and with the help of the good gentleman from Lewiston, Mr. Simon, who is versed in the field of the Constitution in many instances, proposals came before this legislature which are the following: We presently have before us a bill dealing with parental notification, and I signed that bill out "Ought to Pass". The second bill we had before our committee dealing with the subject, which we have passed out, is a bill to do with informed consent. I supported a version which basically was a version of allowing informed consent, but I was the lone signer of that report and it is a little less restrictive than the majority report but consistent with the idea of informing a woman of the complications of abortion and the complications of birth, also providing alternative information as far as other choices besides the performing of an abortion on that individual.

The bill before you is a bill that I did not support, I support the minority viewpoint, because unlike my good friend and colleague in the field of law from Lewiston, it is my humble opinion, after only being a lawyer for a limited period of time, that this bill is unconstitutional.

The Supreme Court of this United States has never upheld a bill which included the definition of viability. The good gentleman from Lewiston, Mr. Simon, referred to the Danforth case. The Danforth case, in answering the case, the Supreme Court did discuss viability but did not, have never once upheld any definition of viability. In fact, if you read the cases, I think it is impossible, I think it is a vague term and I think it is impossible to define that term.

If you talk to a true right-to-life person, a person who goes to my church, and individuals in this House, you will find that their definition of viability is the time from conception on, it is not the second or third trimester. The true right-to-life position would be from the time of conception, not the second or third trimester.

This bill before you, I think, has serious constitutional questions. I suppose I have to separate my emotional feelings on this subject and my legal training feelings on this subject, which is very difficult, I have found, since I have been trained in the last few years in the field of law. This bill will make a physician make a judgmental decision with his years of training, and if that decision is not right, that person could be sanctioned criminally and thrown in jail—a responsible physician, not the butchers or whatever. That is the problem I have with the bill.

Whether you like abortion or not, the Supreme Court, in Rowe V. Wade, in 1973, ruled on it. And I think in talking about this particular issue and all these issues, you shouldn't let your — in my case, I suppose I am being contrary to my religious convictions on this particular legislation and consistent with my religious convictions on the other bills I signed out of committee. But I, as an individual, who has had some legal training, even though it has been humble and I have only been an attorney for five months, it is my feeling that this bill would not pass the constitutional muster test, which I think you will find if it was litigated, it would be unconsitutional.

I urge you to oppose this particular motion of "Ought to pass" and I urge you to keep an open mind on the other particular bills before us, because some of them do address some positive things we can do in this particular field.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Simon.

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: In response to several notes that I have been getting concerning the Danforth decision, I would beg leave of the House to read the portions of the decision in which the Supreme Court uanimously upholds a statutory definition of viability. I am reading from Volume 44 of United States Law, Page 5200. Section 22 of the Act, the Missouri Abortion Control Act under review in this case defines viability as "That state of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-suportive systems. Appellants claim that this definition violates and conflicts with the discussion of viability in our opinion in Rowe."

If I may skip a little ways, "We agee with the District Court and conclude that the definition of viability in the act does not conflict with what was said and held in Rowe. We agree that the definition of viability in the Act does not conflict with what was said and held in Rowe." It is as definite as can be.

Mr. Speaker and Members of the House, there may be people here who would like to have abortions be legal after viability. There may be people who believe, as some of the witnesses that testified against this bill believed, that a person ought to be able to have an abortion right up until the day before the baby is due. If you believe that, vote against the bill, but don't hide under the skirts of the Supreme Court Justices because they are with the majority report.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: The remarks just concluded, I am afraid, put a rather poor light on those of us who will vote against this motion, and I would only suggest that it is a real problem for any woman who has been forced by perhaps those who share different views to put off having an abortion or delay having an abortion until the question of viability actually becomes a real one. It is a position that I would have tremendous sympathy for such a person in such a position.

Mr. Laffin, early in his remarks, suggested that this legislature, those who believe in the Supreme Court Decision, had attempted to keep the unconstitutional law that we have on our books, on our books. I haven't been here very long, but some of you have and I think you may recall that there was an attempt to repeal that law, I believe it was in 1974; it failed because. I understand, people who believed that abortion should not be permitted refused to take that law off the books, just to give them something to hang on just in case they could make use of it. So, Mr. Laffin is correct on that as well as in some of the other things he said.

I am not a lawyer; however, I was interested that none of the people who have spoken on the constitutional aspects have brought up another decision, also made by the U. S. Supreme Court, and it was made this January, 1979. It was in the case of the Supreme Court striking down a Pennsylvania law requiring that a physician that performs an abortion try to save the life of the fetus if he believes the fetus is or "may be viable." In a six to three decision, the court held that the law was unconstitutionally vague and ambiguous. It was to make clear to the physician whether his primary responsibility was to his patient or his aborted fetus and because it subjected him to criminal liability without clearly defining what constituted criminal action. I am not a lawyer, but I would have to say that L. D. 1612 bears a remarkable resemblance in all respects to this Pennsylvania law.

The article I have here dealing with this decision does go on to discuss Rowe vs. Wade, Doe vs. Fulton and other bills, The Supreme Court Justice, Harry Blackman, in dealing with viability and discussing the decision of the Pennsylvania case, Rowe vs. Wade, Doe vs. Fulton and Danforth, made these remarks — "In these three cases, this court has stressed viability, has declared its determination to be a matter for medical judgment and has recognized that differing legal consequences ensue upon the near and far sides of that point in the human gestation period. We reaffirm these principles."

The Court went on to define the viability determination requirement ambiguous, because by requiring the physician to determine that the fetus is or "may be", the word used in L. D. 1612, viable, it is unclear whether the statute imparts a clearly objective standard or whether it imposes a mixed objective standard"

"Moreover," the Court said, "it is not clear whether the phrase "may be viable" refers to viability as that term has been defined in Rowe and Danforth, or whether it refers to an undefined gray area prior to the stage of viability."

If I may continue in the court's decision in this case, it went on to say, "Apparently, the determination of whether the fetus is viable is to be based on the attending physician's experienced judgment or professional competence," the subjected point of reference.

In fact, this bill goes the opposite direction. In Section A, Subsection 4, it says the physician is guilty only if he knowingly disregarded the viability of the fetus. It is difficult to find out whether that is subjected judgment or not, but it certainly is a backwards way of looking at it.

The Court, in this decision, suggested the possibility that "may be viable" carves out a new time period during pregnancy when there is a remote possibility of fetal survival outside the womb, but the fetus has not yet attained the reasonable likelihood of survival the physicians associate with viability.

Furthermore, the decision declared this phrase to be impermissible ambiguity because viable and may be viable apparently refer to distinct conditions and that one of these conditions differs in some indeterminate way from the definition of viability set forth in Rowe and in Danforth.

The Court declared the uncertainty and difficulty of a viability determination about which experts are likely to disagree in conjunction with a statute imposing strict civil and criminal liability for an erroneous determination of viability, a mistake, could have a profound chilling effect on the willingness of physicians to perform abortions near the point of viability in the manner indicated by their best medical judgment.

The Court reaffirmed the decision of whether a fetus is viable is and must be a matter for the judgment of the responsible attending physicians. "State regulation that impinges upon this determination, if it is to be constitutional, must allow the attending physician the room he needs to make his best medical judgment."

The Court concluded that the statute did not afford broad discretion to the physician but instead "conditioned potential and criminal liability on confusing and abiguous criteria, presenting serious problems with notice, discriminatory application and chilling effect on the exercise of constitutional rights."

The issue of abortion is an emotional one. I, although not legally trained, have tried to indicate to you why I feel this bill does not go in the proper direction.

For those who believe in a woman's right to an abortion, there are many problems. We must simply try to straighten out a tremendous conflict which exists at the base of this question, and that is when life begins and when, therefore, abortion becomes murder. I think it is clear that the Supreme Court, in 1973, could find no clear answer to this question in philosophy, theology or justice. I think it is also clear there is none.

Much of the controversy, in my opinion, reflects not just a religious scruple but also a yearning for moral punishment, if you will. Congress has spent months in the past few years weighing how much misery and change would fall on the poor and pregnant before offering federal help.

There is a belief in Congress and in Akron, and, yes, perhaps in some parts of our own state, that many women think too easily of abortion, that they choose it as casually as they choose to have sex — that is simply not true. Very few people of either sex want abortions, certainly not women who have had abortions or anyone who has supported a friend through the experience. Abortion almost always symbolizes failure, failure of a contraceptive, a relationship or a family. Government does not need to get into this act and make it even worse than it already is.

I urge you to vote against the motion.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Cloutier.

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: In 1973, as many people here today have spoken about, the Supreme Court decision legalized an abortion on demand and allowed for certain regulations of abortions performed after viability. This bill defines viability to be, as Mr. Morton said, "the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life-supporting systems." This is generally considered to be about 24 weeks of pregnancy, the sixth to the ninth months.

In accordance with that Supreme Court decision, abortions preformed in these last three months of pregnancy are to be done only in those cases necessary to preserve the life or health of the mother. We are talking about viability. Ladies and gentlemen, I would like to bring to your attention that there are many, many premature abortions, children born, one pound children born at six months, five months, who have lived.

I would also like to bring to your attention the case in Massachusetts of Dr. Edilon who, because of the law, he knew that that child was living and what he did, he reached up into the uterus of that lady and strangled that child. What we have here today, ladies and gentlemen, is not a bill to completely wipe out abortions, we don't have one of those bills in the legislature this year, because I am sure every one of us standing and sitting here today would agree that to eliminate abortions would be totally unconstitutional, and I so agree with every one of you.

But what I am saying to you today, ladies and gentlemen, is the fact that children do live in the womb of their mother, and I would ask you today to remain consistent and uphold this viability bill and support the Majority "Ought to Pass" Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Westbrook, Mr. Laffin, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would like to pair my vote with the gentleman from Cumberland, Mr. Garsoe. If he were here, he would be voting no and I would be voting yes.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, I would like to pair my vote with the gentleman from Auburn, Mr. Brodeur. If he were here, he would be

voting yes; and I would be voting no.

The SPEAKER: The pending question before the House is the motion of the gentleman from Westbrook, Mr. Laffin, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Barry, Beaulieu, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Cloutier, Conary, Cunningham, Damren, Davis, Dexter, Diamond, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fillmore, Fowlie, Gavett, Gillis, Gould, Gray, Gwadosky, Hanson, Hickey, Higgins, Hunter, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kelleher, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Matthews, Maxwell, McHenry, McMahon, McPherson, McSweeney, Michael, Nadeau, Nelson, A.; Nelson, N.; Paradis, Paul, Payne, Pearson, Peltier, Peterson, Prescott, Rollins, Sherburne, Silsby, Simon, Smith, Soulas, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wood, Wyman, The Speaker

NAY — Aloupis, Bachrach, Baker, Benoit, Berry, Brannigan, Brenerman, Brown, K.L.; Connolly, Cox, Curtis, Dellert, Doukas, Dow, Dudley, Fenlason, Gowen, Hall, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Kiesman, Lowe, Lund, Masterton, McKean, Mitchell, Morton, Nelson, M.; Post, Reeves, J.; Reeves, P.; Rolde, Sewall, Sprowl, Tierney, Vincent

ABSENT — Churchill, Norris, Roope, Small, Whittemore

PAIRED — Brodeur-Davies; Garsoe-Jalbert

Yes, 101; No, 41; Absent, 5; Paired, 4.

The SPEAKER: One hundred and one having voted in the affirmative and forty-one in the negative, with five being absent and four paired, the motion does prevail.

The Bill read once and assigned for second reading tomorrow.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Howe.

Mr. HOWE: Mr. Speaker, I move that we reconsider our action on Bill "An Act to Permit Nonprofit Legal Service Organizations" (H. P. 642) (L. D. 797) whereby the House accepted the Minority "Ought Not to Pass" Report and hope you will all vote against me.

The SPEAKER: The gentleman from South Portland, Mr. Howe, moves that the House reconsider its action on L. D. 797, whereby the Minority "Ought Not to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

A viva voce vote being taken, the motion did not prevail.

On motion of Mr. McHenry of Madawaska, the House reconsidered its action on Bill "An Act to Assist School Administrative Units in Addressing Problems Associated with Alcohol, Tobacco and Drug Use and Abuse" (S. P. 209) (L. D. 582) (C. "A" S-172) whereby it was passed to be engrossed.

On further motion of the same gentleman, tabled pending passage to be engrossed and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Joyce of Portland, adjourned until eight-thirty tomorrow morning.