

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**  
June 15, 1989 to July 1, 1989  
Index

put it before this legislature. It does propose creating a cabinet level office, a planning function, giving children the same voice in policy making as the environment has, as corrections has, as fisheries have and other state departments. It will formalize the role of the committee for the interdepartmental coordination of services to children and families. As we all know, that committee consists of the Commissioner of Corrections, Education, Human Services and Mental Health. That function would be folded into the Office of Children which will monitor and coordinate state programs with the goal of removing duplicative services and competition between state agencies, hopefully eliminating any potential turf battles. The office shall develop a master plan and assess current services.

The primary goal will be to plan for the long-term, anticipate the needs rather than react to crises in the area of children's needs. L.D. 832 also creates an advisory committee on children who will assist the director of the office in development of a master plan. It is not intended to supplant existing state departments nor take over their functions. I do not suggest that we create another state bureaucracy with overlapping responsibilities. I am not convinced that we can sort out the children's functions cleanly. I do, however, wish to streamline our programs for children, plan for the future in an integrated way, give parents and families a clear line of communication with state government and, most importantly, give children an equal voice in cabinet level meetings.

I would like to quote to you as I did to the committee when I presented this bill from Bob Keeschen who we all (most of us) remember as Captain Kangaroo when he spoke in Maine last December at the Distinguished Lecture Series. The title of his speech was "Small Children Need Big Friends." I am quoting him now, "We know from bitter experience that children very often are not assigned to high priority in the halls of Congress, the executive, state legislatures and city governments. Indeed, children are not assigned a high priority in many American homes. I suggest that each of us living in America today, whether we have anything to do with children or not, is directly affected by how we treat children and indeed we are all living a life-style shaped to a large extent by the way we have treated children in this nation over the last 20 years. If someone fails to feel compassion for children, at least he can act as a frugal taxpayer and understand that the maltreatment of children is very costly to the economy and that programs of child care and nutrition, education, and health care make solid economic sense for our country."

Mr. Speaker, I request a roll call.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I strongly urge you to vote against the Majority Report which is "Ought Not to Pass" so we can accept the Minority Report of "Ought to Pass." We do have four or five departments which are now working very diligently for our children and

I am not suggesting that those be changed that much but we also recognize that we do need more coordination of these activities and I strongly support the creation and the establishment of the Office of Children within the Executive Department which would give the children a voice in policy-making and this voice would fit at the cabinet level and help look out for the needs of our children.

I strongly urge you to support the Minority Report.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 108

YEA - Adams, Aliberti, Allen, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foster, Gould, R. A.; Graham, Gurney, Gwadodsky, Handy, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Skoglund, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Townsend, Tracy, Walker.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Hepburn, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Simpson, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dipietro, Dore, Hale, Higgins, Jackson, Kilkeily, Nadeau, G. G.; O'Gara, Smith, The Speaker.

Yes, 92; No, 49; Absent, 10; Paired, 0; Excused, 0.

92 having voted in the affirmative and 49 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

An Act to Allow Recovery for Wrongful Death of an Unborn Viable Fetus (H.P. 408) (L.D. 551) (S. "A" S-274 to C. "A" H-429)

TABLED - June 16, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted. (Roll Call Requested)

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: No one, certainly not I, would discount the very real pain felt by parents who lose their children. However, this bill is not the way to compensate or to comfort parents who experience stillbirth, no matter what the cause or the gestation. Make no mistake about this bill, this bill was proposed and is supported by the Maine Right to Life Committee. This group is not a victim of

crime advocacy group. It is not a prenatal health care advocacy group. Its organizations mission is to stop safe, legal abortions. If you have any doubt about this. Look at the original title of this bill. It refers to unborn children, not aggrieved parents. It was intended to place on the books those words "unborn children", a concept that radically departs from the statutory and common law definition of a person with full legal rights. If we pass this bill, some may tell the courts that the legislature has established a precedent by giving personhood to a fetus even in such restricted circumstances as cases of wrongful death.

In other states, this claim of fetal rights has been used to force women to undergo caesarean sections against their will or those of their families. It has been used to try to prevent women like Mrs. Klein from obtaining legal abortions, even to save their own lives. It has been used as reason to jail, institutionalize women as well as prosecute them for their own conduct during pregnancy.

For the Record, this bill has supposedly been amended to preclude the use of this legislation for these purposes. However, I remain concerned that some outside this body may attempt to use this legislation for such legal challenges as has happened in other states. Therefore, I will be voting no on enactment on L.D. 551 "An Act to Allow Recovery for Wrongful Death of Unborn Children" -- even with a new title. I urge all of you to do the same. This is not the way to comfort grieving parents.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: The good Representative from Brunswick is right, this bill was in fact brought forth by the Maine Right to Life Committee and if it were the original bill that you were asked to vote on, I might be agreeing with her. But it is not the original bill that you are being asked to vote on, we are being asked to vote on a very carefully, limited, very carefully drawn bill which does not allow all the various concerns that the good Representative from Brunswick alluded to. It does not specifically exclude, for example, the possibility of an action brought against the mother to compel a caesarean section or some other form of health care measure by a mother for an unborn fetus. What you are being asked to vote on today, in short, is a bill that is to allow recovery. If you are pregnant and in the final months of pregnancy, because of an accident by somebody not the mother, and that action results in the death of the fetus and the fetus can be shown to have been viable and if further restriction by the amendment that the benefit can only be for the benefit of the mother or father of the unborn viable fetus, then and only then, would a recovery be allowed.

So what you are being asked to vote here today is not the original bill, it is not the various concerns expressed by Representative Clark from Brunswick -- what you are being asked to vote is something that has been worked long and hard. The reason this was tabled for so long was again to try to fashion additional measures -- the Senate Amendment is in response to other concerns and we have struggled very hard and what you have here is consensus bill that addresses the concerns and is deserving of your support. I ask you to vote in favor of enactment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I will be much briefer than when

I spoke on this before because, as you recall, it was cooler that day. I spoke because the law was an ass and many claimed instead that it was I because I spoke so long.

Be that as it may, this law is flawed, it is totally flawed. It has been proven by the amendments that have tried to be drafted to correct the inadequacies of the original drafting. This bill does create substantial change in law which was found recently by a court to exist by a 4 to 3 decision. They would, as the Representative from South Portland, Representative Cushman indicated, moved the line. They changed from a black and white line to a very gray line which moves and moves and moves. No one knows exactly what is a viable fetus. It does not exist the same in South Portland as it does in Presque Isle.

This is a Divided Committee Report, it was one that we could not grapple with in our committee. I believe, because of the amendments and the reason it was flagged to try to draft corrective amendments, which were unsuccessfully added, we should look at it as a poorly drafted bill which, indeed, will create many problems for many people. It does not address the problem that was seen to exist, therefore, I urge you not to pass this bill but I would move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding of the amendment that was just talked about being drafted and that the bill before us is flawed, my understanding of that is basically to have said in ten words what we said in fifty words. I agreed with the one that was going around, I still agree with the one that we have before us, it still says the same thing.

To address the specific problem of viable fetus, I disagree with the representation that was made as to how you define that. Our law has defined it, our law has defined it in 36 other states and you can bet (in defining viable fetus) we will look to the other 36 states in the testimony, in the evidence brought forth in defining what that is.

I have to be very honest with you, you have a new cause of action which this is and that is probably one of the first issues that will go up before our Law Court, which is not unusual, to determine the particular standard, the particular testimony -- who can testify, what type of doctor can testify and what type of evidence can get in. You are not going to have ten different versions of what a viable fetus is, you may have one or two or possibly three and you will have a definition perhaps that will agree on all three's, leaving out the four, and that item will then go up to get it on all four's so that is an agreement. That is not unusual. Our Law Court is there for that purpose, to address that specific purpose in defining things that we need for the Law Court to define.

Ladies and gentlemen of the House, the real situation is that you have two parties, two parents that have gotten married, and the third year conception, the excitement of a positive test, a medical doctor, monthly visits going on for a period of time, the heartbeat, the excitement, the weekly visits, the checkups, further excitement, the child is now moving within the womb. Then you have that experience by the woman and I can speak from personal experience because I was involved with our first child intimately with my wife, going through Lamaze, listening to the heartbeat without the need of a

stethoscope. counting the heartbeat to determine whether it was a boy or a girl — if it is under 140 beats, it's a boy (wives tale) and if it is over 140, it is a girl. That happened to prove right in this circumstance, it was under 140 and it was a boy. I can tell you that right from the beginning when I heard that heartbeat the excitement that I had in that child. Lamaze went on for a period of weeks, the excitement of going through natural childbirth assisting my wife in birth — my wife's breast filling with milk to nurture the child which she breast-fed for a year and a half and anticipating that to occur.

Then you take the situation, which is not mine but has been other people, an accident, a car accident being the most common, the mother perhaps survives, the child is killed. You can't tell me that there is no sense of loss. You can't tell me that it is not proper to draw that line. You can't tell me that we have come a long way since 1960 in *Roe v. Wade*. We have come a long way in determining the technology and determining what a viable fetus is. In 1960, *Roe v. Wade*, we didn't know. This is not a pro-life issue, this is an issue that makes a logical step, that step back to a viable fetus living to the courts to determine what that is.

I ask you to oppose the motion to indefinitely postpone and go with the logical choice, dispel the absurdity to say that, if you scratch the child, you can be sued. If you kill the child, you cannot.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I hope that you will vote to indefinitely postpone this bill and I ask for a roll call.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: This is a 4 to 3 Law Court decision that was handed down on this issue and in that decision Justice Daniel Wathen challenged the legislature to make its intent known to make a decision. He says, "Unless the court is prepared to bar a claim for prenatal injury, we are now left with the results that prenatal injury is actionable while prenatal death is not. The absurdity of such a result is usually illustrated by the hypothetical of twins suffering simultaneous prenatal injury with one dying moments before birth and the other dying moments after birth. Such an extreme case demonstrates the irrationality of the requirement of a live birth."

I hope you will not support the motion to indefinitely postpone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Members of the House: When I spoke several days ago on this bill, I had as my first concern a number of technical issues and beyond that, sort of a more general concern about whether we were clear enough about what we were doing. I am not going to take time today to

talk about the technical issues except to comment that every lawyer, every person that has looked at this bill, has a different idea of what it means and whether or not it is in proper form and I think all the discussion of several days ago about the potential for litigation of this bill, added insurance and those kinds of things, are all valid concerns. But they are not the reason that I intend to vote for the motion to indefinitely postpone today and why I have been so deeply troubled by this bill.

When we discussed this bill several days ago, my understanding (and it is also my understanding today listening to the people who are in support of this bill) was that the purpose of this bill was to compensate the parents for their loss in a terribly, tragic situation. I don't believe that people on either side of this issue disagree with that as a concern. I think one disagreement that we have is whether or not we need to pass this bill in order to do that.

A second concern that I have is if we pass this particular bill we are not causing other much worse problems than the one we are trying to solve. With respect to this bill not being necessary, I would only comment that the Law Court decision that Representative MacBride just read from did in fact rule against a wrongful death claim of a fetus based on existing law, to say that our Probate Code does not read into the word "person" a fetus but that same court decision did uphold the validity of claims filed by the parents in that case for negligent treatment by the hospitals, claims for infliction of mental and emotional distress and a claim by the husband for loss of consortium. Those are tort claims, those are claims that have no cap on them, those are claims that allow the parents to file a claim based on their own personal loss, their own grief, the harm that was done to them. I think that is the kind of claim that we should have on these kinds of cases.

This bill proposes a very different kind of claim. This bill proposes, not an action to be filed by the parents, this is the radical part of this bill — this bill proposes that the estate of the fetus be allowed to file a lawsuit through a Personal Representative and the claim is for an amount up to \$75,000 which will be the limit after this session under the wrongful death statute. This is a very different kind of claim than a claim by parents. It is clearly limited now due to the work of the committee and amendments to the benefit of the parents and that is not the issue anymore. In my view, the issue is this bill is an extra form of relief for parents in addition to several different types of claims which they can already file for — should we be doing this when we have so much liability litigation out of the bill?

There is also one other major issue which I would like to speak to. I would call your attention to the article in the *Kennebec Journal* which appeared, I believe, the day after the last House vote on this subject. The headline of that article was not "House Creates New Cause of Action for Parents", the headline was "House Approves Fetal Rights Bill." I was surprised, I was here, I did not have that sense that that was our discussion. What concerns me about this bill is that it will be perceived, whether we mean it or not, and I think great care has been taken by both the speakers on the bill and also the drafters of the bill, to attempt to limit the bill to be for the benefit of the parents and to make clear that it is not intended to be a fetal rights bill. The fact is that the mechanism of wrongful death which creates an estate of a fetus creates a right

for the fetus to bring a lawsuit so it creates a right in that sense. Why do I care about fetal rights? I think this is also a family issue that ought to be a concern to everybody.

Over the past several years, there have been a number of cases throughout the country that have involved claims of fetal rights. They have generally involved a balancing of the right of the fetus to live, to be born versus the right of the mother to continue to live. They usually arise in cases where the mother's health is in some kind of jeopardy or the mother's life is in some sort of jeopardy. Hospitals have sought and obtained court orders (I think there have been a total of 15 cases to date) ordering a caesarean on a woman in order to deliver the fetus. I don't know about other people in this House but I find that rather astounding in this day and age and in this country that a court can intervene in a family situation and order that a woman be operated on in order to deliver her baby. This is sort of the flip side of what some people might have thought was at stake here because of the references made earlier as to whether this is an abortion bill. I think the only connection in all of this is whether or not this really has to do with a woman's right to make a decision in the context of her needs and her family's needs about how to handle her own pregnancy. I just feel that we cannot stop people from taking this bill and going to court. For example, the Klein case, although it was a reversed situation and was done in the case of Angela Carter in Washington, D.C., where the hospital sued to intervene and ordered a caesarean and the result was, both the fetus and the mother died within a few days after that decision. In both of those cases, the husband, the wife and the family all agreed that it was not appropriate to have a caesarean or in the other case an abortion. This was court intervention and I find this totally distracting. I think this says nothing about the sincerity of people who want to create this cause of action. It says nothing about how terribly tragic the loss is for the parents. What this says to me is that when we go to comfort one set of parents, we should be very careful not to be creating a nightmare for other sets of parents. I submit that that is what we are doing if we pass this legislation. I think we have not finished working through and that there might be better ways to increase the relief available if people feel that that is appropriate for those parents in this situation.

For those reasons, I would urge you to reconsider if you voted against us in the past on this and vote to indefinitely postpone this bill so people can continue to work out these kinds of problems.

We have a legislative process that allows us more than one chance to look at a bill and I think in this case, it is a good thing. I hope we will take advantage of it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Where do I begin to try to answer and to correct the last several speakers who spoke for the motion to indefinitely postpone this bill.

They know what they have said and are only debating points -- rhetoric used to confuse an issue that is so difficult for us to discuss in this legislative body. They know the discussion that went on on L.D. 551 over the course of the Spring and now here almost on the first day of Summer, they know that the bill, as drafted, was not the bill that was reported out of committee, it was Committee Amendment

"A" -- you heard the distinguished Representative from South Portland, Representative Anthony, state that in response to the objections to the Representative from Brunswick, Representative Clark.

The concerns that were expressed in Representative Clark's statements to us this afternoon are exactly the concerns that were taken care of in Committee Amendment "A." The good Representative from Hallowell knows that those concerns were taken care of because she is a member of the committee which reported out the bill.

Let me quote to you from the Committee Amendment, which is the bill before us, the heart of the bill. "There is no cause of action under this subsection against a health care practitioner or health care provider for the wrongful death of an unborn viable fetus caused by an abortion if the abortion was permitted by law and required consent and was lawfully given. There is no cause of action under this subsection against a health care practitioner or health care provider for the wrongful death of an unborn viable fetus based on the alleged professional negligence of the health care practitioner or health care provider when the health care practitioner or health care provider did not know and, under the applicable standard of good medical care, had no medical reason to know of the pregnancy of the mother. This subsection may not be construed to permit or require any person to compel a pregnant woman to undergo medical treatment to benefit the unborn viable fetus. This subsection does not have criminal statutes." That's what this bill is that we have before us. On June 8th, this is the bill that we passed to be engrossed and sent to the other body.

In the meantime, we had discussions in the hallways with the Maine Women's Lobby, those who opposed this bill and others and we took their concerns, those of us who were the proponents of this legislation, and met them with Senate Amendment "A" which is now part of this bill as adopted. There is no cause of action under this section and I am quoting, "The wrongful death of an unborn viable fetus, if neither the mother nor the father of the fetus is alive at the time that proceedings under this title are commenced." That is so only the mother and father can have proceedings and can benefit from this type of court action.

We have met every question that has been asked by the opponents of this legislation and made a good effort to take their considerations and draft them into legislation and vote on them. They have been voted because we adopted Senate Amendment "A" last week. I find it cruel and unusual that we can bring back, over and over again, arguments are that are no longer before this bill that has no substance in law, only to raise emotional arguments that this is a Right-to-Life bill and ought to be killed because it is such. I find it unfortunate and unappealing to have to debate that type of forum and the idea that is before us, as the Representative from Hampden so wonderfully explained, is to allow for a mother and father to have some sort of action against someone who was so neglectful as to cause the death of that unborn child and to rob them of the family that they seek to create. Why is that such an abominable thought for us to consider this afternoon? We allow court action on so many frivolous and unnecessary things in this state but when it comes to family and children as we heard discussed earlier this afternoon on another bill, we find that we don't want to give them the benefit of the doubt of allowing the courts to use the system to help our families stay together. Is there an end in sight to this type of cold, tragic logic?

I urge you from the bottom of my heart to vote against that motion to indefinitely postpone so that we can finally enact this bill and send it on to the Governor eventually.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: It is always difficult to evaluate emotion. I cannot believe that the gentleman from Augusta does not believe his arguments are emotional. I think one of the things that distresses me the most about the debate, especially some of Representative Paradis' comments, are about the Senate Amendment.

Let me give you a hypothetical -- the same kind of hypothetical Justice Wathen was giving in his opinion when he was titillating the legislature to do something about it, a case which he couldn't persuade his brethren on the Law Court to agree with him about. If you had a situation in which this charming little child was the type that the Representative from Hampden was talking about, who was of movie star quality immediately after birth and perhaps the fourth of five children and the mother and father went to the TV station to take advantage of a large-sized TV contract and all three were killed on the way home -- I am going to have to strike that -- if this mother was possessed of a viable fetus and was in that position and there were the three children living at home, this amendment would cut out that right. That right obviously is just as important to other members of the family, to the siblings of the destroyed viable fetus, because all you are talking about is money. It seems to me as though all the amendment does -- and this is the thing that bothers me -- is to recognize what the Law Court said and that is, that there is an emotional distress argument that is available to the parents. The Senate Amendment does nothing except say that only the mother or father can recover. I find that strange because it works against the kind of family argument that the Representative from Augusta is talking about and that is the difficulty. We are dealing with a family arrangement that isn't logically laid out in the law. We are best left with the law as it was.

You remember that Justice Wathen was the same Justice that attempted to reverse 300 years of common law because of his feelings in the Moody Beach Case. So, I don't know that we need to be focused on just what the Law Court tells us we ought or ought not to do. I think we ought to evaluate this case on what it does. What it does is it creates another kind of complicated litigation. It creates the numbers of cases that the Representative from Hallowell, Representative Farnsworth, talked about when she talked last week.

I urge you to vote with them and the Representative from Fryeburg, with whom I am pleased to agree this afternoon. It seems to me as though this is the kind of legislation we don't need because all it does is lead to litigation and it isn't going to help the family one bit. It focuses on an unborn child who is viable and a mother and father who must survive an automobile accident in order to recover. It doesn't seem to me as though it does anything and it doesn't seem to me it needs to be the law of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I wish to say something brief as a woman, a mother of five, and a retired nurse. The talk of sense of loss here is quite out of place. I don't believe any of us is anti-life, I think we are

all pro-life. I think the worst sense of loss over the loss of a potential human being that I saw in my practice as a visiting nurse or as a nurse in the operating room or delivery room was the case of a woman who had wanted a baby for 20 years and finally became pregnant. I had to carry that little bit of tissue that looked like a little fish to the treatment room when she lost it. I will never forget the grief, the sense of loss. So, please do not be misled or led up the garden path of legal entanglement which this bill will surely get us into. I dread the thought of all the things that are being done to women now -- forced surgery and that sort of thing will surely follow. Be careful of the precedent we are setting. I intend to vote for indefinite postponement and I am a sensitive, loving, pro-life woman.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Hastings of Fryeburg that L.D. 551 and all accompanying papers be indefinitely postponed.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Dore of Auburn. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Hastings of Fryeburg that L.D. 551 and all accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes, those opposed will vote no.

ROLL CALL NO. 109

YEA - Adams, Aikman, Allen, Anderson, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Daggett, Dellert, Donald, Farnsworth, Farnum, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Hale, Handy, Hanley, Hastings, Heesch, Hichborn, Hoglund, Holt, Jackson, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Lebowitz, Libby, Look, Lord, Mahany, Marsano, Marsh, McGowan, McKeen, McPherson, Mills, Mitchell, Norton, O'Dea, Oliver, Pederson, Pendleton, Pines, Priest, Rand, Reed, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Strout, B.; Swazey, Townsend, Webster, M.; Wentworth.

NAY - Aliberti, Anthony, Bailey, Bell, Boutillier, Cahill, M.; Carroll, J.; Carter, Cashman, Clark, H.; Conley, Cote, Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farren, Gould, R. A.; Gwadosky, Hepburn, Hickey, Higgins, Hussey, Hutchins, Jacques, Jalbert, LaPointe, Lisnik, Luther, MacBride, Macomber, Manning, Marston, Martin, H.; McCormick, McHenry, McSweeney, Melendy, Merrill, Michaud, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Richards, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Smith, Stevens, A.; Strout, D.; Tamaro, Tardy, Telow, Tracy, Tupper, Walker, Whitcomb, The Speaker.

ABSENT - Nadeau, G. G..

PAIRED - Dore, Mayo.

Yes, 74; No, 74; Absent, 1; Paired, 2; Excused, 0.

74 having voted in the affirmative, 74 in the negative, with 1 absent and 2 having paired, the motion to indefinitely postpone did not prevail.

A roll call has been requested on passage to be enacted. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is passage to be enacted.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Dore of Auburn. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 110

YEA - Aliberti, Anthony, Bailey, Bell, Boutilier, Cahill, M.; Carroll, J.; Carter, Cashman, Clark, H.; Conley, Cote, Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Gould, R. A.; Gwadosky, Hepburn, Higgins, Hussey, Hutchins, Jacques, Jalbert, LaPointe, Lisnik, Luther, MacBride, Macomber, Manning, Marston, Martin, H.; McCormick, McGowan, McHenry, McSweeney, Melendy, Merrill, Michaud, Murphy, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Richards, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Smith, Stevens, A.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Tracy, Tupper, Walker, Whitcomb, The Speaker.

NAY - Adams, Aikman, Allen, Anderson, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Daggett, Dellert, Donald, Farnsworth, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Hale, Handy, Hanley, Hastings, Heesch, Hichborn, Hickey, Hoglund, Holt, Jackson, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Lebowitz, Libby, Look, Lord, Mahany, Marsano, Marsh, McKeen, McPherson, Mills, Mitchell, Moholland, Norton, Oliver, Pederson, Pendleton, Pines, Priest, Rand, Reed, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Strout, B.; Townsend, Webster, M.; Wentworth.

ABSENT - Nadeau, G. G.

PAIRED - Dore, Mayo.

Yes, 76; No, 72; Absent, 1; Paired, 2; Excused, 0.

76 having voted in the affirmative, 72 in the negative, with 1 being absent and 2 having paired, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence, were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 12 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Fund a Capital Grants Program to Solid Waste Regional Commissions and Municipalities to Invest in Recycling Equipment and Facilities (H.P. 497) (L.D. 677) (C. "A" H-608)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 113 voted in favor of same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$4,400,000 for Sewerage Facilities Construction (H.P. 801) (L.D. 1113) (C. "A" H-607)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 109 voted in favor of same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills (H.P. 968) (L.D. 1346) (C. "A" H-610)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 113 voted in favor of same and 2 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED  
Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing (H.P. 1255) (L.D. 1754) (H. "A" H-537)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken. 111 voted in favor of same and 8 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Emergency Measure

An Act to Provide a Special Adjustment for Hospitals Having Unusually Low Financial Requirements per Case (S.P. 382) (L.D. 1018) (C. "A" S-317)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.