

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twentieth Legislature
State of Maine

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The SPEAKER: The Representative from Augusta, Representative Madore has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. You flatter me. I am not an attorney. I did check. My source book was the Maine Criminal Statutes, the Ferdico Book, current edition. I did not check the case law. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. To the Representative from Ellsworth, my question is, when the mitigating circumstances were considered, were the penalties then applied as if it were a homicide or was it applied as though it was a lesser penalty of aggravated assault?

The SPEAKER: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. If you noticed on the handout that you have on your desk, the pink one, it says support the Majority Report, Ought Not to Pass. The interesting thing is one of the items on there says that these bills threaten reproductive freedom. It mentions LD 1406, which we are dealing with right now. It says it seeks to separate the woman from her fetus in the eyes of the law. Said separation is merely the first step towards eroding a woman's right to determine the fate of her own pregnancy and to direct the course of her own health. We are not talking about a woman's right to determine the fate of her own pregnancy, we are talking about an outside influence on that determination and that choice. We are not talking about a woman's right to direct the course of her own health. We are talking about an assault. As far as eroding those rights, there are a number of states that have had these laws on the books for many years. In my research when we had this bill before us before, one state that had this law on the books for 25 years and abortion rights are alive and well in that state. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. Could you tell me whether it is mandatory that they consider those circumstances or they may consider those circumstances?

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 80

YEA - Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Canavan, Chizmar, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert,

Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Buck, Bumps, Carr, Chase, Chick, Clark, Clough, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Michael, Morrison, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Richard, Sherman, Shields, Snowe-Mello, Stanley, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 88; No, 52; Absent, 11; Excused, 0.

88 having voted in the affirmative and 52 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Prevent Violence Against Pregnant Mothers"

(H.P. 1179) (L.D. 1602)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-236)** on same Bill.

Signed:

Representative:

MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill has absolutely nothing to do with abortions. This bill makes it a crime to beat a pregnant woman and cause her to miscarry. What were the notices you got from people who were telling you to vote against this bill says from the MCEDB, they oppose these bills because they do not protect women who are victims of violence. The bill diverts attention from violence against women and fails to recognize the best way to protect the fetus is to better protect the woman. This Minority Report protects the woman. If you beat a pregnant woman with the intent to cause her to miscarry and she miscarries, it is a class A elevated aggravated assault. If you beat her with that intent and she doesn't miscarry, it is a class B aggravated assault. To quote Gloria Feld, President of Planned

Parenthood, she says, "Violence against woman, in particular, pregnant woman continues to be a significant problem in this country and begs for protective legislation. It is imperative that state and federal Legislatures address the issue of domestic violence as a serious crime and offer women full protection under the law. Planned Parenthood recognizes the devastating loss to a woman that occurs from the loss of a pregnancy and supports penalty enhancements to punish these terrible acts of violence against women."

We had a woman, a friend of mine from Lewiston, who came and testified before our committee. She was pregnant. Her boyfriend and her were broken up and her boyfriend said to her and she said to our committee and I quote. He called her up and he said, "If you don't have an abortion, I will throw you down and kick you in the stomach until that baby is good and dead." According to Maine law, that would be a misdemeanor. The judge can enhance the penalty, but it is not mandated. If you are walking down the street and a woman is walking down the street and is thrown down in the street and beaten and her purse is stolen, it is theft along with assault and that is an automatic penalty enhancement, but if somebody takes her wanted baby away from her, there is no requirement to enhance that penalty. Yes, I am pro-life. I voted for life. This has nothing to do with that. This woman was a friend of mine. This is a terrible act. We have to say as a Legislature, no, some thug can't come beat up a woman because he wants her to have an abortion and threaten her and beat her until she has it. Ray Karuth who hired someone to kill his girlfriend so he wouldn't have to pay child support, that should not happen in the State of Maine. Maryland did a study on this issue and Maryland found that pregnant women are three times more likely to die in domestic violence assaults than non-pregnant women. They are targets. It is power. I urge you to support the Minority Report.

I leave you with one final thought. We can find common ground here, whether we are pro-life or pro-choice. We all support the right of a woman who chooses to have her baby to be able to do it safely. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. If I dare to get up, it is like a tee shirt, I am a native Mainer, I live here and I don't answer any questions.

I am glad the good speaker from Lewiston mentions elevated aggravated assault, which is a bill that I probably sponsored up to seven years ago. Again, ditto on the previous bill about current Maine law. Elevated aggravated assault is a bill that is a class A crime. That is up to 20 years. That is serious stuff. That is if a person engages in conduct that manifests a depraved indifference to the value of human life and that, in fact, causes bodily injury to another person with the use of a dangerous weapon.

We have plenty of law, folks. It is not mandatory. I was remiss in not responding to Representative Andrews question. I am of the position that I want the DAs to DA. I want the judges to judge. I want to the lawyers to lawyer and we will get the sentences of this conduct takes place. I would like to ask for a roll call vote, Mr. Speaker.

Representative **POVICH** of Ellsworth **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I think it is very important when people

look at divided reports that they know the thoughts behind the people that are on the committees that are voting. As you can see, my name is listed in the Majority Ought Not to Pass Report. That is because I did not have this amendment before me in committee to take a look at. I will be voting for this amendment. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 81

YEA - Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Honey, Jacobs, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Buck, Carr, Chase, Chick, Chizmar, Clark, Clough, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Jodrey, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Michael, Morrison, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Sherman, Shields, Snowe-Mello, Stanley, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 89; No, 51; Absent, 11; Excused, 0.

89 having voted in the affirmative and 51 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

MATTER PENDING RULING

Bill "An Act to Allow a Legislator to Opt Out of the Partisan Staff System"

(H.P. 1076) (L.D. 1445)

(Committee on **STATE AND LOCAL GOVERNMENT** suggested) TABLED - April 12, 2001 by Speaker SAXL of Portland.

PENDING - RULING OF THE CHAIR.

The SPEAKER: The Chair has considered the question of the Representative from Wilton, Representative LaVerdiere, as to the propriety of LD 1445 under Rule 107 of the House Rules of the 120th Legislature. The rules of the proceedings of the House in ordinary legislative matters, specifically House Rule 104 which charges House leadership with determining partisan staffing patterns, are implicated by LD 1445 to the extent that it would permit a Legislator to decline the services of partisan staff and receive a pro rata share of the budgeted costs of the partisan offices.

House Rule 107 states, "A member may question the appropriateness of a bill that attempts to establish proceedings of the House in statute. Such legislation may be ruled not