

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth
Legislature*

OF THE

STATE OF MAINE

Volume II

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KENNEBEC JOURNAL
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voted for my measure that this would have been taken care of.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought to Pass as Amended report of the Committee?

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Repealing Authorization to Savings Banks to Engage in Real Estate Developments." (H. P. 698) (L. D. 941)

Reported that the same Ought Not to Pass.

Signed:

Senator:

SCHULTEN of Sagadahoc
Representatives:

McKINNON

of South Portland

O'BRIEN of Portland

ROCHELEAU of Auburn

MADDOX of Vinalhaven

LITTLEFIELD

of North Berwick

TRASK of Milo

SCOTT of Wilton

PRATT of Parsonsfield

CLARK of Jefferson

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senator:

DANTON of York

Representative:

SHELTRA of Biddeford

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

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Termination of Human Pregnancy by Medical Decision." (H. P. 1024) (L. D. 1406)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

QUINN of Penobscot

HARDING of Aroostook

Representatives:

HEWES

of Cape Elizabeth

CARRIER of Westbrook

WHITE of Guilford

KELLEY of Caribou

WHEELER of Portland

HENLEY of Norway

ORESTIS of Lewiston

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1324) (L. D. 1736)

Signed:

Representatives:

LUND of Augusta

BAKER of Orrington

PAGE of Fryeburg

Comes from the House, the Reports and Bill Indefinitely Postponed.

Which reports were Read.

Mr. Graham of Cumberland then requested a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I would probably be the first one to plead guilty in this body to a commendation of a quick gavel on many, many issues, however, I can't in all honor sit here and see it happen on this bill, and I have no illusions as to what is going to happen.

First, I would like to ask some member of the Judiciary Committee to give us a brief run-down on the bills that they have, what has and probably will happen to the several bills.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I probably should have yielded to my good friend, Cardinal Quinn from Penobscot—I am sorry, I mean Senator Quinn from Penobscot, but I perhaps can answer the questions that the floor leader has asked.

Now, this is a serious matter, and I don't mean to inject humor

into it inappropriately, but I think we should keep some humor in most serious matters and I think we are better people for it. Anyway, we did have three bills before us, as you are all aware. One bill called for total repeal of our present law on abortion. The second bill which we had, which all of you are aware received the most notoriety, was the Doyle Bill and, in substance, this called for pretty free abortions, so to speak, somewhat based on the New York Law where one could have an abortion up to 20 weeks. There was no residency clause required in it, and it was a pretty liberal bill. Then you have the Maine Medical Association Bill, which had proposed abortions in specified cases where a girl was raped or where incest was involved, and this was perhaps a more restrictive bill.

Both factions fought each other at the hearing. The pro-Doyle Bill people fought the Rand Bill, and the Rand Bill people fought the Doyle Bill, so they certainly were not in accord. As you are perhaps aware, the public hearing lasted until quarter of 11:00 in the evening. The subject was well debated, well discussed. All views were presented to the Judiciary Committee. But nowhere along the line could anyone tell us that life did not exist at conception. There wasn't one witness who appeared before us that could tell us that life did not exist at conception. There were many, many social reasons perhaps, social problems that exist because of lack of legislation of this type, but none so demanding that would do away with life.

So, when we took our oath of office, as I recall, part of our oath was that we as legislators would protect the life, liberty and property of people. And if anyone could tell us with reasonable medical certainty that there was no life at conception then one might have looked at the bill differently. Under the circumstances, no such evidence was presented to us, and you have seen a Majority Ought Not to Pass Report.

The new bill that was reported by a minority of three in new draft is somewhat similar to the Doyle Bill. It was not changed in any

great substance. It was worded differently, the phraseology, the paragraphing and wording was changed around some, but it substantially retained all of the propositions contained in the Doyle Bill, with the exception that the new draft created a committee of three doctors, an abortion committee of three doctors in the hospitals, and it would have required the consent of two of the doctors before an abortion could have been performed. This, in substance, was the new draft on the minority report of three from the Judiciary Committee.

I believe that this about represents the views of the Judiciary Committee. If there are any more questions that some of you may have, I would be most pleased to answer them. Thank you.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I wonder if the Senator from Penobscot, Senator Tanous, would explain the position of the other two bills.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: Of course, the total repeal of the abortion law which was reported out of committee unanimous Ought Not to Pass certainly would have created many, many legal problems as far as total repeal of our law. I think it would have placed the rules of abortion back under the common law system, and there is certainly some question to whether you get involved with matters of murder or manslaughter when a doctor or someone would have performed an abortion, so that one was reported out of committee unanimous Ought Not to Pass. And the Rand Bill was reported out of committee unanimous Ought Not to Pass.

I think the three bills were conflicted so that it was impossible for the minority of the committee to come out with more than one report as far as having a favorable report on the minority part. It would have been inconsistent to come back with more than one re-

port, as they did, which is the only thing that could have been done legally, I guess. Thank you.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I thank very much the Senator from Penobscot, Senator Tanous. I think he has done a very good job explaining it.

I do want to point out that the application of Rule 17-A in this instance has resulted in a situation which was never visualized when the rule was passed. I can understand why it was done but I certainly do not agree with the fact that it was done the way it was done. Those of us who have been in the legislature have up to this session voted on the so-called therapeutic abortion bill, which is the Maine Medical Association Bill now. It seems to me that Rule 17-A has been used to bring out a more liberal bill which even some of us who would have supported the therapeutic bill could not in conscience vote for. I feel this was a use of 17-A which was not called for. I feel that when we have consistently defeated the therapeutic abortion bill here, for the Judiciary Committee to report out a more liberal bill was, of course, to cast the die well in advance and not give us the opportunity to debate the subject on its merits. I can understand why it was done, and I repeat I think it was a mistake and I am sorry to see Rule 17-A so used.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: In response to the comments of my good friend the Senator from Cumberland, Senator Berry, I would point out that as a practical matter it was not possible for the majority of the committee, of course, to suggest what the minority of the committee would have for a report, and I am sure that there was no intention of the minority of the committee to report out a bill that they felt had a lesser chance of passage. They reported out the bill which they

felt had the best chance of passage.

Now, if there is anyone in this Senate who feels that this bill which they reported out ought to be amended, that it would have a better chance of passage, I am sure that they have the right to attempt to do that. So, the Judiciary Committee, and I rise in defense of it, had no intention whatsoever to thwart the will of any member of that committee because they, the minority, wrote their own report, which they had the right to do. So we have the right right here in this Senate to do what we want to: we can either accept the Majority Ought Not to Pass Report, accept the Minority Ought to Pass Report, and then amend it if that is what you decide to do. But I think it is unfair to suggest that we tried to kill the thing by this liberalization which has been reported out, because it was never the intention of any member of the committee to try to steer the thing that way.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I point out that it would be ruled by the Chair that it would be out of order to amend this bill be substituting another bill that had been reported out under 17-A. That is the purpose of 17-A, to prevent just exactly action like this. The minority report doesn't do much. The minority report deals with the subject of the bill itself. It is not really a significant change in the bill. It would be impossible, under 17-A, to amend this bill to have it include the provisions of the Maine Medical Association or the so-called therapeutic bill.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I would just mention, and I know that we all are aware of the fact, that the minority report of the Judiciary Committee could have included reports "A" or "B" and "C", if they had so desired. It wasn't necessary for them all to sign the same report, so there

was an alternative for the minority report.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: One final word: I hope that I did not misinterpret the remarks of my good friend, Senator Berry from Cumberland, regarding the work of the Judiciary Committee did on these three bills. Somewhere between the lines I seem to read that he resents the reporting of the committee reports on these bills.

I am pretty proud of the Judiciary Committee. We have five lay people on the committee, which certainly adds to a wider spectrum of decisions on legal bills, so to speak. It gives us the lay people's point of view. We have some ladies on the committee which we have never had before. I think that the Judiciary Committee, in my opinion, is doing one heck of a good job on these bills. They are putting a lot of time into them, they are studying these bills, they are taking them home and working on these bills. So, I don't want any one to think that we reported out these bills without giving them the proper consideration that they should have received. And they did receive this consideration. Certainly I support the committee reports one hundred percent. I hope that in my interpretation of his comments they are not as I have interpreted them to be. Thank you.

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

Mr. GRAHAM of Cumberland: Mr. President and Members of the Senate: There is no use rehashing the smoking arguments of yesterday. Abortion is a matter of morality, yes? But it is morality, and morality becomes dogma, as this issue has become. One man's dogma may be another man's poison.

As I see it, the church and state can advise, can urge, can implore a woman to act in this matter as they deem right, but the final decision, I believe, is one that the women should leave to her doctor and her conscience. How I vote in this matter becomes a decision that I must leave to my conscience

also. If stifling my conscience is the price I must pay for political survival, then I can say that the price is too high, but I would rather be known as an honest legislator than as a successful tremor. I shall vote against aborting this bill.

The PRESIDENT: Is the Senate ready for the question? As many Senators as are in favor of accepting the Majority Ought Not to Pass Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Twenty-one Senators having voted in the affirmative, and eight Senators having voted in the negative, the Majority Ought Not to Pass Report of the Committee was Accepted.

Senate

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules.

Bill, "An Act Providing Funds for the Maine Law Enforcement Planning and Assistance Agency." (S. P. 373) (L. D. 1109)

Bill, "An Act Conferring Upon Others the Powers Now Vested in the Executive Council." (S. P. 499) (L. D. 1681)

Bill, "An Act to Create the Maine Municipal Finance Authority." (S. P. 457) (L. D. 1384)

RESOLUTION, Proposing an Amendment to the Constitution to Increase Credit of State for Guaranteed Loans for Recreational Purposes. (S. P. 366) (L. D. 1105)

Bill, "An Act Relating to Reports of Departments, Commissions and Institutions." (S. P. 374) (L. D. 1110)

Sent to the House.

Leave to Withdraw

Mr. Johnson for the Committee on State Government on, Bill, "An Act Relating to the Department of Agriculture." (S. P. 264) (L. D. 770)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.