

MAINE STATE LEGISLATURE

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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

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

Senator DEVOE: Mr. President, I move that we reconsider our actions whereby we engrossed L. D. 1410.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that the Senate reconsider its action whereby

Bill, "An Act Appropriating Funds for Abortion Procedures for Persons Otherwise Eligible under Medicaid and to Effect Substantial Savings in the Costs of Government Services." (S. P. 464) (L. D. 1410) was Passed to be Engrossed.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: I request a Division, and would speak to my motion.

The PRESIDENT: The Senator from Cumberland, Senator Huber, moves a Division on the motion by the Senator from Penobscot, Senator Devoe, that the Senate reconsider its action whereby this Bill was Passed to be Engrossed.

The Senator has the floor.

Senator HUBER: Mr. President and Members of the Senate: I would like to first point out that this Bill has nothing to do with legality or illegality of abortion. It does address the fact that at present access to this medical procedure is denied to some women simply because they are poor.

More affluent people do have access to safe legal abortion at present. We're talking about a mutual decision made in good conscience, and I repeat in good conscience, between a pregnant woman and her doctor.

Although almost all of us are reluctant to see this option acted upon, I feel that it should still remain a viable option to those who have this agonizing decision to make about their unwanted pregnancy.

To some morally acceptable. To others unacceptable. I appreciate the depth of conviction on both sides and respect the right to hold either view.

The sane and most humanitarian response to the problem posed by unwanted pregnancy of poor and non-poor would be to give adequate support to programs that would allow voluntary avoidance of pregnancy in the first place.

The prime justification for this bill is what it can do to allow individual self determination to allow people from falling into the pretty desperate situation this can cause.

We are experiencing an epidemic nationally of teenage pregnancy. These young people and primarily young people are facing a loss of options for the remainder of their life.

The estimate of this bill is that 600 of Maine's poorest women will be denied access to safe, legal abortions if present policy is followed.

"To tell a poor, pregnant woman that she has a legal right to an abortion but that she must pay for it herself is to tell her that her real choices are an unwanted birth, a hazardous self-abortion, resorting dangerous quackery or depriving her existing children of food or clothing so she can make the abortion payment."

The consequences of such unwanted births for the young mother, their children, their fathers and society are deep and long lasting. These include more illegitimacy or forced unstable marriages, more unwanted births, deepened poverty and dependency.

For the substantial number of teenagers who are denied abortion solely because of their poverty, the health, social and economic impact is especially devastating for parent, child and society.

I would point out although again to repeat the primary point of the bill is what it can do for individuals, that family planning services cost about \$65 per client per year, an abortion costs about \$250, if a medicaid delivery costs about

\$2,500, and Public Dependency under AFDC, Food Stamps and Medicaid, is about \$4,500 to \$4,600 a year.

Seven states have been enjoined by courts from enforcing more restrictive laws. Ten states and the D. of C. continue to pay voluntarily for all or most abortions to medicaid eligible women.

There are those who feel strongly that tax revenues should not be used to fund a medical procedure that is morally unacceptable to some people. We all support some programs we don't like. Pacifists support the defense budget, perhaps unwillingly but they do. Christian Scientists pay their share of Medicaid. Industrial interests finance various regulatory activities that they may oppose. Environmentalists support development interests with which they may disagree. We live in a pluralistic society in which various interests must co-exist without imposition of one view or belief upon another.

I would further point out that the original intent of Medicaid was to equalize medical services between rich and poor and to help the poor become independent and self sufficient. To make them ineligible for abortion defies justice, common sense and rational policy. Women and families burdened by unwanted children are often trapped in the poverty-welfare cycle. Neither abortion nor childbirth should be forced on poor women.

Of course, the best of solution of all would be to allow people to avoid unwanted pregnancies in the first place so that there would be no need to consider an abortion. Better sex education and more effective provision of family planning services are important ways of preventing those situations where abortion might be considered.

If the energies of those so much opposed to this subject could be focused in the direction of sex education and family planning we might be able to deal with the problems of unwanted pregnancies more creatively. Meanwhile, there are going to be unwanted pregnancies. There are going to be people who are going to have to make this agonizing decision. I hope this legislature will not close their options solely because they are poor.

I would call on this Legislature to deal with this subject openly and rationally. I have long advocated efforts to provide family planning services to those who need it. I think the Legislature should also attempt to provide more adequate education on this subject. However, unless we provide additional support in these comparatively inexpensive areas the difficult subject of abortion, legal or illegal will be constantly with us.

I would hope that the Senate will continue to support the Ought to Pass Report of this bill.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate: As we've all discovered the last 2 or 3 weeks, when we've been debating these issues, they are extremely sensitive and as the good Senator's from Cumberland just acknowledged view are held very deeply and sincerely by parties on both sides of this issue.

I would like to bring to the attention of the Senate that in 1977 Congress passed the Hyde Amendment to the Health and Educational and Welfare Appropriations Bill, which limited the use of federal funds for Medicaid abortions. Now let's look at what states have done since the Hyde Amendment was passed in 1977.

My understanding of what the states have done is that only 4 state legislatures have made the choice to expand abortion funding as the good Senator from Cumberland, is proposing. It so happens that 27 state legislatures have taken affirmative action which has resulted in more restrictive funding of abortion regulations than the federal guidelines.

Maine has continued to fund abortions in ac-

cordance with federal regulations. So if we can look and try to look dispassionately on what has happened across the country concerning this issue, we can see that there appears to be a clear trend in the minority and a vast minority of states to adopt an abortion funding program such as the good Senator is proposing.

A clear majority of the states have gone ahead and passed more restrictive regulations than the federal guidelines and 16, roughly 1/3 of the states have decided to continue funding abortions in accordance with the federal regulations.

So this gives us some idea of what other states are thinking. I submit to you that the evidence shows that one third of the states are continuing with the status quo in accordance with the Hyde Amendment, roughly 1/2 of the states have decided, and I'm sure after full exhaustive and rather emotional debate, they have decided to pass more restrictive funding.

Only 4 out of 50 states have decided to adopt the funding approach to the abortion situation that the good Senator is proposing. Now we have to get back to what the Supreme Court has said in recent cases. One of the things they said in Roe versus Wade is that to the extent that there is a constitutional right to have an abortion, we will not violate that right if we continue to fund abortions for indigent women only in cases of medical necessity. By restricting Medicaid abortions to such cases and by promoting normal childbirth, we are following and proposing a set of values that is in keeping with the sentiments of our people that have been specifically approved by the Supreme Court.

For these reasons, Members of the Senate, I ask you to vote for reconsideration of this matter. Thank you, very much.

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

Senator GILL: I don't want to speak long on this. We've talked about many abortion issues. I'm just very upset with having this in. Reading the title it talks about effective substantial savings, and the cost of governmental services, in providing these programs to people after they've delivered children, that they will be on AFDC and all that. I maintain the Senator from Cumberland, Senator Huber spoke about welfare programs, medicaid being initiated primarily to take care of people. The welfare assistance was to help the poor, not eliminate the poor, and I maintain that if we go along with this bill, what we'll be doing, we'll be eliminating any poor children in the future.

I happened to read an article not too long ago, it was about the International Year of the Child. Included in the article it talked about the Planned Parenthood Federation and how once it was performing a very worthwhile service in helping mom and dad stop having too many children and getting pregnant so often.

Now it acknowledges that children have rights to sexual expression. Once they are expressed they bring that Planned Parenthood Federation rings his hands over the lack of devices. Now we have before us a measure to allow for payment of abortions for children. I am very much opposed to this bill. I would also urge reconsideration.

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

Senator NAJARIAN: Mr. President and Members of the Senate: Given the fact that even among couples using birth control, 1 in 3 will have an unwanted pregnancy, every 5 years, we could expect the minimum number of 1,050 unplanned pregnancies per year among AFDC women.

Without public funding for abortions, poor women who do not want to be pregnant face 2 choices. They can get an illegal abortion, or they can have a baby they do not want. Hospitals and clinics cost so much money that this choice available to other women is closed off to the poor. Illegal abortions are cheaper, but much more dangerous. The risk of death is 12

times greater. The final risk is childbirth, 4 times as many women die of childbirth as of illegal abortions.

Poor women have a higher maternal mortality rate and more serious complications than women who are not poor. Teenagers have the highest mortality rate of all. Still growing children themselves, they are neither physically nor mentally ready to give birth to children of their own.

The teenage mother is a growing national tragedy, and a growing Maine tragedy. She's a lost life. She marries hastily, if at all, drops out of school, takes a paying job if she can find one, has another child before she is 20. She is caught in a treadmill. She will never have a chance to break out of the cycle of poverty and neither will her children.

I care very deeply for the lives and rights of women and the lives and rights of children. I care when I hear all around me, more concern for the welfare mother's boyfriend, than for her children. I care when I hear people say that all those women on welfare ought to put their kids in day care and get out and work. There weren't enough day care centers to take care of one tenth of the welfare children when I came to the Legislature, and that was 7 years ago. We haven't increased it much since.

I care that the best standard of living this state will provide them is at the 1969 poverty level. I care that the children of welfare mothers are ridiculed in school. Everybody makes fun of the project kids and wants nothing to do with them. They are smelly and unwashed because their mothers don't care. Landlords don't want them and this Legislature doesn't care. A bill to prevent discrimination against children went under the hammer here yesterday. Ought Not to Pass.

Their parents don't want them. The father simply goes his own way, and the mother can't cope with all the pressures and stress. The imposition of our moral and religious standards by denying access to abortion only for those at the bottom of the heap, and then promptly forgetting our responsibility to provide a decent life for those children is cruel, inhumane, and a misuse of our power.

This Legislature will succumb to political pressure and kill this bill. Then you will turn around and succumb to other political pressure, offered from the same source to defeat any increases in AFDC monthly allotments for the 50,000 children now on welfare.

To me there is nothing more tragic than a little child who is unloved and neglected, who is neglected and can't understand why, but old enough to feel the pain. Who becomes an unfulfilled adult with an aching and longing for love that is never satisfied, because the mother's love was never there. I can't believe that God wanted us to do this. Unless you're willing to vote to raise taxes, to provide enough to keep these children adequately nourished, clothed, sheltered, and to provide more money for social services, for the mother, day care centers, foster grandparents, half-way houses, residential treatment centers, mental health centers, and all the rest, so the mother can complete her education, can have job training, develop job skills. Unless you're willing to do these things and more, we should not be forcing these children to be brought into the world.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of reconsideration, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

13 Senators having voted in the affirmative, and 13 Senators in the negative, the motion to reconsider does not prevail.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Modify the Dispute Resolution Process under the Labor Statutes. (H. P. 824) (L. D. 1035)

An Act to Establish a Committee to Report to the Legislature on the Feasibility of Rebuilding Dams for the Production of Electricity. (H. P. 1194) (L. D. 1461)

An Act to Encourage the Maine State Museum Commission to Acquire Works of Art Beneficial to the State. (H. P. 1171) (L. D. 1454)

On motion by Senator Huber of Cumberland, Placed on the Special Appropriations Table, pending Enactment.

An Act to Amend the Law with Regard to the Diagnostic Laboratory of the Department of Human Services. (S. P. 406) (L. D. 1245).

An Act to Improve Election Laws and to Make Equal Application of Legal Requirements for Independents, Democrats and Republicans in all Respects. (H. P. 898) (L. D. 1136)

An Act to Clarify the Authority of the Public Utility Commission in the Enforcement of Rebate Orders. (H. P. 1149) (L. D. 1416)

An Act to Convert Wallgrass Plantation into the Town of Wallgrass. (H. P. 832) (L. D. 1039)

An Act Relating to the Protection of Underground Facilities. (H. P. 838) (L. D. 1036)

An Act Concerning Assistance to Blind or Disabled Voters in Marking Ballots. (S. P. 549) (L. D. 1611)

An Act to Regulate State Liquor Stores and Agencies. (H. P. 1243) (L. D. 1487)

Which was Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Assess a Surcharge on Fines for the Operation of the Maine Criminal Justice Academy. (S. P. 545) (L. D. 1608)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I request a Division on the question of Enactment.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Enactment of L. D. 1608, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I do not intend to belabor this piece of legislation, but I honestly believe that if this bill is to be enacted, that the funds for this bill should be taken from the General Fund, and not through some idea of gimmicky funding.

I can think of no better incentive for the police across this State than to go out and arrest everyone on the highway, as an incentive to fund the Maine Criminal Justice Academy. I think it's deplorable to try to fund a program, therefore, I would urge the Senate to vote against the Passage of this Bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate: I request permission to pair my vote with Senator Hichens. Were he here and voting, he would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Penobscot, Senator Devoe now requests Leave of the Senate to pair his vote with the Senator from York, Senator Hichens, who if he were here would be voting Yea, and the Senator from Penobscot, Senator Devoe, would be voting Nay.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The pending question before the Senate is Enactment of L. D. 1608.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Emerson, Gill, Huber, Katz, Lovell, Martin, McBreairty, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Teague.

NAY — Carpenter, Collins, Conley, Cote, Danton, Farley, Minkowsky, Najarian, O'Leary, Pray, Trafton, Trotzky, Usher

ABSENT — Clark.

PAIRED — Devoe-Hichens.

A Roll Call was had.

16 Senators having voted in the affirmative, and 13 Senators in the negative, with 2 Senators having paired their votes, and 1 Senator being absent, L. D. 1608 is Passed to be Enacted.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate reconsider its action whereby L. D. 1608 was Passed to be Enacted.

Will all those Senators in favor of the motion to reconsider, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The motion does not prevail.

The Bill, having been signed by the President, was by the Secretary presented to the Governor for his approval.

An Act to Insure that Informed Consent is Obtained before an Elective Abortion is Performed. (S. P. 484) (L. D. 1482)

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, I move this item lie on the Table 1 Legislative Day.

The PRESIDENT: The Senator from Hancock, Senator Perkins, moves L. D. 1482, be tabled for 1 Legislative Day, pending Passage to be Enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion to table, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 15 Senators in the negative, the Motion to Table does not Prevail.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. I think the tabling motion is not indicative of how we would normally vote on this bill. Out of courtesy, I hope that irrespective of how you will feel, you will withhold your vote on Enactment. It's a tie vote, 15 to 15 vote, would reasonably slow this down so that the good Senator from Hancock, Senator Perkins to do whatever he wanted to do. So I hope it does end up in a 15-15 vote.

The PRESIDENT: The Chair recognizes the