

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 2, 1992 to May 18, 1993

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE** of Either Report.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Ensure a Woman's Right to Know" H.P. 604 L.D. 819

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

CONLEY of Cumberland
BERUBE of Androscoggin

Representatives:

CATHCART of Orono
CARON of Biddeford
LIPMAN of Augusta
OTT of York
KETTERER of Madison
SAXL of Bangor
FARNSWORTH of Hallowell
FAIRCLOTH of Bangor
COTE of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-97)**.

Signed:

Senator:

HANLEY of Oxford

Representative:

PLOWMAN of Hampden

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

Senator **HANLEY** of Oxford moved that the Senate **ACCEPT** the Minority **UGHT TO PASS AS AMENDED** Report in **NON-CONCURRENCE**.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do not intend to take a lot of time to debate this issue. In reference to the Minority Report, I have taken some time to explain this Report in chambers, in reference to our Democratic caucus. This amendment, as prepared by the good Senator from Oxford, Senator Hanley and another member of our Committee, essentially replaces the original Bill which was brought into the Committee. What this Bill does now in the Report, as signed out by the Minority of the Committee, would place a burden on the Department of Human Services to get an extensive amount of information, from the Majority's viewpoint, to a woman by the physician in the physician-patient relationship when a woman comes into a doctor's

office to discuss with the doctor the possibility of receiving an abortion. Basically the Majority of the Committee felt that this was an attempt to intrude into that very basic relationship between a doctor and patient. We felt that it was inappropriate for the Department of Human Services to be saddled with the responsibility to produce this information, in fact it would cost the State money to have this information produced. We also felt that in reference to 318 it had already been made clear what the intent of this chamber would be in reference to what type of information ought to be given to a woman by a doctor at the woman's request, and that that not be a situation where a doctor would be forced to obtain information from the Department of Human Services, for that information to be outlined as proposed in the Minority Report, and that that be used as some sort of a way to interfere with the woman's right to make her own decision. For all of these reasons we have opposed the thoughts of the Minority of the Committee as contained in the Committee Report and for that reason, Mr. President, I would move that this Report be Indefinitely Postponed.

Senator **CONLEY** of Cumberland moved the **INDEFINITE POSTPONEMENT** of Bill and Accompanying Papers.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'll just make three points this morning and I, too, will try to be as brief as my good colleague from Cumberland. The first point, and it is my basic philosophy of government, the government should be as unobtrusive in a person's life as practicable. Having said that I believe that the primary goal, the primary role and goal of any government is to protect the health and welfare of it's citizens, all of its citizens. Physical health as well as mental health. That is why two of us in the Committee voted out a Minority Report. We felt that it was important in the decision-making process, going through the deliberations before having an abortion, that certain information be made available to the woman. I think it's very important, men and women of the Senate, that you take a look at the amendment and exactly what the amendment does. A lot of these go flying through this chamber as well as the other chamber with people not really having an opportunity to fully review exactly what is included in the amendment. I have to admit that I can't take very much credit for the drafting of this amendment at all, in fact it was drafted, almost exclusively, by the other signer from the Committee who is a female Representative from Hampden, who is in the other body. In speaking with her we felt that it was important to get her perspective as far as what type of information would she like to have available to her. It's important, if you take a look at the amendment, in section 3 of the amendment regarding information about abortion it says, if the pregnant woman has determined that she will not have an abortion she may refuse the provision of information about abortion. That's in sub B. Sub C, in alternatives to abortion it states, a pregnant woman may refuse a provision of this information about alternatives to abortion. Nowhere in this amendment does it require a woman to have this information provided to her if she decides that she does not want this information so be it. The doctor client privilege, however they want to work it, will remain intact. The woman has to make a conscious decision that she doesn't want this information.

One of the key components of this amendment, I believe, was drawn from our decisions we made as far as HIV testing. This body as well as the other in the past sessions have determined that in HIV testing it was important to have counseling prior to the test and then after the test, for very valid reasons. This would require similar counseling as far as in the area of abortion at the time the pregnancy test is administered and then after a positive result has been put forth. That's what this amendment does. It is a choice and we have debated this in our own caucus, as far as it's a choice on where you're going to come down on this issue. Do you feel that more information, as much information should be provided to the woman as possible, giving the woman the out to say no I don't want this information, but making the information available. My good friend from Cumberland also pointed out that he didn't want to put this burden on the Department of Human Services as far as having to come up with all of this information. I guess I would argue with my good friend that it might be worthwhile for the Department to actually get a handle on all of the programs that it has out there and maybe put a rope around this Department. I think it may be a smart move regardless of whether this chamber passes this amendment to require the Department of Human Services to see exactly what kind of services they have out there for women, and to have that compiled in a responsible fashion.

Having said that and probably having said more than needs to be said I'll sit down but I hope that you will vote against the Indefinite Postponement so that you can accept the very reasonable Minority Ought to Pass as Amended Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Just very briefly I would hope that you would accept the motion to Indefinitely Postpone this piece of legislation. From a woman's perspective I would like to share with you my objections to the Bill. As an adult woman if I make a decision which has been guaranteed to me, and it is a very difficult decision to have an abortion, then I don't believe I should, as an adult, be mandated to have counseling. I have some sympathy in the area of a pregnant minor if she is to have an abortion, I think that is clarified and is recommended under our current law, under the adult supervision portion of the legislation. As an adult, if I make, at 39 years old, a decision to have an abortion, I don't think I should be mandated to have counseling and that's what this amendment does. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to respectfully disagree with my good Minority Floor Leader. This is not mandated. If the woman at the time the information is provided, as far as alternatives to abortion, the woman can say no I don't want that information I've already made my mind up. That's it. This does not require, it is very specifically spelled out in the amendment that if the woman does not choose to have this information then such information will not be provided to her. I think that's a very critical part of this amendment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

28 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **CONLEY** of Cumberland, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **PREVAILED**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Ensure a Parent's Right to Know" H.P. 605 L.D. 820

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
CONLEY of Cumberland
BERUBE of Androscoggin

Representatives:
CARON of Biddeford
CATHCART of Orono
LIPMAN of Augusta
OTT of York
KETTERER of Madison
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The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-98)**.

Signed:

Senator:
HANLEY of Oxford

Representative:
PLOWMAN of Hampden

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **CONLEY** of Cumberland the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

On motion by Senator **HANLEY** of Oxford, the Senate **RECONSIDERED** its action whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.