

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 24, 1995 to June 30, 1995

(H.P. 852) (L.D. 1183) (Governor's Bill) (C. "A" H-325)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

Bill "An Act to Prohibit Retrofits of Nuclear Power Plants without Permission of the Public Utilities Commission" (H.P. 676) (L.D. 927) (C. "A" H-435)

Was reported by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative WATERHOUSE of Bridgton, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

**ENACTORS
Emergency Measure**

An Act to Strengthen the General Fund's Unappropriated Surplus (H.P. 268) (L.D. 370) (C. "A" H-380)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and later today assigned.

An Act to Provide Limited Immunity to Former Employers Who Provide References (S.P. 264) (L.D. 704) (C. "A" S-218)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative JACQUES of Waterville was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

An Act to Establish the DNA Data Base and Data Bank Act (S.P. 480) (L.D. 1304) (C. "A" S-219)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative JACQUES of Waterville was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the following items which were tabled earlier in today's session:

House Divided Report - Committee on Judiciary - (11) Members "Ought Not to Pass" - (1) Member "Ought to Pass" on Bill "An Act to Require a 24-Hour Waiting Period before an Abortion May Be Performed" (H.P. 464) (L.D. 630) which was tabled by Representative TREAT of Gardiner pending her motion to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I urge that you accept the Majority

"Ought Not to Pass" Report of the Judiciary Committee which held a very, very long hearing on this question, with a great deal of discussion in the work session as well. We decided by an 11 person majority that this bill "Ought Not to Pass." Abortion has been legal and constitutionally protected for over 20 years. Yet views on abortion and the decision to have or not to have an abortion remains deeply personal decisions that each woman must make for herself. In consultation with her family, with her doctor, and with her own God.

The question raised by this bill and which you must answer today through your vote is whether the state should get even more involved in that decision than it is today. Maine has comprehensive laws governing access to abortion. These laws were recently codified in the 116th Legislature, but have been in place for many years and have worked very well. L.D. 630 would interject the state into already very difficult, personal decisions being made by women. It is unnecessary and unacceptable and I urge you to vote it down.

Informed consent for abortions is already part of Maine law, for adults as well as minor women because L.D. 630 proposes to change the adult consent process, I will focus on that part of Maine law.

If you turn to our statutes and you don't have them in front of you, so I will read from part of them, 22 MRSA section 1599-A, requires the following: "A physician may not perform an abortion unless prior to the performance the attending physician certifies in writing that the woman gave her informed, written consent, freely and without coercion." In addition, the law defines what informed consent is. Informed consent, and I quote, "to insure that the consent for an abortion is truly informed consent, the attending physician shall inform the woman in a manner that in the physician's professional judgment is not misleading and that will be understood by the patient of at least the following: A. According to the physician's best judgment, she is pregnant. B. The number of weeks elapsed from the probable time of conception. C. The particular risks associated with her own pregnancy and the abortion technique to be performed, and D. At the woman's request, alternative to abortion, such as child birth and adoption, and information concerning public and private agencies that will provide the woman with economic and other assistance to carry the fetus to term, including, if the woman so requests, a list of these agencies and the services available from each."

The State of Maine should not get involved with mandating what doctors should and should not tell their patients. The state allows the standards set forth by the American Medical Association to serve as one of the guidelines for medical practice. The state does not interfere with doctor's judgment regarding any other procedure. The guidelines set forth both by the AMA and current Maine Law give women the medical information that they need to make truly informed decisions about the procedure. Health professionals already, under current law, have a legal, professional, and ethical obligation to share with the patient all relevant information about the range of available healthcare choices. They are also required to respect the patient's decision which is based on that information. Therefore, physicians are already required to provide informed consent as failure to do so may constitute battery, and at the

very least grounds for malpractice. There's absolutely no evidence and certainly no one has presented to the committee that providers of abortion services are failing to comply with this obligation, or that there are any problems with the current law.

L.D. 630, does things somewhat differently, it requires the state through the Department of Human Services to provide mandated information which physicians and others must give to women 24 hours before any abortion. This information involves pictures of fetuses, showing every two weeks of development. A great deal of information about non abortion options must be provided. The bill does not give any information about the fully legal and constitutionally protected option of terminating the pregnancy. Forms must be signed by the woman verifying that she has received and either read or refused to read the information. She must wait 24 hours before an abortion may be performed after receiving this information. What's wrong with this?

The basis problem, and I know there will be an attempt to amend the bill, but even in any amended form, the basic problems remain. The state should not be involved in writing and drawing pictures, or providing pictures or information to women and their physicians. The state especially should not be taking sides in personal, medical and ethical decisions that a woman makes between herself and her doctor. It is not the role of the state to attempt to influence a woman's decision, by suggesting one option over another. This bill does just that. By mandating that adult women must receive pictures of fetal development and information about some of her options, but not all, the bill is explicitly attempting to influence a woman's decision. As I said already, current law now provides that when a woman requests information about available options, a physician must provide it. In addition there are organizations that provide information about pregnancy options, all without state interference.

The decision of how to handle an unplanned pregnancy is a very difficult one, which women often agonize over for weeks. It is also a private decision that the state has no business trying to influence. I urge you to defeat L.D. 630 and to accept the Majority "Ought Not to Pass" Report.

Representative TREAT of Gardiner requested a roll call on her motion to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: We have a difficult subject before us and a long and painful debate, I suspect ahead of us. I only request that we in approaching it, try to respect one another's points of view.

The flaw that I see with L.D. 630 is it's fundamental assumption that perhaps women would move to quickly to make such an incredibly difficult and painful decision. I simply don't believe that an adult woman arrives at this decision easily. It's a difficult decision.

In Maine there are a limited number of clinics. Generally, about two weeks pass between the time one contacts the clinic and can get an appointment. That's a great deal of time and plenty of time for an adult to think through the options before her. The fundamental flaw here, is the assumption that women, too easily make these decisions. I just don't

believe it. I urge you to support the pending motion and defeat the 24 hour waiting period. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I hope the House would reject the Majority "Ought Not to Pass" Report and go on to accept the Minority "Ought to Pass" Report.

All of Maine has evidenced great concern recently about the increased level of child abuse. We wonder why children are killed, being starved or simply neglected by their parents or guardians. We also wonder why so many teenagers or even younger children are involved in crimes of violence, including murder, without any parent remorse or any signs of remorse. All the while we continue to show continued disregard for the unborn children and, in fact, for the young women who have become pregnant with unwanted children.

We are told by some that abortion is better in such cases than having children born into such circumstances that they are abused or abandoned. What these same voices ignore is the fact that attitude of indifference to life is fostered or reinforced by the apparent ease with which society permits the termination of the unborn life. It doesn't take a great leap of faith to go from killing the unborn to killing a young child, who happens to become an inconvenience or an ignorance. Where's our concern for life and for the right of all living things to live?

There are several basic questions regarding the need for a 24 hour reflection period with regard to abortions. How will such a law help women? The answer is, that such a law that includes the proper provisions to insure that women considering abortions must be provided information on both the risks of abortions and the alternatives to abortions. It also provides alternatives to women and provides the women with a better understanding of what an abortion entails. For example, each year there is a 1.98 percent chance that a woman on whom an abortion is performed will have her uterus perforated by the doctor. Based upon current statistics approximately 6,000 women in California may be injured. The chances are that few if any of these women were informed of the risks. This bill insures that women considering an abortion are informed of both the risks and the alternatives. This bill does not restrict access to abortion. It only provides time for the women to assess the information she will be provided and to consider the available options prior to, rather than after, having an abortion performed. After all, an abortion is not a reversible procedure.

In the Casey decision, the Supreme Court stated that, "while the women have a freedom to terminate a pregnancy, the line should be drawn on viability." This law provides women with a time and information to better resist pressure to obtain an unwanted or coerced abortion by providing information regarding alternatives to abortion and giving the women time and the opportunity to consider and discuss such alternatives. Nine states now have statutes that contain the reflection period, under Casey states have a flexibility to design and present the information as long as it, "objection no judgmental and accurate." The United States Supreme Court held that women's right to know laws containing a waiting period does not violate the United States

Constitution. In Casey, the court upheld Pennsylvania law which requires: A: A 24 hour reflection, waiting period before abortion is performed. B: that a woman given the following information by the attending or referring physician, 1. the name of the physician that is to perform the abortion. 2. The possible unforeseeable physical and psychological affects of the abortion. 3. Medical risks associated with the abortion procedure to be used. 4. Probable gestational age of the unborn child. 5. Medical risks associated with carrying the child to term. C: That the women be given the following information by the physician or his or her agent. 1. Availability of medical assistance benefits. 2. Liability of the father for child support. 3. Right to review information prepared by the state that describes fetal development and the availability of pregnant services.

Since Casey, federal courts have upheld women's right to know laws in five other states. The argument that such laws presents an undo burden on the woman was rejected in Casey, unless it places a substantial obstacle in the path of the woman seeking an abortion and the court ruled that providing information by the doctor or to be subject to a 24 hour reflection period after reviewing the information were not considered by the court to be undo burdens. Thus, the arguments that this statute represents an undo burden is false and has been rejected by the Supreme Court. The argument that providing this information by the doctor is unnecessary and represents intrusion or a delaying tactic has also been rejected by the court. If we as legislators are truly representative of the people in Maine, we should enact this legislation, to protect both the lives and the well being of women considering abortions and the unborn children. So I ask you to reject the Majority "Ought Not to Pass" Report and to accept the Minority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to in the strongest words possible urge you to support the vast Majority "Ought Not to Pass" Report on this L.D. 630. This is a deeply emotional issue for everyone in this House and in the Gallery, I'm sure. We've all thought about it long and hard and I have come to respect arguments on both sides of the abortion issue. I have my opinion, you have yours, we are both entitled to those and again, I respect those whose opinions differ from mine on this. I respect you a great deal and I have no problem with that.

To move on, I have the distinct pleasure at this time to share with my wife the second trimester of our pregnancy together, I guess you could say. The first for us both. I suppose that is partly why this is a much more meaningful period to consider this for me and to speak on it. Maybe a couple of weeks ago I discussed this bill and the other bill that is in a similar vein to this with my wife, just to get her opinion of these issues given her current state, you might say. To see how she felt on them and if there was any change in her opinion and we discussed it at length. Basically what she said was given her current state, the very concept, the very idea that the Maine State Government would require that she get a 24 hour, and I love this, reflection period, with all due respect to the good Representative from

Madawaska, that's gussying it up a bit for me. Reflection period is appalling that the Maine State Government would intrude on a woman's right to choose, with it's only 24 hours, I realize that, but we all realize that this is probably the most serious decision a woman is going to make in her entire life. I can't think of another one that would be any more serious. To consider that she would need an additional 24 hours, state mandated, state authorized, state enforced evidently, waiting period, reflection period, call it what you will, is an insult to the intelligence of every woman in the State of Maine. As far as I'm concerned and I think there's a good number of people who agree with us, to assume that a woman who has already thought this over long and hard and has come to a decision based on her religion, her emotions, her parental involvement, whatever, and to say she is going to need another 24 hours state mandated waiting period is an insult. I repeat, to the intelligence of the good women of this state. They have the ability and have already thought about this well in advance, they do not need to have the state step in and require this waiting period.

As far as I am concerned, and again I'm speaking for myself in this instance. This is little more than a form of harassment for women and also a means laying some sort of guilt trip on a woman who has made this choice to have an abortion. It is indeed a very unfortunate choice. None of us are in favor of abortions. A number of us are in favor of a woman's right to make that choice for herself and by adopting the Minority Report on this, which I'm not even discussing here, but urging you to support the Majority Report, it would just be a means of trying to involve her with some guilt and I don't think that is the job of the great State of Maine to be doing that. I understand that may not be the intent of the good sponsor of this bill and cosponsors, but that is how I see it, you'll have to bear with me on that. I would like to wrap it up there, but I would like to pose a question through the Chair if I could please?

The SPEAKER: The Representative may pose his question.

Representative ETNIER: To anyone in the House who could answer this, after reading through the bill, I was wondering what the consequences or what the fines or penalties were to a woman and or physician who fails to go forward with this verification notification, does not obtain the necessary forms? I was curious to what the penalties were for either the woman and or their physician. Thank you very much.

The SPEAKER: The Representative from Harpswell, Representative Etnier has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: The penalties are set forth on page 5 of the bill, which lay out civil malpractice actions, medical malpractice and wrongful death. It primarily will go against the physician, which is why the American Medical Association and a whole lot of doctors and other health providers are very, very opposed to this piece of legislation. It's not just the intrusion in terms of the impact on them in terms of any civil action, but it's also the mandated information that they have to state and sort of getting away from what is their best judgment about what we ought to be talking to the woman about.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative PLOWMAN.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: First I would ask you to turn to your Minority Judiciary Report, L.D. 630, filing number H-474, which is now the bill before us.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative TREAT, and would inquire for what purposes the Representative rises?

Representative TREAT: Point of order.

The SPEAKER: The Representative may state her point of order.

Representative TREAT: Is it appropriate to be debating the Minority Report at this time?

The SPEAKER: The Chair would respond to the Representative from Gardiner, Representative TREAT, the pending motion before the House is acceptance of the "Ought Not to Pass" Report. The Minority Report is not currently before the body and the Chair would encourage members not to discuss items that would be reflected in the Minority Report. The Chair apologizes for the interruption.

The Chair recognizes the Representative from Hampden, Representative PLOWMAN.

Representative PLOWMAN: Mr. Speaker, may I ask a question?

The SPEAKER: The Representative may ask her question.

Representative PLOWMAN: This is a Committee Report replacing the bill. The bill in committee is the bill no longer before us, is the bill before us? That is my interpretation.

The SPEAKER: The Committee Report is not currently before the body. The Committee Report that is reflected in the Minority Report is not currently before the body. The motion before the body is acceptance of the "Ought Not to Pass" Report. The Representative is free to discuss the rationale, why she feels that the "Ought Not to Pass" Report has merit or does not, but should not comment specifically with regards to those provisions that would be listed in the Minority Report.

Representative PLOWMAN: Mr. Speaker, I would move that we not accept the Majority "Ought Not to Pass" Report and move on to the Minority "Ought to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative KILKELLY.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: For about 17 years, I have worked in various types of social services in Lincoln County. Many of you who live in the much more rural counties of Maine won't think of Lincoln County as being a terribly rural county. But I can tell you that I have in the past spent hours and hours and hours trying to find somebody to provide transportation to maybe a mother and child or an older person who needed to get to a physician in Brunswick or a physician in Portland. It's not easy to do. What concerns me significantly about this particular piece of legislation and the reason I am supporting the "Ought Not to Pass" Report is because I believe that there is significant rural bias in it.

My efforts over the past 15 years to empower rural women and to make sure rural women have the same kinds of opportunities that urban women have, has become very, very important to me. We need to

understand that this, in fact, is a much more significant barrier to women who live in rural parts of this state, than it is to women who live in urban parts of this state. One of the previous speakers mentioned that this is not a barrier, that it's not a significant barrier, well I can tell you from experience that it is. It's a significant barrier for someone who traveling 100 miles, one way, to get a service. Who than has to travel a 100 miles back home and than turn around and travel a 100 miles back on a second day. It's a significant barrier for someone who is finding child care for the children at home and needing to pay for that and maybe can't afford it. It's a significant barrier for someone who is taking a day off from work and than a second day off from work, in order to deal with something that that person has already thought of for days and days and days. This is a barrier, it's a significant barrier and it's particularly a barrier for rural women. Many of you who represent rural women who do have difficulty finding transportation, as we all know that transportation services in this state are slim to none. I would urge you to think about the situation that you are putting them in and I would urge you to accept the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative LUTHER.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I believe in the great State of Maine, there is a 48 hour waiting period to allow you to consider your decision to purchase a set of encyclopedias, siding for your house, or an art course that you found on the back of a match book cover. The state does take steps to prohibit a girl getting her ears pierced, though, we'll save that for another debate. The state does take steps to protect their citizens and they should.

If we are trying to respect one another's views here, let's not present the opposite argument as we see it. I don't think anyone implies that any woman makes the decision lightly, but a woman should have at least 24 hours to consider this decision. I think the kernel of the objection here is not the waiting period, but it is the availability of the complete information. I urge you to defeat the pending motion.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative POULIOT: Mr. Speaker, just a parliamentary procedure, because of the posture that the bill is in right now, is there any way that any member, because this is such an emotional issue and I know that emotions can get high on both sides, but I think there are people who would like to be heard on this issue and I was just wondering, is there any technical way that we can speak on this issue and let our voices be heard?

The SPEAKER: The Chair would respond to the Representative from Lewiston, Representative Pouliot, as follows, often in the course of legislative debate, discussion has been permitted on various amendments that are not currently before the body. That is a function of the will of the body in and of itself. Once it is challenged, however, it's my responsibility as Chair to ensure that the debate is

maintained on the appropriate motion. The current motion before the House is acceptance of the "Ought Not to Pass" Report. While members are free to discuss the merits or lack of merits of the "Ought Not to Pass" Report, the Chair would have to ensure that there is not debate on the Minority Report as reflected by Committee Amendment "A" because that is not currently before the body.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: As I was just saying, this is a very high emotional issue. As you all know, many of you know, I am an adoptive parent so I understand the feelings of how people feel on both sides.

The part that I have the hardest time to understand on this bill is that, why would anyone really object to a 24 hour period? Just think about it, I know we've heard words about this is harassment against women. This is possibly the most serious issue that any young girl, or any woman will ever go through in her life. And all they are asking for is a 24 hour period. A waiting period, a thinking out period. I do that sometimes before I come to work, maybe we have a thinking period or waiting period before we come to work, just so we can put our things together. As Representative Ahearne said, "once you've taken life, there's no recourse." I don't care if you want to have another one hour period or 100 hours, you'll never have that moment. What is so wrong to allow this bill to go on its passage and pass?

I mean, I can understand, it's so serious and I think we owe it to ourselves, but I think the biggest thing I would like to see in this House is that people would let other people speak on issues. I know it is a very emotional issue, but the people have a right to hear this issue and when I say the people, not the 151 members of this house, the 1.2 million people out there. They have a right to hear this debate. That's what I would like to hear. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Stone.

Representative STONE: Mr. Speaker, Ladies and Gentlemen of the House: The risks that are associated with abortions are in the current informed consent part of the law and that shouldn't be an issue. The problem that I have with this legislation, is that it appears to me that the state is trying to influence a woman's decision by suggesting one option over another. This is not something that a woman does on the spur of the moment. We're not talking about getting an ice cream or driving through MacDonaldis and driving down the road saying, "Oh, I think I will go get an abortion." I can't imagine one woman out there that doesn't actually contemplate this and agonize over the decision for 24 hour period on her own. There's no sense in once they've already made the decision to add another agonizing period to it. It's not an easy decision for any of them and I think that once they do get the decision, they ought to be allowed to go forward with their decision.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: This certainly is an emotional issue. One that I stood up here and fought

before. Why is it that abortion advocates say they want women to have their options? But fight against laws that require totally informed consent, which is a woman's right to know bill. All this bill will do will give the woman an informed consent so it asks her to wait 24 hours so she can make a decision whether to bring a child into this world.

Today we are seeing the unborn child being treated for disease, given blood transfusions, even operated on. When a doctor does one of these procedures, who is the patient, it certainly isn't the mother. It is the child. In order to do this, I would say the child has to be alive. They couldn't do it on a piece of tissue, it has to be alive. We allow women today who are choosing to have abortion for any reason, sex selection, not the right time in my career. Probably a lot of us wouldn't be around here today if abortion had been back a few years ago, maybe some of our parents would have decided well I don't need 9 children. I do know my mother wouldn't have chosen that, there are 9 of us, because I know how she believes on abortion. We were not wealthy, but we always managed to eat, be fed, and taken care of.

If we use the absence of brain waves to determine that a person's life has ended, why shouldn't we use the same presence of brain waves to determine if someone's life has begun. In my way of thinking, this is just common sense. The brain wave is there, there has to be life. Doesn't it ever bother these women, I wonder who are advocating abortion that it is proven today, that medical science has proven, that unborn children feel pain. We've all seen pictures of the child in the womb sucking his thumb and those of us who have had children know how the child moves and kicks and even has the hiccups. Well to me it has to be a baby to have hiccups, and it has to be a baby to suck its thumb in the womb.

If pro-abortionist are mainly concerned with the health and safety of women, why do they fight so hard against legislation requiring abortion providers, against abortion providers meeting the same medical standards as out patient surgery clinics. We've read information given to us on our desks today of a parent whose 14 year old daughter had an abortion and it cost those parents \$27,000 to pay the hospital bill for their child's life after this abortion clinic got through with her. She might have still had the abortion if the parents had known, but I wonder.

If it became absolutely clear, which to some of us it is, but I realize to some it's not, that the unborn child is a living human being and I believe that with all my heart and all my faith that I've been brought up with. I wonder if the pro-abortionist would then favor protecting that unborn child's life, his or her life. These are some of the questions that I would like to see the abortionist answer to me or pro-abortionist. Pro-abortionist say that the unborn child is part of the mother's body. If that is so, why does it have a completely different genetic code and often a different blood type? How do you explain the fact that it has it's own immune system? Why is it male about half of the time? These are some questions that the pro-abortionist should look at and have to stand up and answer. Pro-abortionist say that outlawing abortion would restrict a woman's right to privacy. Is that right absolute? Does someone's right to privacy exceed another's right to live? I

don't believe so. Pro-abortionist say "right to choose." Choose what, define it? Once a woman is pregnant, she already has a child, the choice is what to do with it, not to choose whether to have it or not. She already has it. Although the word choice sounds positive and good, the choice in this issue is whether to have a live child or a dead child. Ladies and gentlemen of the House, I would like to have someone get up and answer some of these questions, so I could feel comfortable with maybe voting for this bill. Although I don't believe that anyone could answer any of those questions to make me feel comfortable with voting for a bill that doesn't want to give a woman information so that she knows these things and she knows what's going to happen to her.

A little over a year ago, I had the experience of having to have a back operation. I was in pain, first time in my life. Well let me tell you, the doctor didn't just take me in and operate on my back. He did a few other things first, he sat me down and told me the options I had. He told me the percentages of back operations, but I have a strong determination and I knew that my back was going to be perfect and it is because I believe in a lot of power of thought. It wouldn't dare be different. But I had that choice to make whether I wanted to have a possibility of spending the rest of my life in a wheelchair or being able to get up and walk without pain. I made that decision on information he gave me, things for me to read and everything else and also on his education and what he knew about backs, because I knew nothing. He spent a lot of time explaining everything to me. I believe that's the same thing that any woman who's going to have any operation, I don't care if it's an abortion, a hysterectomy, no matter what it is, they should be able to have the information so they know what the chances are that it's going to effect their life. I, as a woman, do not think it's an insult to get information that I can read and understand before I have an operation, whether it's an abortion, a back operation or whatever it happens to be. I just hope that you will stop and think today what you are doing to these women. You are telling them that you're not intelligent enough to read this information and make a decision for yourselves. Go in and have the abortion and think nothing of it. I hope that you vote against the motion on the floor so we can go on to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: As we all know, the issue of abortion and related issues sometimes are contentious, testimony and debate sometimes reflects strongly held differences. I respect those as I know we all do in this chamber. Yet I have to say that the deliberation of the Judiciary Committee on this subject was rational and civilized, as I know the debate today will be in this chamber.

The fact is, in the final analysis, the Committee decided by almost total unanimity not to support this particular legislation. The 3 members of the other body and 8 of the members of this House could not support it. It was not a thoughtless vote. It was not an insensitive vote, but it was the right vote, and right I suppose for different reasons. We've heard a number of those today. I urge you to make the right vote now and to support the 11 to 1 Majority of the Judiciary Committee. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: The good Representative from Berwick, Representative Murphy, posed a series of questions. What I have to say to her and to the rest of you is that were we debating legal abortion in the State of Maine it would be appropriate to answer those questions. We're not doing that here today. We're talking about a 24 hour waiting period, and that's all we're talking about.

However, the good Representative from Lewiston, Representative Pouliot, did, in fact, address exactly that and asked what I thought a very direct, a very simple and very important question. Which is, why would anyone oppose a 24 hour waiting period? I think that is the crux of it. And what I'll say to all of you, in as simple and direct a way, is that a woman considers pregnancy from the time she is about 12 years old. A woman considers the implications of pregnancy monthly and I have considered the implications of an unwanted pregnancy and what to do about it, legally or illegally, since I was old enough to know what pregnancy was. I may have had different thoughts about it over the years, my choices might be different in my 20's, than they might have been in my 30's. But, men and women of the House, a fertile female considers this at least monthly. We don't need a state imposed period of time to make that decision and the legalistics of following through with the decision more difficult for rural women than it is now.

The Representative from Harpswell, Representative Etnier, said it was an insult to women and I'll not repeat those words, although I agree with them. I say that it's simply ignorance of how important a woman's ability to reproduce is to her and the seriousness with which she takes her gender differences with men. That's all I have to say, men and women of the House. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: First of all, I'd like to tell you that I should be on the Minority "Ought to Pass" Report, and you'll see on your calendar that I am not.

I had problems with this bill in Committee and I didn't want to vote for it because it had problems. When the amendment came out, I was not allowed by the Chair for a formal reconsideration so you will not see my name on the Report. However, I would like for it to be on the Record that I am on the Minority Report.

Now I would like to tell you what is wrong with L.D. 630. The title. Section 5, all of section 5. Page 3, all the way down to 15993. The rest is okay. 1599E is out and several other things were wrong. I don't like the bill as it is either, I don't even like discussing the bill as it is either. I want to get on to the other report so I can tell you what we did with the things that were wrong in L.D. 630. I think, and please don't take this as wanting to cut off debate, but the debate is on a bill that is bad and I will tell you that. I didn't like it. I worked very hard to figure out what I didn't like, actually, it wasn't hard to figure out what I didn't like. I worked very hard to get at an issue without being insulting, or demeaning, being informative. I would ask you to get on with this one so we can to the Minority Report, so I can tell you

about the work we have put into it, the thoughtfulness, the debate that went on to prepare it and the fact that it wasn't even brought to the Committee to reconsider after final language was done and not even be able to vote on the Report that I prepared, so I would like at least the opportunity to tell you about it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill we could debate for seven hours, seven days, seven weeks and probably no one would change their mind. I want to relate a story, I'm not particularly enthusiastic about anecdotal incidences, but I do feel this an invitation to harassment. My wife was pregnant with her second daughter, she went to a clinic in Portland and she wanted a pregnancy test. They said, "would you like to come in and see a film." My daughter was seven years old, they went in to see this film and immediately they showed a film of a baby being sucked out of a womb to my seven year old daughter. If that's what they will do to a seven year old, I can only imagine what kind of pressure they would put on an adult. I truly worry that if we have waiting periods for constitutionally protected acts, I guess the next thing would be a 24 hour waiting period before we give a speech. I would like to respond to the good Representative from Berwick, she mentioned that brain waves were the key to life. I didn't realize this until last week, but I was speaking to a noted pediatrician in the state about the physician assisted suicide. I told him that I thought it was really the Roe versus Wade at the other end of life. She said no you're totally wrong there, she based her opinion on brain waves. There are brain waves at the other end of life, but she said that during the first trimester there were no brain waves and that's why she was pro-choice. I urge you to pass the Majority "Ought Not to Pass", so we can get on to the next thing. We could be here for the rest of our lives discussing this and I don't think one person will change their mind. Thank you.

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 members present and voting. All 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 Chair recognizes the Representative from Augusta, Representative Madore.

Representative MADORE: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the debate either, I just simply wanted to tell you why I'm on the Minority Report. I, like Representative Plowman, did not like the original bill. Therefore the amendment, which is not before us, I won't get into it, but just to go back a bit, a couple of comments that were made. One of them was, the concern of making women choose, having to choose, putting forth different situations before them, be it adoption versus abortion, etc. That is not my intent, nor is it why I am on the Minority, it is simply to put all the cards on the table and give a woman all of the options, a level playing field so she can simply make a rational judgment as to what's going to happen to her and her unborn child.

I don't think 24 hours to take time to read through this is a great demand on someone, knowing that in this body, if we don't have the information we will quickly table, until we have the information so that we can come back and discuss. I think that this is a sound, reasonable request and I urge you to defeat the pending motion and support the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: There are alternatives to the wording in the bill. An Act to Require a Twenty-four Hour Waiting Period Before an Abortion may be Performed. An alternative might be An Act to Require that Specific Information be Provided before an Abortion may be Performed.

We also had problems with requiring a woman to have to go, receive counselling and come back in 24 hours. The alternative would be, that when she makes her appointment, which takes 2 to 3 weeks, as we heard from the community, that she receive information and a sheet that says, "I received this at least 24 hours before I came here." We recognize that she might not even want to look at it, the alternative is, is to have a piece of paper that says "I got it," and also say "I didn't care to read it."

We recognize the penalties to the doctors, and we worked on that. We also recognized that there is some information out there that should it be read, would be helpful. Not a guilt trip, not pressure. We do more to ascertain that a man having a vasectomy, really knows what he is doing, than a woman who's going to have another surgical procedure.

The SPEAKER: The Chair would recognize the Representative from Berwick, Representative Murphy and inquire for what purpose the Representative rises.

Representative MURPHY: A point of order. Is there a quorum here today, this is a very important issue and I don't believe there's a quorum in this House listening to it.

The SPEAKER: Will the monitor's please assist in ascertaining whether or not a quorum is present. The Chair will declare a quorum present. The Chair apologizes to the Representative from Hampden, Representative Plowman. The Representative may proceed.

Representative PLOWMAN: Thank you, Mr. Speaker, Men and Women of the House: There are alternatives to this bill as I said that aren't insulting, demeaning, it's providing information that can be read and discarded or discarded. The only thing the woman has to keep is the piece of paper that the doctor can put in the file. No repeat visits, it could come in the mail. We could take out any other statements regarding construction and what constitutes the states position either way. I would like you to defeat this motion because I would really like to discuss with you the high points of the Minority Report.

If anyone is insulted by the information that they get regarding the decisions they make, whether it's a purchase or a service, than I suggest you start writing to the people who put these great warnings on lawnmowers that say, "Do not start with fingers under lawnmower. Do not trim hedges with lawnmower."

Because that's something you'll see too, and you know what, I don't need to be told that, but it comes because actually two guys in Florida tried to trim their hedge last summer with their lawnmower and they are missing a lot of fingers. Please defeat this motion, thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Just to put this in a more legal prospective and I'm not an attorney, nor am I attempting to imitate an attorney, but I have done a little bit of research. Whenever we discuss this issue, of course, reference is made to the infamous Roe versus Wade decision and the Supreme Court position to protect a woman's right or opportunity to have an abortion. I would also like to report some other opinions that the Supreme Court has handed down, one of which is Planned Parenthood versus Casey. Within that decision, the Supreme Court did say that our prior decisions establish that, as with any medical procedure, the state may require a woman to give her written informed consent to an abortion. That was also referencing another case of Planned Parenthood of Central Missouri versus Danforth. Referencing Thournberg versus the American College of Obstetricians and Gynecologists the court continued by saying, "it can not be questioned, the psychological well being is a facet of health. In attempting to ensure that a woman apprehend the full consequences of her decision the state further is the legitimate purpose of reducing that risk that a woman may elect an abortion only to discover later with devastating psychological consequences that her decision was not fully informed."

The Court went on to say, "we also see no reason why the state may not require doctors to inform a woman seeking an abortion of the availability of material relating to the consequences to the fetus, even when those consequences have no direct relation to her health. We permit a state to further its legitimate goal by enacting legislation aimed at ensuring a decision that is mature and informed. In short, requiring that the woman be informed of the availability of information relating to fetal development and the assistance available, should she decide to carry the pregnancy to full term is a reasonable measure to ensure an informed choice. One which might cause the woman to choose childbirth over abortion." This requirement, and this is the key of the court opinion in Planned Parenthood versus Casey, the key is this requirement cannot be considered a substantial obstacle to obtaining an abortion and it follows, there is no undue burden. I will not take up any more of this Chamber's valuable time, citing further references that the Supreme Court has made, to the fact, that states do have the ability to enact measures to guarantee the woman at least have the information available to make the right decision. I believe women, when presented all the facts, can make a decision. The information can be presented in such a way as to not be bias, as has been done in Pennsylvania with the Department of Human Services and has put together a booklet which has been distributed to you all for review, that basically lays the scientific facts and I lay that before you for consideration and urge you to oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Gates.

Representative GATES: Mr. Speaker, Men and Women of the House: Let's be clear about this. This bill if enacted into law, would be constitutional. It would be constitutional. No one should stand up here and try to cloud the matter and say it would not be, I don't think anyone has done that yet. The problem is, in my view, it would just be very poor public policy.

What the bill requires, among other things, is that a woman would have to return a second time to a doctor's office after 24 hours. In my town, there are picketers outside that doctor's office and returning a second time is a traumatic experience. I also think that this bill erodes the confidentiality of a woman's decision to have an abortion. I think that is something that is very personal and I think returning a second time, past another picket line, erodes that confidentiality. I can't help but noting, a month ago a majority of the members of this House refused to intrude on personal choice, by requiring men and women, adults in the State of Maine to wear safety belts and many of those people who refused to do that are now ready to intrude on the most personal choice a woman has to make. Whether or not to have an abortion, and under what circumstances she's going to have it. I look forward to the day when every child in Maine is wanted, welcomed, embraced and cherished, but until that day, I will stand firm to protect the right of women to make their own choices, on their own timetable, not ours. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Throughout this debate there have been implications that without this bill women will not be informed. I just do not believe that that is the case. I called my doctor to see what she does when someone is in this situation and sent me a list of providers. One was in the state, and I live in a very urban area. This is not something that is easily accessible, so I called the clinic and I asked them, "what do you do when someone calls you in this situation?" They require a 3 hour counselling period. They have lengthy, lengthy information that everyone must read and sign and understand. They also have at least a one week waiting period before an appointment is available. This is currently happening, people are being counseled, people are being informed of their choices and women think about this a lot more than 24 hours, trust me. As strongly as we feel about it in this House, think about how strongly a woman who is in this situation thinks about this, it is not casual. The decision is made very, very carefully and we need to allow women to continue to make their own decisions, thank you.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Birney.

Representative BIRNEY: Mr. Speaker, Men and Women of the House: It was just mentioned that typically you have to wait a week after you've called the doctor to get an abortion. What is the problem with 24 hours if they're waiting five days anyway? That could be included in the five days.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I waited a long time to decide whether or not to get up and address you

today. My point of view, basically, is that this is something we should not have to discuss here. I'm also a woman who has worked for women's rights for as long as I can remember. I live in a rural area. I have daughters. I really don't feel that this is something that the legislature should have to talk about, however, after listening to this I think that some of you are missing a great point here. As an advocate for women, and somebody who feels very strongly in the philosophy that knowledge is power. I feel that rather you're a spiritual person or a practical person or both that the ultimate responsibility for making these decisions belongs to the one making it. So why am I up here now? I guess I have some frustrations that I need to express.

First of all I'm very concerned that the Minority Report, the amendment, has been left in limbo. There's information here that could make the decision easier and we're not allowed to discuss that. Secondly, I heard a lot of discussion about women and how they feel about being pregnant or thinking about it. Maybe you don't know this, but I've had eight pregnancies. I have six live children. I had two miscarriages. I've had a lot of experience with the feelings that arise in a person when they are having to make decisions about pregnancy, and about money, and about school, and about pressure. I've lived it, however, I also know that in the course of my time when I lost two babies, nobody seemed to understand that I was going through hell. I have to live with that. I had to live with the fact that I was depressed. I had to live with the fact that nobody gave a hoot because I already had some kids and what the heck, get on with life, get back to work and be a big girl. The point you don't realize is that unless you're very, very convinced about what you're doing and you've gone the extra mile to make sure your decision was correct, there's going to come a time when you're going to find that you're doubting your decision. You're going to come to a time when you're wondering whether or not you did everything possible to make things happen the way you wanted them to. At that point in time you're not going to have this group of people here or society or anybody backing you up.

That's why I feel very strongly that a 24 hour waiting period is a good idea. Not because it's humiliation to women, not because it's a disadvantage to people in rural areas, not because I'm a block head or any other thing. I believe it's important to make decisions once and make them well. And if it takes an extra few minutes to listen to somebody or if you read a pamphlet that's going to give you some more information and you make that decision and you go forward and you're having a bad day, or a bad week or a bad month, at least you can say to yourself, you've done it well. It's a comfort and it's necessary. I think that something like this is important enough so we should be able as women to have all the information available and all the support necessary and the piece of mind that goes with it.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: This to me is remnants of a paternalistic society. I don't need the government coming in and telling me how long I should take to make a decision that effects my body. I don't need the government to make me a criminal if I don't fill

out a form and I don't want the government to consider the doctor who will be performing whatever procedure I choose to have to become a criminal as well. I think that those are the outlines of this bill. If I want to take longer than 24 hours. If I want to take less than 24 hours. I don't need that prescribed for me. That should be my individual decision. This is a place where the government does not belong. If I go to a clinic or a physician for an abortion, I will be treated the same way anyone is for a surgical procedure and I will have to sign informed consent form. That, in fact, is acknowledging that I understand what the procedure is, but I do not need the government to interfere any further and impose any other restrictions upon me. That should be my decision, in the way, and the criminality of this proposed legislation is an unfair restriction on the physician and on the woman and I'm very much opposed to this.

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. 165

YEA - Adams, Ault, Benedikt, Berry, Bigl, Brennan, Buck, Carleton, Chartrand, Chase, Cloutier, Daggett, Damren, Davidson, Donnelly, Dore, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gooley, Green, Greenlaw, Hartnett, Hatch, Heeschen, Heino, Johnson, Jones, K.; Jones, S.; Joseph, Joyner, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lovett, Marvin, Mayo, McAleve, McElroy, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nass, O'Gara, O'Neal, Ott, Peavey, Pendleton, Perkins, Poulin, Povich, Reed, G.; Rice, Richardson, Rowe, Saxl, J.; Saxl, M.; Shiah, Stevens, Stone, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tyler, Vollenik, Watson, Winn, Winsor, The Speaker.

NAY - Ahearne, Aikman, Bailey, Birney, Bouffard, Bunker, Campbell, Chick, Chizmar, Clark, Clukey, Desmond, Dexter, Driscoll, Dunn, Gerry, Gieringer, Gould, Guerrette, Hichborn, Jacques, Joy, Joyce, Keane, Lane, Layton, Lindahl, Lumbra, Luther, Madore, Marshall, Martin, Meres, Murphy, Nickerson, Pinkham, PLOWMAN, Pouliot, Reed, W.; Ricker, Robichaud, Rosebush, Samson, Simoneau, Stedman, Tufts, Tuttle, Underwood, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass.

ABSENT - Barth, Cameron, Cross, DiPietro, Kneeland, Look, Paul, Poirier, Rotondi, Savage, Sirois, Spear, Strout, Yackobitz.

Yes, 84; No, 53; Absent, 14; Excused, 0.

84 having voted in the affirmative and 53 voted in the negative, with 14 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

At this point the Sergeant-of-Arms escorted the U.S. America's Cup Pact 95 and members of the Young America sailing team to the front of the House Chamber.