

# MAINE STATE LEGISLATURE

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The Chair laid before the Senate the following Tabled and Later (2/4/97) Assigned matter:

Bill "An Act to Amend the Laws of Murder and Manslaughter to Include the Death of a Fetus" H.P. 541 L.D. 732

Tabled - February 4, 1997, by Senator **LONGLEY** of Waldo.

Pending - **REFERENCE**

(In House, February 4, 1997, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED.**)

Senator **LONGLEY** of Waldo moved the Bill and Accompanying Papers be referred to the Committee on **JUDICIARY**, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President, men and women of the Senate. I rise to ask that you oppose the pending motion. The good Senator from Waldo, my friend Senator Longley and I have a principled disagreement as to where this bill should be referred, in order to hear the merits of the bill. We may or may not have a principal difference of opinion, with regard to what ultimately should happen with this bill. This bill has not worked its way through the process for us to reach that point at this time, but, we all will have that opportunity to make that decision with regard to the merits and that may be a different issue altogether. The bill L.D. 732, which you may have heard about from people who have talked to you about it, but, let me just take a moment to focus on what the bill actually proposes to do at this point, because that's all we have in front of us. The bill proposes to create a new crime. It is exclusively within the jurisdiction of Title 17A, as proposed, which is the criminal code. There's nothing else in the bill, at this point, that suggests that any other section of our laws be amended other than Title 17A. The question of whether or not certain conduct should or should not constitute a crime, a new crime, an enhanced crime, a new sentence, is exclusively within the jurisdiction of the Criminal Justice Committee. I know in the past, that has gone to Judiciary, those types of questions, but, since the creation of the Criminal Justice Committee, that is within the jurisdiction of that Committee. The issue that has raised the principal difference of opinion between Senator Longley and I, perhaps with others is the question of whether or not abortion comes into play with regards to this particular bill. Let me suggest to you again, with the way this bill is drafted, abortion and the right of a woman to choose whether or not to have an abortion is explicitly, excluded from the coverage of this bill. In other words, a woman's right to make that choice lawfully, or unlawfully, the way the bill is drafted is explicitly excluded from whether or not this creates a crime under this new proposed legislation. Also, excluded from this bill, as drafted, is any medical techniques, medical diagnosis, medical procedures that are done; That too, is specifically, excluded from the coverage of this bill. The question this legislation attempts to get at, is whether or not the conduct of a third party, not the pregnant woman, not the physicians, not the doctors, not the health-care industry, some third party that their action, their conduct, whether that conduct constitutes a crime if that conduct results in the termination of the pregnancy. That's

the question. Is this going to be a crime? Is it not. I do not know whether or not we should create a crime for that issue, but, the question of whether it ought to be a crime or ought not to be a crime, belongs in the Criminal Justice Committee, and I would ask you to respect that process for looking at that question. Our Committee, on virtually a daily basis, deals with the question of whether or not certain conduct should or should not be either added to, deleted from, or changed within the criminal code. That's what we're talking about here. I would ask you therefore, to vote no on the pending motion, so that the referral of this bill can go to the Criminal Justice Committee, where I believe it belongs.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you Mr. President, men and women of the Senate. Very quickly, like it or not, this bill concerns abortion, and, every other abortion bill is coming to my Committee. Our Committee on Judiciary is going to be dealing with the issues connected with the abortion. If it was simply a crime, and we knew exactly when that crime kicked in, I would be in favor of giving it to Criminal Justice. Over time we've always sent these issues to Judiciary, and in terms of legislative efficiency, at the very least, it makes sense when you're educating a Committee on such words as are in this bill, as informed consent, as medical necessity, as usual and customary standards of medical practice. Issues that we'll be getting into include the health of the mother; We all know, if we follow the debate over time, that the health of the mother and respecting the professional decisions of the doctor are very much a part of how it is we decide when an abortion is Okay and when it's not. I think you want to hand this bill to a Committee that is being educated on all these issues, understands the legislative history, what's been going on in the Supreme Court, what's been going on in the Maine Courts, in terms of legislative efficiency, if you send it to our Committee, you're going to get a higher collective intelligence on the nuances of this bill that is not cut and dry. If we just went by the title in crime, we'd send it to Criminal Justice. We're talking with abortion, we're talking about very blurry definitions, and I ask that you send it to a Committee that has always received these bills, and is educated on these bills. And I think, in the process, you will get a better outcome on respecting the doctor's expert advise, and honoring the health of the mom. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you Mr. President, men and women of the Senate. It strikes me that this bill has been very cleverly, and I will say tactically, drafted, for the very purpose of dividing jurisdiction on the issue of abortion, which is a parental issue, unfortunately, within our legislative halls. The essence of this bill, the kernel of the bill, the very few words that are so critically important within this bill are in the very first section of the bill, in which it says, "Unborn child means any individual of the human species, from fertilization until birth". That, ladies and gentlemen, has everything to do with the civil law, with constitutional law, and social policy, as much as it does any elements of the criminal law. And I agree with those who say that the changes designed to go into Title 17, or 17A, where we

customarily find repository for our criminal sanctions, but, the underlying purpose of the bill is to redefine human life. That's what this bill is all about. These are very important issues. I think the underlying, tactical purpose of this bill is to ensure that there be two separate hearings, so that there be two opportunities to demonstrate and remonstrate on these important social issues, and to give people, quite frankly, two shots at the nightly news at 5:30 or 6:00 p.m.. If for no other reason, than to conduct our business in an administratively, appropriate way, I think that these issues should be consolidated within one Committee. That Committee, by custom, and by tradition, and many, many long years of president has been the Judiciary Committee. If that Committee, and if these Halls, if we Members of this legislator make a decision about redefining the essence of human life, that would carry with it all sorts of implications, whether they be criminal, social, or civil. That is the essence of this bill, those very, few words at the beginning of this bill are the hex of it, and for that reason, I suggest to you that it should be consolidated with the other several important bills on this very same subject, and that we should not divide the jurisdiction, our own jurisdiction, over these crucial issues. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President, men and women of the Senate. Very briefly, I may well be prepared to defer to the higher collective intelligence of another Committee already, if that were the only issue, I'd defer immediately, but there's another issue, and the issue is the ones raised by the good Senator from Somerset deal with the definitional issue, but again, the definitional issues are issues that are contained in a Title 17A bill. The same section defines "person", as excluding the pregnant woman from the coverage of this bill. I don't think anyone is prepared to suggest that that definition is going to be something that's going to be applied elsewhere, outside of the criminal code. The issue here before us is whether or not conduct of a third party, not the pregnant woman, who is expressly, excluded from the language of this bill; The conduct of a third party that creates a situation where the termination of the pregnancy occurs. Is that or is that not going to be a crime? That's within the jurisdiction of the Criminal Justice Committee. I hope you would respect that process and I would ask that you vote no on the pending question.

The Chair ordered a Division. 25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **LONGLEY** of Waldo, to refer the Bill and Accompanying Papers, to the Committee on **JUDICIARY**, in concurrence **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**Resolve**

Resolve, to Name the Body of Water on Route 27 in Coburn Gore "Fabian's Dunk" S.P. 15 L.D. 13

Tabled - February 20, 1997, by Senator **PINGREE** of Knox.

Pending - motion by Senator **RUHLIN** of Penobscot to **RECONSIDER FINAL PASSAGE**

(In House February 18, 1997, **FINALLY PASSED**.)

(In Senate February 20, 1997, **FINALLY PASSED**, in concurrence.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN:** Thank you Mr. President, honorable Senators of Maine. After listening a bit, I really have come to the conclusion there is no additional information that would be worthy of enlightening us further on this issue.

Senator **RUHLIN** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER FINAL PASSAGE**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Clarify the Duties of the Maine Atlantic Salmon Authority" H.P. 857 L.D. 1162

Tabled - February 20, 1997, by Senator **KILKELLY** of Lincoln.

Pending - **REFERENCE**

(In House February 20, 1997, referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.)

On motion by Senator **KILKELLY** of Lincoln, referred to the Committee on **INLAND FISHERIES AND WILDLIFE** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**SENATE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Change How the Mileage Allowance is Determined for Sheriffs and Deputies" S.P. 68 L.D. 207

Majority - **Ought to Pass** (9 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - February 20, 1997, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.