

# MAINE STATE LEGISLATURE

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**House Legislative Record**  
of the  
**One Hundred and Eighteenth Legislature**  
of the  
**State of Maine**

**Volume I**

**First Regular Session**

December 4, 1996 - March 27, 1997

**First Special Session**

March 27, 1997 - May 15, 1997

Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jones KW, Jones SL, LaVerdiere, Lemke, Lemont, Mailhot, Mitchell JE, Morgan, Muse, O'Neal, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Dexter, Donnelly, Dutremble, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lindahl, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Meres, Murphy, Nass, Nickerson, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bolduc, Bouffard, Brennan, Farnsworth, Fisk, Gamache, Joyner, Kane, Kontos, Lemaire, Lovett, McAlevey, McKee, O'Brien, O'Neil, Ott, Stevens, Underwood.

Yes, 66; No, 67; Absent, 18; Excused, 0.

66 having voted in the affirmative and 67 voted in the negative, with 18 being absent, the Bill failed of passage to be enacted and was sent up for concurrence.

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An Act to Enhance the State's Moose Hunt (H.P. 774) (L.D. 1051) (C. "A" H-151)

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

On motion of Representative LEMKE of Westbrook, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Tuesday, April 15, 1997.

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#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, April 10, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

An Act to Amend the Maine Health Data Organization Laws (EMERGENCY) (S.P. 560) (L.D. 1693)

TABLED - April 9, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative SAXL of Portland, tabled pending passage to be enacted and specially assigned for Tuesday, April 15, 1997.

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HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike" (H.P. 41) (L.D. 66)

TABLED - April 9, 1997 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" Report.

On motion of Representative HATCH of Skowhegan, tabled pending her motion to accept the Majority "**Ought to Pass**" Report and specially assigned for Tuesday, April 15, 1997.

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 88) (L.D. 113)

TABLED - April 9, 1997 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" Report.

On motion of Representative HATCH of Skowhegan, tabled pending her motion to accept the Majority "**Ought to Pass**" Report and specially assigned for Tuesday, April 15, 1997.

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Bill "An Act to Include Slide-in Truck Campers in Property That May Be Included in the Trade-in Allowance Credit" (H.P. 62) (L.D. 87)

- In House, Minority "**Ought to Pass**" as amended Report of the Committee on **Taxation** read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-68) on March 31, 1997.

- In Senate, Majority "**Ought Not to Pass**" Report of the Committee on **Taxation** read and accepted in non-concurrence.

TABLED - April 10, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Further Consideration.

On motion of Representative TRIPP of Topsham, tabled pending further consideration and later today assigned.

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#### TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was tabled and today assigned:

HOUSE DIVIDED REPORT - Report "A" (7) "**Ought Not to Pass**" - Report "B" (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-163) - Report "C" (3) "**Ought to Pass**" as amended by Committee Amendment "B" (H-164) - Committee on **Judiciary** on Bill "An Act to Ban Partial Birth Abortions" (H.P. 390) (L.D. 535)

TABLED - April 10, 1997 by Representative JABAR of Waterville.  
PENDING - Motion of same Representative to accept Report "B" "**Ought to Pass**" as amended by Committee Amendment "A" (H-163).

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. I believe the events of this last week clearly demonstrate the strong emotions we are dealing within this particular issue. No matter how civil and polite we are in this House and we have been during all of this debate, we cannot escape the intensity which exists outside this chamber. I know no one in this chamber is responsible for what happened last week and I know no one would condone what happened last week. It is my hope that we continue to debate fairly and objectively on the issues presently before us. We are now facing what I feel is a clear choice between this amendment and LD 535. It is not a simple choice, but I believe the issues have been drawn and are now much easier to understand than the confusion that was before us before. No one likes to say they are in favor of this horrific procedure and just today I got a diagram on my desk showing what an awful procedure this is. There are many medical procedures that are horrific in our profession, but in this particular context, we must deal with what we have in front of us.

LD 535 states that partial-birth abortions are banned except to save the life of the mother. This amendment, which is before you today, states that partial-birth abortions are banned except to save the life of the mother and the health. As bad as this procedure is LD 535 does not ban it completely. It recognizes that there are necessary times when this procedure may have to be used to save the life of the mother. With a great deal of the pressure that many of us have received regarding the ban of partial-birth abortions there is some misunderstanding out there that what is before us is the complete ban of all partial-birth abortions. That is not what is before us in LD 535. Other than some minor differences and other differences regarding classification of the crime involved the main dividing point between LD 535 and this amendment is the circumstances under which it is medically necessary to use this procedure. This amendment attempts to define and it is constitutionally mandated, by the way, that we cannot escape this situation where it involves the health of the mother.

Some have said to me, why do this? If this is already the law, then why is it necessary? Why don't we simply say this is the law? Why pass this law? I believe it is necessary to restate within the law specific language regarding partial-birth abortions because the people demand it. This has become a national issue. There has been a great deal of rhetoric about it. There has been a great deal of hype about it. I think it is not enough to simply state while that is the law already outlawed so we are not going to deal with it. People see that as a cope out. The telephone calls and the mail that I have been getting and I am sure many of you have been getting, they want to know where we stand on this particular issue. What this does is it changes the language, you look at the amendment, it is not a significant bill because there are only a few changes in the present law. Those few changes expressed specifically partial-birth abortions. They state that the State of Maine is not in favor of partial-birth abortions except to save the life of the mother and the health of the mother.

In conclusion, I just want to comment on concerns about the definition of health. Besides the fact that it is constitutionally mandated, I think if you look at the statistics there has only been one third-trimester abortion in 1995 and only two in the last 13 years. It is not a problem in Maine. The definition of health is not being used as a loophole by which woman are receiving abortions on demand for reasons other than legitimate health concerns or to save the life of the mother. If, in the State of Maine, it becomes a problem in such that there are a great many abortions being performed under the guise of so-called health where they are otherwise unwarranted, similar to what the national spokesman Fitzsimmons says is going on in another state, if that becomes a problem in the State of Maine, I will be the first to recommend changes and clarification of the definition of health so that this isn't happening, but it is not a problem in this state. I urge you to support this amendment because it is the law. It is constitutionally mandated and it does specifically address the issue we are confronting and we cannot escape and that is our position with regards to partial-birth abortion. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. Not to be repetitive, but I would like to deal with just the constitutional issue that has been raised in many conversations that I have had about this amendment. Committee Report "B," which is now before us goes as far as is constitutionally permissible to limit abortion. In an unbroken chain of federal case law, from *Roe vs. Wade*, to *ACOG vs. Thornburgh in 1986*, to *Planned Parenthood vs. Casey* in 1992

and the *Woman's Medical Professional Group vs. Voinovich* in 1995, federal courts have consistently held that while post-viability abortions may be banned, exceptions for both the life and health of the mother must always be made.

Committee Report "B" includes a life and health exception for the woman. In that respect it meets constitutional scrutiny. In written testimony, submitted at the March 5th public hearing on this bill, Maine's Attorney General indicated that LD 535 was unconstitutional because it failed to include an exception for the woman's health. The US District Court for the southern district of Ohio has reviewed a law similar to LD 535. After six days of testimonial evidence found it unconstitutional. One of the grounds was that it failed to provide an exception for the woman's health.

Finally, only one third-trimester abortion was performed in Maine in 1995. Only two were performed in the preceding 13 years. There is absolutely no evidence that partial-birth abortion is either used or abused in Maine. Thank you.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. With all due respect to my colleagues from Waterville and Action, Representative Jabar and Representative Nass, this proposed committee report amounts to really nothing. Voting for Committee Report "B" will not prohibit partial-birth abortions. It provides perfect political cover so that one can state that they voted to restrict partial-birth abortions, but in reality voted for a hollow measure that is not likely to prevent a single partial-birth abortion. It still contains the same exemptions as current law and those being for the life and health of the mother.

Again, I must stress that the critical word is health. The United States Supreme Court has ruled that in *Doe vs. Bolton* that "medical judgment may be exercised in all factors, physical, emotional, psychological and the woman's ego. What relevance to the well being of the patient," the court further wrote "All these factors may relate to health and this allows that attending physician the room he needs to make his best medical judgment." With health so broadly defined by the US Supreme Court, a partial-birth abortion can be performed after viability no matter the reason. Therefore, Report "B," as current law does nothing to prohibit partial-birth abortions, the amendment contained in Report "B" amounts to a feel-good amendment. It provides the illusion that it prohibits partial birth abortions, but in reality it does nothing. I ask you to follow my light and vote down the pending motion so that we can move to accept a real proposal that will make a positive difference. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I rise to also oppose this motion by echoing the words of Representative Ahearne. I would also like to bring to your attention more fully, information that I received from the Bureau of Vital Statistics for the State of Maine. The first figures I quote are figures from 1996 alone as to the number of abortions performed in Maine. In the first trimester of 1996 2,503 abortions were performed. In the second trimester in pregnancy in the State of Maine 18. In the third trimester it shows zero. Then comes a category called unknown. I went to check out what unknown was and I have photocopies for anyone who would like to double check. According to this there are 94 unknown. Unknown meaning that the form was not complete enough to indicate what the gestational age of the fetus was. Eighty-three included enough information to gauge the number of weeks of pregnancy. Ninety-three forms were provided, but there are 94 unknowns. One form was not given to me. The

others either indicated the date of abortion and no date of last menstrual cycle, like last normal menstrual cycle or no date at all. Some where they included the date of abortion checked off the procedure that is supposed to indicate that it is a first trimester abortion. If you narrowed some of those down where you are supposed to, by a process of elimination, decide that late-term abortions were not performed in Maine. You still have three blank and a missing.

I just wanted to refute the late-term abortion statistics as provided by the Bureau of Vital Statistics. I do not fault the Bureau of Vital Statistics they do not prepare forms, they can only take the information given them and work with it as it is. That information is provided by the clinics and the physicians. Having said that, I would like to take the focus again back from the late-term abortion issue. This procedure is not exclusively a late-term abortion. As we know the law already covers a late-term abortion. This amendment restates the late-term abortion law. However, it ignores the information that we have that partial-birth abortions are done as early as 20 weeks. I am not comfortable relying on the information regarding one late-term abortion or two as to what procedures are used in the State of Maine because procedures are not required to be recorded. While you are being told that there are none being done and so partial-birth abortion is not a problem, you cannot make that correlation. A partial-birth abortion is not just a late-term procedure. When you are looking and listening to the information that is given to you, please remember that partial-birth abortions could be being performed as early as 20 weeks. That is 20 weeks according to the information provided to me, which is in the second trimester, 18. There are many more second trimesters in the 94 contained in my information. Those could have been partial-birth abortions. We don't know because the form is not filled out.

When you are talking apples and apples, please do. Right now we are talking that the figures we have are just like any other figures. They can be twisted and turned, but when you start to look at the paper that they come on and you start to analyze what it means, you can find no assurance that partial-birth abortions are not taking place and you can find no assurance that third trimester abortions did not take place. All you can do is look at the papers, see the blanks and realize that the conclusions you have been given may not be at all what the actual scenario in Maine is. Having addressed those I would urge you to defeat Report "B" so that we can take up the next report which actually does ban partial-birth abortions.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I agree with my colleague Representative Ahearne. This bill does nothing. As mentioned before, this is already a present law. If people read all articles and comments about this bill, there is one in there by a professor from the Southern Maine University political science professor. She says that if they have the health of the mother, then they haven't changed anything except they are able to go back to their constituents and say they have taken a stand against this procedure or that they can't be blamed when an opponent in another election being for it. I know my colleagues in this House better than that. I know all the decisions they make on issues such as this are heartfelt and are principled decisions. Those ideas are out there. This ban has been enacted in Arkansas, Michigan, Ohio, Georgia, Utah, Mississippi, South Carolina, Indiana and also in the House Congress. Similar amendments have been tried, but they have been rejected because health can be anything by one performing the abortions and this would make the ban on partial-birth abortion meaningless. Adding a

health exception would make the ban on partial-birth abortion technique a sham.

In addressing the health issue, we have heard a lot about the health of the mother. Certainly we want to take that into consideration. In the delivery process the doctor has two patients. He has the mother and the baby who is being born. He has a moral and legal responsibility to both. In the hearing before Congress, Pamela Smith an M.D. said, "In short, there are absolutely no obstetrical situation encountered in this country which require partially delivering a human fetus to destroy it to preserve the life or the health of the mother." I ask you to weigh this very heavily. I know you will do the right thing and defeat this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Thank you. My question is to the lawyers. If this procedure were not hidden behind legalese, why not allow the procedure to be done after leaving the birth canal? It would be much easier for the doctors to perform this procedure outside of the birth canal. The second part of my question is is the reason not traveling the last three or four inches that if it did travel those issues that the procedure would then make you guilty of murder if it was outside of the birth canal?

The SPEAKER: The Representative from Winslow, Representative Vigue has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Woman of the House. I passed out a paper last week and I would just like to repeat what it says. "The former Surgeon General and 400 other specialists say together that we are the physicians who on a daily basis treat pregnant woman and their babies and we can no longer remain silent while abortion activists, the media and even the President of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us, for the first time in our professional careers, to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts. Contrary to what abortion activists would believe partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true. The procedure can pose a significant and immediate threat to both people, the pregnant woman's health and her fertility." I would, again, ask this question. What tragic health decision would a woman possibility be in that would force this procedure? Her child must die. There is no other way to save her life. We have spent days, weeks, and months watching the media and listening to council from this way and that. I have not yet heard of a specific time when this procedure would be necessary to save the life or health of a woman who is about to give birth to a child.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Men and Woman of the House. Based on the answer that I got from my question, I would urge you to oppose the barbaric procedure that we are about to vote on and oppose Report "B" and go on and follow the light of Representative Ahearne.

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

Representative LEMKE: Madam Speaker, Men and Woman of the House. I rise to speak against the pending amendment on

Report "B." I think we have a key problem here with the word health. In the proposed amendment health is not adequately defined. Should it be defined as physical health of the mother? Then I would certainly consider acceptance of a health provision. This is far too broad and far too vague and open to far too many interpretations. This has been a problem in other states and it is not one that we should now walk into. I support Representative Ahearn's bill as we voted it last week at 96 to 49.

Let me reiterate, briefly, several points. Number one, this procedure, as performed, does not fall under the constitutional perimeters of *Roe vs. Wade* and *Planned Parenthood vs. Casey*. Number two, partial-birth abortion is in reality, in my opinion and the opinion of many people in the medical profession including those who are prochoice, like myself, it is not abortion as constitutionally defined, but comes so close, within three inches, of infanticide or a live child, 80 percent delivered, that it should not be considered abortion. Number three, the arguments that this procedure is necessary for the health of the mother. It consistently ignores the fact that there are other alternative measures with less attendant risks than this to the life and health of the mother.

The question that was asked by Representative Kasprzak relates to this. I haven't heard an answer to it on the floor. This is an issue that is emotionally charged. This Legislature has shown very civilized debate of it. I am proud to have done that and will continue to do that today. The type of thing that was reported over the weekend should not occur. I absolutely denounce that type of thing. It levels the type of debate that we have here. The bottom line is that last week we sent a very strong message. Are we to vitiate that message today? I believe that it is time for us to draw a real line and this is the line and therefore I urge you to vote against the amendment pending.

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

Representative TOWNSEND: Madam Speaker, Men and Woman of the House. We have fully debated this issue to this point, but I would like to respond to a couple of remarks made this morning. First of all, I want to repeat that this is not a pressing issue in Maine. I have yet to find a persuasive argument that woman are casually or frivolously engaging in post-viability abortions in Maine. From the Department of Human Services, Bureau of Vital Statistics we were told that of 93 procedures performed, it was clear to them that 90 of them were in the first trimester. We don't have the facts on the other three. I think it is irresponsible to jump to the conclusion that they were, therefore, postviability. Further, in response to the remarks about if there is ever a medical need, it is important that there is strong disagreement within the medical community about whether this procedure is ever necessary and there is a rather large group of doctors who argue that it is medically necessary. I will quote this, "It carries the least risk of bleeding, perforation, infection or trauma to the birth canal."

Finally, I will repeat my argument of last week, which is that none of us are physicians in this room. It is troubling to me that we would choose to make medical decisions in a political arena. Let's leave medical decisions to the medical professionals. Thank you.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. I know this is not a debate that any of us like to participate in. For those of us who truly believe that the fetus is indeed a living child, it is a heartbreaking debate that we have to participate in. For those of you who aren't sure, I think it is an argument that is laden with doubt, guilt and fear. The point is that it doesn't matter if this is a procedure that is done routinely

in the State of Maine or if it is a procedure that is not done routinely in the State of Maine. That is not the argument. The argument is that it is done and there are a lot of facts out there that we presume that we don't really know exactly how many are performed in the last trimester of pregnancy.

Also, there are other procedures that would abort this child besides this partial-birth abortion, which I think is the cruelest thing that has ever hit this country. As a matter a fact, that is why we are debating it today, because I believe as a nation we have been horrified that this procedure is even being done anywhere in this country. It is to that horror that we are debating today. I will reiterate what I said last time we debated this. It doesn't matter if we do it once or twice; it doesn't matter if we know how many times we do it. The point is are we going to rescind the crime of murder since murder is such a rare thing to happen in the State of Maine. Should we roll back that crime? The handout that you were given what the nurse saw. I don't like to look at this and this is a cartoon drawing. This isn't even really flesh and blood. By the way, let me digress and say that I take offense at clumping this procedure along with many medical procedures. This is not a medical procedure. If you are going to take a vote, let's be honest. This is the taking of a life that could survive outside the mother's womb. Let's take a vote on what it truly is and that is infanticide. Also, there is are a lot of questions out there as to whether the baby feels pain. Think about that.

Whichever way this vote goes today, this amendment is a cloud. You can't hide behind the cloud. When the full light of day breaks out you will see and so will your constituents, will see this amendment for what it truly is. It is a feel-good thing for an occasion. I urge you to vote against the pending motion on the floor and go on to adopt the true ban on this horrific procedure. Madam Speaker, I ask that when the vote is taken it be taken by the yeas and nays. Thank you.

Representative LANE of Enfield requested a roll call to accept to accept Report "B" "**Ought to Pass**" as amended by Committee Amendment "A" (H-163).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. We have heard this debate twice now. I think everyone is quite well informed as to the procedure and is quite well-informed as to the magnitude of the situation. I would like to ask you a simple question. What price are you willing to pay for success, if that is the case here? What price are you willing to pay to win this debate? I remembered when I was campaigning the first time for the Legislature that this question came up to me often. The response I received from everyone was that abortion is a last resort. It is a violent act and that we should be working with young and older women to make sure that they can make good choices. Abortion is only something we do as a last resort. I can accept that debate because it is real. In this case, how far are we willing to go to prove a point? As far as I am concerned when I talk to people about delivery or spontaneous labor, I am not talking about delivering a fetus.

My husband didn't come to assist me in natural childbirth to deliver a fetus. We were delivering a baby. A live baby. A holy creation. We are perpetuating our own species. There is value there. A value that goes way beyond a technical argument to prove a political point. I ask you to really consider that. I know I often talk about my past life and we learn from doing. As some of you know, I used to raise goats. I remember the extremes I want to preserve their lives. I remember them freezing being born in the very, very coldest part of January and bringing frozen kids into the house to revive them. I went to that extreme for a

goat. I know that if some of this procedure were described in the paper as happening to a puppy we would have extreme numbers of responses to do something about cruelty to animals. I guess as you contemplate this and make your decision on how to vote, I want you to think about what price are you willing to pay for this vote? Thank you.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Madam Speaker, Men and Women of the House. I think what we ought to do is realize this procedure for what it really is. It is the worst possible case of child abuse that there is in existence. If this state did in fact do one partial-birth abortion at any time, it was one too many. Thank you.

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

Representative QUINT: Madam Speaker, My Esteemed Colleagues of the 118th Legislature. I stand before you today emotionally drained by this debate about banning late-term abortions. I have struggled as to whether speaking before you today and taking a public opinion on this issue. However, after discovering that one of our colleagues lives were threatened because of her right to voice an opinion, I decided enough was enough and not to be fearful of taking an opinion. I, like Representative Watson, recently have also had my life threatened as a result of voicing a very controversial opinion. I stand with Representative Watson in publicly supporting leaving this decision regarding late-term abortions to the woman and the physician attending her. Health and privacy are fundamental to all individuals in our society. Decisions as complex and painful medical issues confronting woman and families in the latter half of a much-wanted pregnancy are the very decisions that must be made in private and based on sound unfettered medical advice. Of course the medical and emotional issues involved in ending a pregnancy in this latter half are difficult for us and as you can imagine difficult for the woman's life. Jenna Yarborough, who was devastated to learn at 20 weeks of her pregnancy that her second child had neither the top of her skull nor most of her brain. Her baby would die in utero or immediately upon birth.

As I hope you appreciate, the issues go far beyond the sensational, inflammatory, misleading, as graphically offered by the sponsors of LD 535 in support of their dangerous and highly political campaign to outlaw abortions, one procedure at a time. Because issues involved are so personal and ultimately spiritual, they must be resolved by the individuals affected and not by this Legislature. These issues and the intended decisions reach to the very essence and conscience of our lives. Any interference by this Legislature into the medical options available to woman are not only arrogant, but reckless. I, as you say should, Legislators, for the first time in history, restrict procedure accepted by the American Medical Association. More specifically, should we as legislators be practicing medicine based on strong emotional bias? I, for one, oppose this and any intrusion of any legislative body into the medical decision-making process. We must allow women like Jenna and their physicians the freedom to make highly complex and personal decisions in the privacy of a medical office or institution and not in the halls of the courthouse, because I trust Maine women to make sound and moral medical decisions, I urge you to support Amendment "B," "Ought to Pass" to protect the health and privacy of the woman in the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. I wanted to stand to clarify some of the arguments that you have heard here today. In fact, the Judiciary

Committee did receive written medical testimony from Maine doctors indicating that this ban should not be enacted. We also received a letter addressed to the chairs from Dr. Arlene Sandella, who is the chair of the American College of Obstetricians and Gynecologists, the Maine Chapter. I will read one portion of that letter. "The Maine section, district one of the American College of Obstetricians and Gynecologists, an organization representing more than 100 Maine physicians specializing in woman's reproductive health and dedicated to improving woman's health care does not support LD 535, "An Act to Ban Partial-Birth Abortions." The college finds it very disturbing that the Maine Legislature would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life and health of a pregnant woman. Moreover in defining what medical procedures may or may not be performed, LD 535 implies terminology that is not even recognized in the medical community demonstrating why legislative opinion should never be substituted for professional medical judgment."

I have heard it said today that there is no reason to use this procedure. I suggest to you that good people, including physicians, differ on that opinion and that there is a substantial number of physicians out there that say that it is sometimes necessary. That is in writing by Maine physicians. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Madam Speaker, Men and Woman of the House. We sat through Friday's very emotional debate. My first term the 116th Legislature we sat through a lot more emotional and lengthy debate. I left the body not feeling that I had participated or even spoken my piece on this matter. Many of you know my family. I have a 19 year old son looking forward to going off the college. I have twins, 8 years old that are having a lot of fun in grammar school. What many of you don't know is that I, along with my wife, have three more sons. I want to share this with you just for your information, as I sit and listen to people speak about this issue. We have heard a lot of personal experiences, but I just want to share mine with you.

My 19 year old was very fulfilling to us as a family member, but my wife always looked at the family portrait and thought there was something missing. After 10 years, we spent three years trying to conceive through invitro fertilization. The first attempt we thought was extremely successful. Nine eggs were recovered and nine eggs were fertilized and at that point nine eggs needed to be implanted. Again, when we got our results we were very happy and pleased that three eggs had taken. We were about to have triplets. My wife is a small person so soon after the 11th week she was bedridden. Later on in week 19 she was taken to the hospital. Just a few days ago, March 4th, was a Tuesday, it was 10 years after the triplets, at 19 weeks, had been born. I remember that fine sunny afternoon at Eastern Maine Medical Center. We were in a double room and she began to give birth to three very fine boys. As she was birthing the children came out kicking and thrashing and the look on my wife's face of fear will never go away.

I had a hard time dealing with this. It was my way to look at this as an event in our lives and try to help my wife move on and get beyond the tragic occurrence. My wife had to spend some time processing this event. She describes it, as she held each one of these perfectly formed boys, all with personalities and all with fingers and toes and all with fingernails and toenails. This was at 19 weeks and we were fortunate, people tell us, that it wasn't 20 weeks where we would have to name them and have a funeral and lay them to rest. They simply went to the autopsy to see if there was anything physically wrong with them. The reports came back and there was nothing physically wrong with



them. These were three beautiful boys. I guess the reason for me sharing this with you is the fact that I feel deficient for not speaking in the 116th Legislature. I am in hopes to possibly change one vote or two votes or maybe five votes. To do something, the very least that we can do, by defeating this measure and going on to accept the measure that will come before us soon after. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I view this partial-birth abortion as an act, not so much as a procedure. I heard the good Representative, the Chair of Judiciary, Representative Thompson talk about the doctors. Yes, indeed, we heard from a lot of different doctors. In fact, Representative Watson and I had what I jokingly refer to as the dual of the doctors. She had her list of doctors that said they shouldn't ban it and I had my list of doctors that said we should. I heard Representative Townsend talking about that we are not medical experts and we shouldn't be making decisions. Maybe not on procedures, but certainly on acts. I have heard that argument many times before on the floor of the House on other issues. We are not experts on this and we are not experts on that. We are policy makers and we are not a government for the experts, by the experts and of the experts. We have to make decisions especially when the experts disagree.

I thought about last weeks debate and my good seatmate next door to me, Representative Murphy, talked about the role of government. Anybody who knows me from the 117th and from this term here knows that I am very conservative. I think the role of government should be very small. I do recognize that government does have a role and if it has any role it is to protect us from each other and to protect the weak from the healthy.

I have read a lot of these Supreme Court decisions, *Casey vs. Pennsylvania*, *Roe vs. Wade* and I got the entire text and I read the whole thing. Some of the things that kept on sticking out when they talked about a state's compelling interest and where that overrides personal choices. I jotted down a few. One is protecting human life. Two is protecting human dignity. Three is prevention of both moral and legal confusion about the role of physicians in our society. Four is prevention of cruel and inhumane treatment. I saved that one for last because I have a quote from Jean A. Wright, Associate Professor of Pediatrics at Emory University, who testified before Congress on the partial-birth abortion ban. She said, "The child is sensitive to pain. This procedure if it was done on an animal in my institution would not make it through the institutional review process. The animal would be more protected than this child is." I urge you to defeat this pending motion.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Madam Speaker, Men and Women of the House. I do not want to take up too much time because we have already debated this issue in depth and it has been a very emotional debate. We have heard much of the issues here. I did feel that I had to respond to the good Representative from Bridgton, Representative Waterhouse and the very fact that there are differences of opinion, dramatically divided opinions, in the medical community on the necessity of this procedure. I feel that it is irresponsible of us as a body to take a side in this debate. We do need to leave this decision ultimately up to the woman, her doctor and her God. We cannot be deciding for people on the tremendously traumatic and emotional issue. There is nobody in this body, I hope, who would defend late-term abortions as something that is good and desirable. It is a hard and very unpleasant procedure. There is no argument about

that. This is not about defending partial-birth abortions. What this is about sound medical decisions being made by the people most qualified to make those decisions. Please allow the people who are qualified to make those decisions, the doctor and their patients make these decisions on whether or not to terminate a pregnancy. Thank you for your time and I urge my colleagues to support Report "B" of LD 535. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jabar.

Representative JABAR: Madam Speaker, Men and Woman of the House. I rise late to respond to my good friend, Representative Vigue's question and I did not answer the question because I am not a doctor and I believe the question called for a medical opinion of which I don't have. Representative Thompson talked about the medical testimony that we did hear before us at the public hearings and that there are a great many physicians that say they need this procedure. The last point I want to make in this debate is that I believe the great misconception in this debate is that LD 535 bans partial-birth abortions. It does not. LD 535 does not ban partial-birth abortions. It provides for an exception and what this amendment does, which was presented before you today, is it frames the debate, in that it gives you the choice between LD 535, which has one exception, the life of the mother. This amendment has two exceptions, the life of the mother and the health of the mother.

Just as if doctors want to be dishonest and give false testimony as to the need for the abortion because of the health of the mother, they can do the same with the life of the mother and say that the life of the mother was in jeopardy and who was to question that. I want to make it clear that this debate today is between one exception being the life of the mother or the two exceptions in this amendment being the life of the mother and the health of the mother. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Men and Women of the House. I would like to thank my good friend from Waterville, Representative Jabar. But the reason we are here today debating this particular barbaric issue is not because of the medical community, it is because of the legal community. This has been done by lawyers and judges. Therefore, there should be a lawyer in this House that could answer the question after the movement of four inches through the birth canal. Are we dealing with murder of this child or are we still dealing with a so-called procedure of a late-term abortion? I think if the problem was created by lawyers and judges, then we should have answers there.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. I rise not to answer Representative Vigue's question, but to make a little statement. If you are interested in making a philosophical statement about partial-birth abortion, then the bill is probably going to serve your purposes better. It is obviously more strict. It looks to me, having heard the testimony in public hearing that that bill, if it passes, is headed to the courts and is most likely it is not going to pass. Let's face it. Just look at the court cases. If, however, you are interested in making some type of statement about partial-birth abortions, as weak as it is, then I suggest you consider voting for Committee Report "B." Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. As legislators we do the best we can to



draft legislation that will be constitutional. However, we are not the third branch of government. They have their own jobs. If this is appealed, and I guess it probably will be, not only will they take up the constitutional issue, I would like to see them, and I am sure they will, take up the issue of an eight-tenths born child and what rights have been accorded to a child who has been pulled through the birth canal almost to birth? Do they have personhood? Do they have constitutional rights? If this is a female fetus can she grow up entitled to an abortion? I am sure that is one of the questions that we will be looking to have answered by the court because partial-birth abortions have not been addressed by the court. Thank you.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. I just kind of wonder if many of you happened to see the *60 Minutes* show last night on the revelation that there have been organs harvested on individuals who were not truly dead. There was a question as to whether those individuals felt pain and so-forth. It was quite a lengthy and very shocking revelation. The result of that was that the medical community said that you, the legislators, need to make laws that give us perimeters and definition of what life is. As to what has been stated here, that we have no business debating medical procedure on this floor, I take exception to that. Our job is to set legislation that sets perimeters on what we shall and shall not do as a society and I ask you to bear that in mind when you are voting on this measure. Thank you.

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

Representative MERES: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative MERES: Thank you. I would like to follow up on the good Representative Vigue's question. I would like to know if anyone here can tell me when the definition of life begins? I know there has to be one. Thank you.

The SPEAKER: The Representative from Norridgewock, Representative Meres has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Men and Women of the House. I must stress that this proposed House Amendment allows partial-birth abortions with no real restrictions. The fact that there are a few done in Maine does not mean that it is a good thing. I think it is good. I would rather see none be performed in Maine. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of Report "B," "Ought to Pass" as amended by Committee Amendment "A" (H-163). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 90**

YEA - Bagley, Baker CL, Bigl, Bolduc, Brennan, Brooks, Bruno, Bull, Cameron, Carleton, Cianchette, Colwell, Cowger, Davidson, Dunlap, Etnier, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SA, Kerr, Labrecque, LaVerdiere, Lemaire, Lindahl, Lovett, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, Paul, Peavey, Pendleton, Pieh, Poulin, Povich, Powers, Quint, Rines, Rowe, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Ahearne, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bodwell, Bouffard, Bragdon, Buck, Bumps, Bunker, Campbell, Chartrand, Chick, Chizmar, Clark, Clukey, Cross, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Fisher,

Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Jones SL, Joy, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lemke, Lemont, MacDougall, Mack, Madore, McElroy, Meres, Nickerson, O'Neal, O'Neil, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Richard, Samson, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Farnsworth, Fisk, Goodwin, Kane, Kontos, McAlevey, O'Brien, Ott, True.

Yes, 66; No, 76; Absent, 9; Excused, 0.

66 having voted in the affirmative and 76 voted in the negative, with 9 being absent, the motion to accept Report "B" "Ought to Pass" as amended by Committee Amendment "A" (H-163) was not accepted.

Representative AHEARNE of Madawaska moved that the House accept Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-164).

The same Representative requested a roll call on his motion to accept Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-164).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-164). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 91**

YEA - Ahearne, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Buck, Bumps, Bunker, Campbell, Carleton, Chartrand, Chick, Cianchette, Clark, Clukey, Cross, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Fisher, Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Joy, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, McElroy, Meres, Muse, Nass, Nickerson, O'Neal, O'Neil, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Richard, Samson, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

NAY - Bagley, Baker CL, Bolduc, Brennan, Brooks, Bruno, Bull, Cameron, Chizmar, Colwell, Cowger, Davidson, Dunlap, Etnier, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Jones SA, Kerr, Labrecque, LaVerdiere, Lemaire, Lindahl, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Murphy, Paul, Peavey, Pendleton, Perkins, Pieh, Povich, Powers, Quint, Rines, Rowe, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Taylor, Tessier, Thompson, Townsend, Volenik, Watson, Winn, Wright, Madam Speaker.

ABSENT - Farnsworth, Fisk, Goodwin, Kane, Kontos, McAlevey, O'Brien, Ott, Tripp, True.

Yes, 80; No, 61; Absent, 10; Excused, 0.

80 having voted in the affirmative and 61 voted in the negative, with 10 being absent, the motion to accept Report "C" "Ought to Pass" as amended by Committee Amendment "B" (H-164) was accepted.

The Bill was read once. Committee Amendment "B" (H-164) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules the Bill was passed to be engrossed and sent up for concurrence.