

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

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

The following item was taken up out of order by unanimous consent:

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

ORDERS

Joint Order - Relative to Bill "An Act to Designate Square Dancing as the Official Folk Dance of Maine," H.P. 111, L.D. 135, and all its accompanying papers being recalled from the Governor's desk (H.P. 1268) which was tabled by Representative AHEARNE of Madawaska pending passage.

Subsequently, the Joint Order was passed. Ordered sent forthwith.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins who wishes to speak on the record.

Representative PERKINS: Thank you Madam Speaker. Could I ask a question? I am embarrassed to say that on that vote, I know you can't change your vote, but I kind of stupidly thought we were voting for House Amendment "C" and I understand now that we were voting on Report "C," if I had known, I would have voted for Report "C." Just for the record. Thank you.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-165) - Committee on **Judiciary** on Bill "An Act to Require a 24-hour Waiting Period before an Abortion May Be Performed" (H.P. 490) (L.D. 661)

TABLED - April 10, 1997 by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I would hope you would join me in not accepting the Majority "Ought Not to Pass" Report. First of all I want to state that the suggestion that, somehow, whoever supports this piece of legislation thinks that women are ignorant and stupid and that is absolutely nonsense. That is absolute garbage. I have the most utmost respect for women and I think they will make the right decision. My only issue is what is in current law. Under Title 22, 1599-A, in subparagraph 2 under D, it states that a woman's request alternatives to abortion such as childbirth and adoption and information concerning public or private agencies will be provided to the woman. That is the part of this piece of legislation that I object to because, as you know, we all make bad decisions and sometimes we make decisions at the spur of the moment and I am sure most of us have. Some of us wish we could change and rescind on those decisions. This is a very difficult decision to be made. I don't have any doubt in my mind. My objection is to the fact that the woman in question is not being provided with all absolute information. My question always has been if they are to make a most informed choice, what is so wrong with providing all the information necessary to

make sure that that decision, whatever it may be, be fully and truly informed? I see nothing wrong with that and my question is, I don't see how or why some groups are so adamantly opposed to this. It just boggles my mind. I hope that you will join me and not vote to accept the pending motion. Madam Speaker, I request a roll call.

Representative AHEARNE of Madawaska requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

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 Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. With all due respect to the good Representative from Madawaska this is insulting to a great many women in Maine. It indicates that they haven't given careful thought to what they are going to do. It indicates that they have to sign a piece of paper saying that they have read the material. It even says that if a woman is unable to read the material, it must be read to them, whether she wants to hear it or not. Take a woman from northern Maine who is nowhere a location where she can have access to an abortion. She consults with her family physician and he may indicate to her where she should go and where she might travel to. When she gets there she is told to wait, we have this printed material prepared by the State of Maine, that we have to give you. We have to read it to you if you can't read it yourself. You have to certify that you have read it and then you have to come back at least 24 hours later before we can perform the medical procedure that you have chosen.

Show me one place in the law were a man is required to wait 24 hours for a procedure. If a man wants to have a vasectomy performed, you can go in and have it done. There is no written material. It is already required in the law that a woman has to give her informed consent to any medical procedure. This is a medical procedure. She has to give her informed consent and that is all she has to do. Let's not set up any artificial barriers. Let's not set up a procedure that says that we know better than you and let us give these women, who are making a very difficult decision with their physicians, the dignity and the respect that they deserve. Thank you.

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

Representative JONES: Madam Speaker, Men and Women of the House. Anyone who doesn't think that women think deeply about this issue before they have an abortion is living in a fantasy land. Maybe there are some uncaring men that don't think about these issues, but certainly women do. I am not for a waiting period on speech under the First Amendment of the Constitution and many of you may be surprised, but I am not for a waiting period on the purchase of guns. Let me tell you what a waiting period is. It is an invitation to harassment. I had a 7 year old and we were about to have another child or thought we would. My wife and my 7 year old went to a clinic to have a test taken. During that period they asked if my wife and daughter would like to see a film. That film was of an abortion. I found that outrageous. That is what this is about. It is an invitation to harassment. Think about it. If you want a waiting period on guns, it is already here. Want a waiting period of speech, it is about to come. Let's not ask for a waiting period on abortions. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Women of the House. As a woman, I can personally say that I am not offended by this bill in any way. As far as I understand it,

with my experience, a man not only has to wait to have a vasectomy, but he has to bring home a pamphlet and discuss it with his wife and they decide together, as I understand it. Shouldn't a woman have to take the time? Shouldn't she have to be informed before she goes through something as serious as giving up the life of her child? Please consider voting for this amendment. It is a good, common sense, logical bill. Thank you.

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

Representative QUINT: Madam Speaker, Men and Women of the House. I have spoken to several women who are friends of mine who say that a decision to have an abortion was one of the most traumatic and one of the most emotional experiences that they have ever gone through. They all have said that they have spent plenty of time considering this sort of heartwrenching decision and all wish they had had the information necessary to make that decision. I think it is preposterous to think that something as highly emotional to all of us certainly is not emotional to that individual making that decision. What I can't understand is what sort of information, possible new information, would be presented to that individual, that woman, when she walks into that office, to give her that would be new that she would need 24 more hours to decide what her decision would be? I also have to underscore that it is an undue hardship on those folks who have to travel from the most northern parts of the state, including Madawaska, to drive south to Bangor, with very limited financial resources, to have to make them wait after they have thought long and hard about this decision, to wait 24 more hours to make that decision. I have confidence, once again, in women and their physicians to make that right decision. I believe that women have made that decision thoughtfully before they go into the office and decide to proceed with that procedure.

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

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

The SPEAKER: The Representative may pose her question.

Representative LANE: Thank you Madam Speaker, Ladies and Gentlemen of the House. I wonder if the woman is informed that there is a possibility of perforation of her uterus, that there is a possibility of infection, that there is a possibility of sterility, that there is a possibility of psychological trauma following an abortion? I think given the fact that these are all true and as I testified last week when we debated the partial-birth abortion ban issue, I have friends who have said that nobody told me. If anyone knows otherwise, that they are given the facts, all the facts, for them to consider, I would really appreciate an answer to my question. Thank you.

The SPEAKER: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Ladies and Gentlemen of the House. It is my understanding that those are proper items to inform the woman of before getting her informed consent to the procedure. However, this bill goes way past that. It says you can't do it that day. It says you have to come back the next day. This bill doesn't just say here is what you have to tell her, it says here is what you have to tell her and when, by the way, you have to come back the next day. It goes way beyond that question.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Madam Speaker, Ladies and Gentlemen of the House. I do feel this is harassment and I will

join the majority of the Judiciary Committee voting "Ought Not to Pass" on LD 661. Waiting periods already exist, basically. A woman makes a doctor's appointment in advance and discusses the decision with her doctor. The procedure is scheduled several days or weeks following. All of this certainly gives an extended period of time to consider her decision. It took time for me or any woman to get the appointment. It takes time to set up a babysitter. It takes time to take time off from work. It takes time to travel the distance from the house. This bill is just simply further harassment for me, as a woman, to make getting an abortion more difficult. What do you think I am going to do, go shopping and slip into a clinic between stores? I don't think so. We, as legislators, are asked to interfere with a right to privacy here. We must trust the ability of a woman to make her own difficult decision and consultation with her doctor. Please vote to defeat this bill by accepting the Majority Report "Ought Not to Pass."

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. When a woman is about to end the life of her child, I can't imagine what harm it would be to wait another 24 hours. A lot of the testimony in front of committee and other committees I have been before, where women have gone through abortions. A great many of them break down and cry when they are testifying and say, why didn't somebody tell me? Twenty-four hours to decide whether to end the life of your child that you are carrying. I can't imagine. That certainly is not an easy decision. It is certainly not a decision that a lot of women don't ponder on. There are a lot of cases because of life situations that women do make rash decisions as men do. We all do. We are all human. In *Pennsylvania vs. Casey*, the US Supreme Court found that a 24-hour waiting period and also parental notification, by the way, was not found to be unduly burdensome. Such provisions are not unduly burdensome merely because they are an attempt to persuade a woman to carry her pregnancy to term. How awful. How awful that we try to talk a woman into carrying her baby to term. Are those attempts going to succeed? Maybe not. Do they have a chance to succeed? Maybe once and a while. That once and a while that they do succeed I don't think it is unduly burdensome for a woman to inform consent in waiting one day not to be in that line of people testifying that I or somebody else someday in the future might have to hear and break down in tears and say, Why didn't somebody tell me? I urge you to defeat the pending motion.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Representative Waterhouse is correct in reading to you from the *Planned Parenthood of the Southeastern Pennsylvania vs. Casey* where it was ruled that all restrictions except for husband notification requirement are constitutional. They are not undue provisions. As a point of information, abortions are available in Presque Isle which is much closer to Madawaska than Bangor. I want to share with you one of the most distressing things that I have ever heard come out of a doctor's mouth because this isn't the first time that I have had this issue before me, unfortunately. While I was trying to find all the answers the first time around, I went to a physician and quoted someone who said an abortion is not like an ice cream or a Porsche that a woman just can't wait to have. It is more like a coyote chewing off its leg in a trap. It is something desperate. I put this forth to try to see if that is the way her patients felt. In the harshest tone, I can still remember it and it has been four years, "Don't fool yourself. This isn't that hard for that many

women. Believe me. Don't go agonizing over this decision for them. Don't fool yourself." I can't even say it that harshly.

I don't see any problem with requiring someone to know what is happening and to have the information available. It would be like you are walking in here and voting on an issue that you have never heard, just like you are supposed to do it because it seems like the right thing to do. If it is not an undue burden, it is constitutional and it provides information and we have access in the State of Maine and I don't see what the problem with passing this is. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. Once again we have in front of us a needless and unnecessary piece of legislation put before you to convey the thought that women are casually and frivolously engaging in serious decisions. The abortion rate in Maine has declined by 43.5 percent in the last decade. Abortion is not on the rise in Maine. Women are giving it serious consideration before making such a serious decision. In our other debate we considered experiences in other states and I want to point out to you that in other states the 24-hour waiting period has been used to harass women seeking an abortion so that the protesters outside the clinic could gain her registration, phone her and harass her for the following 24 hours. I think that is extremely inappropriate and not behavior that we want to encourage in Maine. Finally, I want to say just one more time that I find this an extremely offensive measure, which suggests that women are not capable of giving serious thought to serious decisions. Thank you.

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. 92

YEA - Bagley, Baker CL, Baker JL, Barth, Belanger IG, Berry DP, Berry RL, Bigl, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Carleton, Chartrand, Chick, Cianchette, Colwell, Cowger, Cross, Davidson, Donnelly, Dunlap, Etnier, Fisher, Fuller, Gagne, Gagnon, Gamache, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joyce, Joyner, Kerr, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Spear, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Belanger DJ, Bodwell, Bolduc, Bouffard, Bragdon, Bumps, Campbell, Chizmar, Clark, Clukey, Desmond, Dexter, Driscoll, Dutremble, Foster, Frechette, Gerry, Gieringer, Joy, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Madore, McAlevy, Meres, Perry, Pinkham WD, Plowman, Samson, Sanborn, Sirois, Snowe-Mello, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM.

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

Yes, 97; No, 46; Absent, 8; Excused, 0.

97 having voted in the affirmative and 46 voted in the negative, with 8 being absent, the motion to accept the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-166) - Committee on Judiciary on Bill "An Act to Require Parental Notification for Minors Seeking Abortions" (H.P. 491) (L.D. 662)

TABLED - April 10, 1997 by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I believe that today's current law, the so-called adult involvement law, is nothing. It is worthless. Under Title 22, Section 1597-A, Consent to a Minor's Decision to have an Abortion, in Paragraph 2, Paragraph D, it says, "The Probate Court or District Court issues an order, under Subsection 6, on petition of a minor, or the next friend of the minor, for purposes of filing in a petition for the minor. My big concern here is exactly at that point what is next friend? Is it another friend? Is it another minor? Is it the boyfriend? No where in the state statute does it define what next friend is. If we look through the statutes under Paragraph 6, Paragraph A, again, the minor or next friend of the minor for the purposes for filing a petition may make an application to the Probate Court or District Court which shall assist the minor or next friend of a minor shall file a petition setting forth. Again, next friend, what is next friend? Right before Paragraph B at the end of Paragraph A the minor or the next friend shall sign the petition.

Ladies and gentlemen, I don't believe that next friend means adult involvement. Next friend could be another minor. It could be the boyfriend. It could be a friend. It does not specifically say. I believe that is a major flaw in these so-called adult involvement laws that we currently have on the books. The information provided to minors, again, it is all voluntary under Paragraph 4, Paragraph A, Subsection 6, "Provide adequate opportunities of a minor to ask any questions concerning the pregnancy, abortion, childcare, adoption and provide them information that minors seek or if the person cannot provide the information and to get where the minor can receive information." Once again it is not being required.

There was discussion under the original bill that there was a judicial bypass that a minor would have to appear before a court, which was stricken out with the amendment that we are not looking at currently, which that addresses. Under that argument that the minor will be intimidated, I cannot see how they are going to ask questions when they are going through counseling or they are seeking information. They are going to be scared and it is unfortunate they had to come to this point. I can't see how they are going to make the right decision without being properly informed. For those reasons, ladies and gentlemen, I ask you not to accept the Majority "Ought Not to Pass" Report for the mere fact that next friend does not mean adult involvement. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. For those of you who were here in the 117th, you remember this bill that was before us. It is the same bill. We debated it and for the life of me I couldn't understand why we didn't think that parents should know whether their little child, young daughter, was going to have this procedure performed on them. Representative Ahearne is entirely right. It could be a friend. When you look at the information and the different articles that appeared in the paper