

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

the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative DAVIDSON from the Committee on Business and Economic Development on Bill "An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards" (H.P. 933) (L.D. 1314) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-449)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-449) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Ought to Pass as Amended

Representative KILKELLY from the Committee on Agriculture, Conservation and Forestry on Bill "An Act to Strengthen the Laws Concerning Damage by Dogs" (H.P. 1019) (L.D. 1434) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-436)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-436) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Permit Suit against an Employer Who Knowingly Places a Worker at Risk of Serious Bodily Injury or Death" (H.P. 96) (L.D. 131)

Signed:
 Senators: BEGLEY of Lincoln
 MILLS of Somerset
 Representatives: JOY of Crystal
 JOYCE of Biddeford
 PENDLETON of Scarborough
 STEDMAN of Hartland
 WINSOR of Norway

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-413) on same Bill.

Signed:
 Senator: RAND of Cumberland
 Representatives: HATCH of Skowhegan
 CHASE of China
 LEMAIRE of Lewiston
 SAMSON of Jay
 TUTTLE of Sanford

Was read.

Representative HATCH of Skowhegan moved that the House accept the Minority "Ought to Pass" as amended Report.

On further motion of the same Representative, tabled pending her motion to accept the Minority "Ought to Pass" as amended Report and later today assigned.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act Regarding Recovery from Members of the Tobacco Industry of Medicaid and Maine Health Program Health Care Costs for Tobacco-related Illness, Disease or Disability" (H.P. 331) (L.D. 452)

Signed:
 Senators: PENDEXTER of Cumberland
 BENOIT of Franklin
 JOYNER of Hollis
 Representatives: MARVIN of Cape Elizabeth
 WINGLASS of Auburn
 LOVETT of Scarborough
 JONES of Bar Harbor
 JOHNSON of South Portland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-417) on same Bill.

Signed:
 Senator: PINGREE of Knox
 Representatives: FITZPATRICK of Durham
 SHIAH of Bowdoinham
 ETNIER of Harpswell
 MITCHELL of Portland

Was read.

Representative FITZPATRICK of Durham moved that the House accept the Minority "Ought to Pass" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Minority "Ought to Pass" as amended Report and later today assigned.

Divided Report

Five Members of the Committee on Committee on Judiciary on Bill "An Act to Allow Physician Assisted Deaths with Dignity for Terminally Ill Persons in Maine" (H.P. 552) (L.D. 748) reporting in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-411)

Signed:
 Senator: FAIRCLOTH of Penobscot
 Representatives: TREAT of Gardiner
 WATSON of Farmingdale
 PLOWMAN of Hampden
 LEMKE of Westbrook

Five Members of the same Committee on same Bill reporting in Report "B" that the same "Ought Not to Pass"

Signed:
 Senator: PENDEXTER of Cumberland
 Representatives: LaFOUNTAIN of Biddeford
 HARTNETT of Freeport
 MADORE of Augusta
 NASS of Acton

Three Members of the same Committee on same Bill reporting in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-412)

Signed:
 Senator: MILLS of Somerset
 Representatives: RICHARDSON of Portland
 JONES of Bar Harbor

Was read.

Representative RICHARDSON of Portland moved that the House accept Report "C" "Ought to Pass" as amended.

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

Representative RICHARDSON: Thank you Mr. Speaker, Men and Women of the House: You have now before you in a three-five-five committee report, the Oregon law, somewhat improved.

Three of us, Senator Mills, Representative Jones and myself present the Oregon law to you. Five will

be urging a task force report and five members of the committee are "Ought Not to Pass".

This bill allows confident, terminally ill persons the choice for physician assisted death with dignity in Maine. Oregon, a few months ago passed this narrowly into law in a referendum, but today is the first time an American state legislature, either branch, has debated it on the floor and will be voting on it.

About two weeks ago an Australian state passed it into law, northern territories, and that is the first time a parliamentary body has committed itself to this and the first time in the world that it has been passed into law. This bill is not a bill for doctors, for health professionals, it's not for hospitals nor for lawyers nor for any single point of view religious or philosophical about death and dying in America. It is simply a patients rights bill. It establishes firmly in law and in policy that a person has a right within a very carefully prescribed procedure to avoid obvious potential for abuse. To make that decision for him or her self and only him or her self and that is the crux of the matter.

You have a five page fact sheet in front of you, that fact sheet on the surface, and I direct your attention to its canary color, says what we have crafted, those of us on this report, and it slightly changes the Oregon law and improves on it I think in a number of respects. It provides for a fully informed voluntary decision making by the patient and only the patient. It applies only to the last 6 months of life as verified by two doctors and those two doctors may not be professionally affiliated with each other. It mandates that second opinion regarding the full prognosis of that terminal illness and then a validation by a counselor that the patient is in possession of full unimpaired independent and competent judgment as to his or her wishes. It requires three oral requests, it requires one written request, it requires two waiting periods, one of fifteen days and the second one of 48 hours. It of course punishes coercion of the patient in any way at any time that appears the process comes to a screeching halt and proceeds only when everybody is sure of what is happening. It promotes full involvement of the family through three official requests of notification of family if they're not already involved.

The patient is repeatedly requested to involve family. It provides that only those who are residents of the State of Maine for 6 months may participate. It provides, of course, for an annual report. It of course, does not allow for mercy killing or active euthanasia, of course it's the terminal illness that's killing the patient. It allows repeated opportunities to withdraw the requests or not utilize the option of choice. It provides for two additional witnesses to the written request that are not related to the patient or stand in anyway to benefit from the patients decision. It allows, and this is a significant improvement over Oregon, for multiple methods of clear communication in addition to speech for those who are physically impaired and obviously a reference back to the basic process to make absolutely sure what is being said. It of course provides for sanction free non participation to any health or administrative personnel who have any conscientious objection to participation. And of course if provides the appropriate immunities and protection from unintended

insurance estate or other legal consequences. The most obvious one is life insurance when the terminal illness is killing a person they don't have to wait for the last days of suffering or weeks, they commit suicide by the manner of now generally done, of course they lose life insurance benefits for loved ones. We have one former member of this body whose had four of his elderly male friends shoot themselves three successfully, one unsuccessfully out of despondency over terminal illness and of course their spouses do not receive life insurance benefits. And an improvement I believe over the Oregon law, it provides that the prescribing physician be present when the prescription is administered to allow any possibility that it could be delegated to somebody down the line.

We have a good bill for you, an excellent bill for you, in fact we believe it's going to become the model legislation in the country. But the critical issue here is whether or not the people, in this case the State of Maine, agree with the notion, support the notion that it is good public policy to allow themselves the choice in this area.

I have in the fact sheets a publication of the Harris Poll, which is a scientific verification of what many of you have learned in your questionnaire. Many of you have asked your constituents what they think of this issues. On the returns, have ranged from, I think a low of 58 percent affirmative to I think I heard a high of 82 percent affirmative support for this choice being available. The Harris Poll particularly the second page of it makes clear that somewhere between 67 and 70 percent, two-thirds of the American population in a scientific poll agree that the choice ought to be available. That is presented to you in the second page of this fact sheet. The third page deals with another issue, I've entered into a lot of debates with doctors and older doctors particularly, but doctors generally have appropriate reservations about participating in this and I go through kind of a standard argument with them. Hippocratic Oath I would say, relief of suffering but rapidly we moved to the issue of whether or not they could see themselves for a patient they were absolutely convinced was terminally ill and competent being involved in it and what emerges, and it's on the back page of that health sheet, is a quiet statement usually toward the end of the conversation, sometimes after the doctor has reacted angrily about how they view the choices being their choice, which is always kind of striking when it said as if they are more determined of what's happening here than the patient in the bed and when I point that out there's usually a lowering of the voice and a comment to the effect that it happens already and you will see an article here that details a survey of emergency room physicians. It does happen already. I'm actually persuaded that there's abuse in this area and with the passage of this law it will perhaps, I believe not provable, happen less often because now it will be an official legal process that doctors will know that their licenses are at stake if they've not followed that process.

New physicians according to a survey in New Physician magazine are much more open to the idea. Doctors generally though are certainly reluctant. It's difficult for them to think that way, but the fact of the matter remains that it is happening anyhow and this bill focuses exactly where it should which is on the competent persons right to make that

decision for themselves and only for themselves and that to me is the heart of the issue.

I put also in the fact sheet a couple of articles, one about a suicide of a scientist who had a particularly strong and clear concluding sentence and a copy of a op-ed piece and also a very strong statement written by an individual who shared it with me and I asked if they would be willing for me to include it. This was written in 1982.

This bill is about patient control, patient choice, it's about good protection of abuse, it is about an appropriate role for the State to ensure that abuse does not happen. I think the issue is said best in that statement in which the scientist who shot himself said, I would like to take advantage of my situation in which I find myself to establish a general principle namely that when the ultimate end is as inevitable as it now appears to be, for him obviously, the individual has a right to ask his or her doctor to end it for him or her. A major administrator, top administrator of a major medical facility in Maine told me privately that he had no question that in 10 years we will wonder what this debate was about. The manner in which the living will has become a part of sensitivity to patients, the manner in which some situations are not resolved, are not managed, are beyond the care of hospice that choice to handle that ultimate end by the patient him or her self only for him or her self will be a part an accepted part of law and public policy. That medical administrator said that he was convinced that it would be about ten years before this was generally accepted in law and policy now with the technology for maintaining people that is raising this issue to the forefront. If you believe, and some of you have said that you do believe, that the choices are right one. Why is it that we would refrain when clearly the citizens of Maine agree refrain from giving the choice to the few score people who will be caught in what we all fear most, a slow lingering debilitating final end. Why must we say we must wait and those people who would choose must suffer, it doesn't make any sense to me.

I think we've crafted a good bill for you, an excellent bill for you. Normally it's not appropriate to conclude a floor statement by asking people to think of themselves. Normally we like to think of others in this and I have just done that, but I would ask you to look at this because you will ultimately come to terms with this bill only once, conceivably and that's yourself, to look at it in terms of what you think is right, perhaps for yourself. I think this is the time for this, I think it's pointless really to extend to 10 years and I would urge you to look at the bill, raise questions that you want and proceed to vote to giving Mainers what they clearly believe is right.

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

Representative HARTNETT: Thank you Mr. Speaker, Men and Women of the House: In the Judiciary Committee we handle a lot of very difficult and emotional issues. Issues where it's not always easy to draw the line between yes and no. This bill is one of those issues. Privately I have thanked Representative Richardson for bringing us this bill and so publicly I would like to do so as well. Because throughout all the emotional and difficult hearings we've had in this committee perhaps none has had such a profound effect on me and other members of

the committee as this one. It was because of the testimony that we heard from extremely sincere people. People who are facing terminal illnesses potential for untold suffering and perhaps some ways their facing despair. And so I thank Representative Richardson for giving me the opportunity to listen to that testimony. Before I conclude today, I'd like to share with you the testimony of one individual who appeared before our committee. But despite that praise I must ask that you reject the pending motion and I'd like to tell you why.

I believe this is a flawed bill, it is flawed primarily because what we are granting here is not the right to die but the right of another individual, a physician, to take the life of another human being. Physicians are all over this plan, they are gathering witness signatures, they are making determinations as to the prognosis and health of their patients and finally they are prescribing a medication by which a person would end their own life. In some cases they may also administer that prescription. On page 13 of the Committee Amendment that you are now debating in the second paragraph, last line it says that it does not require that a physician administer the medication or to be present when the patient dies and yet indeed the physician could be there and in fact could administer that. I don't see that as a right to die, I see that as murder. Later on that same page it says this amendment prohibits anyone other than patient from administering the medication unless the patient designates another person to do so because the patient is physically unable to do so. What you have again is a human being ending the life of another human being. On page 8 there's another flaw, it essentially tries to undo all the terms and conditions of life insurance policies by saying, and as you know many policies when we take them out say, would have a provision if the client committed suicide within 2 years of policies inception the benefits would not be paid. Essentially this negates all that and says that doesn't mean anything. Also on page 8 under construction, and I really like this one, it says that this act may not be construed to authorize a physician or any other person to end a patients life by lethal injection, mercy killing or active euthanasia. Actions taken in accordance with Act to do for any purpose constitute suicide, assisted suicide, mercy killing or homicide. I beg any member of this House to tell me what it does authorize then, have we created a new type of death? A death we've never defined legally before. This is sort of 1984 George Orwell, the words mean just what we say they mean. This bill is also flawed because it denies, and I almost hate to make this argument because I'm opposed to the bill, but it denies equal access under the law. This so called right that is defined and outlined here would not be available to those who would be mentally incompetent, either the mentally retarded, perhaps an individual who is brain damaged due to an accident, they have no right to this law because they can't communicate their request or be considered mentally competent.

So again I say to you, the right being defined here is not the right to die, this Committee Amendment defines the right of a physician to take another persons life and I don't think that's the right we want to grant here today. I understand that many people who cosponsored this legislation did so because of a personal experience with a loved one, be

it a family member or friend and I have the utmost respect and once I had the understanding that they have because I have not been in that situation. But I do think that this is an area that we don't want to go to.

I'd like to read to you now the testimony and I hope you'll bear with me. This is from a gentleman who came before our committee, I'd never met him before I don't know where he lives I just now his name. I found his testimony so profound that I thought it should be entered in the record of this body and not just disappear into space in the air of our committee room. "My name is Mark Weeks and I am 32 years old, I'm gay and discovered two years ago that I have AIDS. My life has changed dramatically from what it was two years ago, my plans for the future, outlook on life, even daily routines are far different now. Because of my disability I now live on \$600 a month in Social Security benefits, less than half of what I was earning at my last job. I'm sure some people would describe my existence as nonproductive and a burden on society. Today I'm hoping to remind you that although you may consider yourself normal, healthy and productive you or a loved one could easily be in my shoes, disabled and far from perfect. I'm also hoping to convince you that less perfect does not mean less valuable.

First let me tell you about my disability. When I was a healthy person I took vitamins now I take anywhere from 5 to 10 different medicines a day at all hours of the day. I've been hospitalized or have been to the emergency room some 10 or 12 times just in the last year. Without health insurance my prescriptions and medical expenses would have cost me over \$130,000 dollars in just two years. I have chronic sinusitis, fatigue and muscle and joint pain. I had numerous drug reactions, including just last month when the pain in my joints was so intense I couldn't bend my knees and laid soaking in the bathtub while my partner went to the drugstore for yet another prescription. Last November I had a seizure out Christmas shopping. I've had to learn to give myself home infusions through an IV line and I've quit smoking and drinking and have altered my diet in an effort to stay healthy. Now let me say in spite of all that I've been through and no matter what lies ahead, I am grateful for every day that God gives me. He has a plan for my life and I intend to fulfill it.

Yes, I suffer from a terminal illness and the daily problems that go along with it, but I still don't feel I have the right to give up hope or call it quits and I hope that no one else would suggest that my life is now less valuable than before or maybe not even worth living. I don't want the option of exhilarating my death simply because others have determined that my quality of life has diminished. Life, anyone's life, is so valuable to just throw away. The world is full of disabled, sick and dying people and God says all human life is valuable not just the perfect ones. I bet everyone knows somebody with a disability, handicap or illness. If we only kept the perfect people and eliminated the rest I guess there wouldn't be many people left. Are we here today to assign a depreciated value to those people and encourage them to give up home for a cure. Where would we draw the line, will we allow suicide for some but not for others. For those of us living with AIDS we've seen several reasons not to give up hope in just the last few months, they

include Interleuken II infusions a drug called MK639 and studies on gene therapy. Not to mention the young boy in California who was diagnosed HIV positive but then changed to negative when his immune system beat the virus. No the answer to our problems is not to euthanize the weak and dying but to promote hope, search for cures and make accommodations so that everyone has the security of feeling like a valuable and needed member of society.

I recently had the sad experience of watching a brilliant, young, energetic friend of mine die from the same disease I have. It was a difficult and agonizing process for him, his family and friends, but he wasn't any less of a person just because he was ill. Instead he was brave and inspiring and fought to stay alive as long as he could. I can't speak for his family but I can say that my friend's life and death have given me the courage to continue on and face whatever lies ahead. Dying is a part of life. The dying process allows others to grieve, reconcile or make amends or just to say one more time I love you. To take your own life would be unfair to those people, depriving them of that opportunity. Euthanasia is like cheating on God, yourself and your loved ones, like taking a class and skipping the final exam. We should be fighting for the dignity of all human life not encouraging the less fortunate to step aside. If I had the option of taking my life when I was at my lowest, when I first found out that I had AIDS, when I thought my life was over and my dreams were ruined, I would have cheated myself out of the two best years of my life. Just knowing that I may not have much time left has made my life more valuable and precious to me now than before I became disabled. I enjoy everyday and don't want anyone but God to tell me when it's time to take my last breath."

I'd ask that you'd reject the pending motion and I'd ask you to vote for hope and not despair.

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

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I think after hearing the former speakers that you've just heard today, you have a sense of why I am really pleased to chair the Judiciary Committee which is a very thoughtful committee where we get a chance to talk about some of these really basic issues of life and death and just what we stand for and what sort of issues that people are looking to us to give recommendations on in terms of where our state policy should be moving.

As Representative Richardson stated, the committee divided three ways on this report and it's an interesting division in that you have a bipartisan vote on every single one of the reports and you actually have one Senator going with each report. So we're about as divided as you can be and I think that that says a great deal about what's going on on this issue. I also rise to ask you to vote against the pending motion and the reason is that I would like you to have the opportunity to vote in favor of a different report, Report A, which asks for a study of this issue. I think that after listening to the previous two speakers you have a sense of some of the issues that are out there waiting to be resolved and to get more information. I honor the request of Representative Richardson, who is the prime sponsor of this bill and a member of the committee to move the Minority Report. Although only three members of the committee did support that Report and the reason

why is that this is an issue that the public of this State and country is very, very interested in. As Representative Richardson from Portland mentioned, polling done by the Harris organization and by members of this body in our legislative questionnaires have come back overwhelmingly in support of passage of this bill or a bill that is similar to it.

On the other hand when you sit through the committee process as Representative Hartnett, from Freeport, has said there's extremely affecting testimony on both sides of this issue and there are in my mind many unresolved issues. Issues in terms of competence, that Representative Hartnett mentioned. In some states that have bills on this issue they've come out saying that anyone who has ever been treated with a mental illness has no right to access this procedure. And yet, I know in this state, having served on the Human Resources Committee, that people who have been treated simply once for a mental illness feel that they should have every right to access anything that's out there. That's a very interesting question, whether or not you agree with the direction of the bill its something that's out there and it needs to be looked at. Questions of what doctor's roles are. I think that Representative Richardson laid it out clearly for you that in fact doctors are assisting right now, it's kind of a potluck situation, there is no regulation of it it depends who your doctor is, what your relationship is with that doctor. That's an interesting question, they've come out formally in opposition and yet when you talk informally to many doctors they say well I think differently about this I'm not really sure I want to discuss it more. Legal questions, the Oregon bill has passed in referendum and now it's going through the court process. In the next year we're going to have a lot of information coming from various court decisions on the Oregon law and others about what the legal issues in this country are and those are things we can look to in the next year.

I think in some respects the general public is way ahead of us, I think they're looking to debate this issue, they're looking to have it discussed and that's why I think it's very important that we have this discussion here today. The bill has been presented, in my memory, at least twice. It has never gotten out of the Judiciary Committee it has always been voted down unanimously, this is the first time that there has been an opportunity in the State of Maine to debate it. I think that it's important to have this debate but I encourage you to vote against the pending motion, so that we can go on to vote for Report A which will involve a larger debate involving the whole public over the coming year. Thank you.

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

Representative PLOWMAN: Thank you Mr. Speaker, Men and Women of the House: As a member of the Judiciary Committee I also was moved by the testimony before us as we all are often by bills in front of us. It seems we get the most difficult ones and many of us lay awake nights trying to figure out how to best decide these.

I'd like to talk a little bit about just a few points that haven't been brought up, I hope not to repeat anyone. In the testimony we heard objections to this from the Maine Medical Association, the

doctors who are going to be asked to do this indicated that they have been trained as healers. They want to preserve the integrity of the medical profession and they don't want their patients to lose faith in them. Their Hippocratic Oath says that they will do no harm. Yes, some of the doctors are already assisting patients, if you want to use it that way, what they're doing is prescribing medicine that has "a double effect" one is to help the patient with the pain that they're dealing with, the double effect is that it may, may, bring about a quicker death for the person who is dying. That's how the patients are currently being helped. But the first effect of the medication that they're being given is to help them manage pain. We're all afraid of dying a slow, lingering death and I bet we're all afraid of dying a fast horrible death and we're afraid of dying any kind of death.

The Hospice Council asked us and brought us a resolution agreeing with the National Hospice Council that they oppose this bill. The Hospice Council without taking religious positions sees death as a process. A process that the patient learns from, the patients family learns from and they asked us to oppose it.

There has been an informal study being done by the Bioethics Commission here in the State of Maine. Doctors, nurses, anesthetist have been going around the state doing public hearings to ask how the public feels about this. You were told that this could be the first time the bill comes before us. Well, I hate to tell you how many times, and this is only my second term, so twice we've looked at the living will statute, and this time was very disturbing. The commissioners across the country who put together uniform laws so that a situation in Maine covered under Maine law would be a situation in another state covered under their law, such as the living will. They brought us their recommendations for what we should do in Maine to bring our law in line with the rest of the States' who have signed on to the living will proposal. It was disturbing for us to work on it and this was the second time and I'll give you the scenario that disturbed me most. The lawyer for hospitals said that there are advanced directives, how people would be treated should they not be conscience or should they not be competent because that's what living wills cover. They don't cover these instances, and physician assisted deaths by the way do not cover incompetence or unconsciousness coma. Grandpa is 88 years old, he lives in the hospital on the ward waiting to be put into a nursing home, he has Alzheimers. He's not competent. He's not happy, he's not happy with his life, he has pneumonia, he won't die of pneumonia if they give him the right drugs but should we be keeping Grandpa alive if he's not happy and he has a disease he could die of? When that was presented to us as a scenario that we had to figure out a way for the family in the hospital to make a decision regarding Grandpa, the room went very quiet and I bet I wasn't the only one that didn't sleep that night.

If you think that this bill is only going to come before us once, than this will be one of the very few pieces of legislation that is perfect and takes into anything that could possibly come up in the future. An attorney looking over the bill was wondering if we could actually develop an assisted suicide clinic. You make your phone call, that's contact one, you check into the office within two weeks, that's

contact two, you finish the paper work, you see a consulting physician who could actually be located across the hall, any of you who have a doctors office that conveniently has a blood lab across the hall know that this isn't out of the question, and in 48 hours you come back to pick up your pill. You've just satisfied the requirements of the multiple contacts.

The law on assisted suicide in three different courts, one in California, one in Michigan and one in New York ruled that there was no Constitutional right to die. The case law supports that and although there are some bills before Legislatures across the country, Oregon is the only State that has passed this and it is currently enjoined while it's being contested. Netherlands, who you heard allowed assisted suicide has had a ban in force since January of 1994. It was always banned, the ban was never enforced. Because of the horrors being faced by some of the people there as they aged or became ill the enforcement was put into place.

What some of us are afraid of is that we haven't studied this enough to determine what society really wants. What some of us are afraid of is that Grandpa with \$30,000 in the bank might feel he's a burden and that his \$30,000 shouldn't be spent making him well or making him comfortable. Some people are going to feel a burden whether they have finances or not. A grandmother looking at her daughter with 3 or 4 small children and seeing that she has to care for herself, her husband, the kids and Mom might feel a little pressure. Unless it would be the decision of the person to say I want to take my life I want you to help me, but what would the reasons be based on. There's a lot in here that troubles people, one woman actually stood up and said the frugal side of me abhors the thought of my family or my society or even of my insurance company spending its money to pay for my useless existence. Maintaining my empty existence would be a waste of our planets limited resources, resources which could be put to much better use for the rest of human kind. I don't think I'd want her to be the relative in charge of my estate.

I ask you to vote against this motion. Thank you.

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

Representative JONES: Mr. Speaker I request that when the vote is taken it be taken by the yeas and nays.

Representative JONES of Bar Harbor requested a roll call on the motion to accept Report "C" Ought to Pass" as amended.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I think everybody in this room recognizes that this is not just another bill. It involves major ethical issues. It involves major policy making issues. There are strong passions on both sides and there also are compelling rational arguments on both sides.

Representative Richardson should be commended, not only for the depth of his research but for his commitment and courage in bringing this important issue before us.

As a member of the Judiciary Committee, I must say that this is one of the most difficult of many difficult issues that we have grappled with this session and I almost, no not almost, I must say that in its present form, as amended, I cannot support the

pending motion and I urge you to vote against it, but I urge you to vote against it not simply so that we put the issue aside. Just as human life is so important to be dealt with in a brief period of time or casually, so is this issue, so is this issue.

So like the good Chair, while I urge you to vote against the pending motion I do that not to get rid of the issue but so that we can than move forward to deal with this issue in a prudent and deliberative and comprehensive manner so that I think all of us will feel more comfortable in our vote on this very important issue. Thank you.

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

Representative LUMBRA: Thank you Mr. Speaker, Members of the House: Since we're talking about a bill allowing physicians to assist in suicide or giving them the power to kill. I think it might be important that you know how they feel about it. This is the physicians assisted suicide study from the AMA and they looked at the Netherlands where assisted suicide was tolerated for 20 years and the Dutch government wanted a report on this and what they found out that in the first 6 month period, 2,300 patients were killed. These 2,300 people requested it but an additional 1,000 patients were assisted in suicide at no request.

I don't know about you but that scares me a little bit. The study goes on to say that patients in the late stages of cancer, 3 out of 44 considered suicide and all three had severe clinical depression. I think you should know that hits home with me and I'll tell you why. About 18 years ago my grandfather was diagnosed with lung cancer he had one lung remaining, he had had one removed for cancer. He was told that he had 3 months left to live. If this bill had been passed, the physicians would have said or maybe even been pushed to say, "Let us help you in dying." Instead what they did is they said, "Let us help you in fighting to live." He lived 15 years. A good life. Fifteen years that he would have been robbed if this bill had existed. I have a personal interest in this.

Another thing you should know is the National Legal Center for the Medically Dependent and Disabled adamantly opposes this bill. You should know I have a personal interest in this since I have a handicapped sister. I will stand and fight against legislation like this allowing someone else to take a life. I think we ought to think about this thoroughly. I remember other legislation that has passed that we heard was a slippery slope and it has been proven that it was.

It amazes me that I have talked to some of the sponsors of the bill and I think sincerely they said, "We just want to help people." I ask them, "Help them what?" "Help them commit suicide" and I said, "Why can't they do it themselves, right now?" I didn't get an answer for that. I think the vast majority of people out there that are dedicated to committing suicide have the ability to do so. One thing I was told is, well it is illegal. Well I think if they commit suicide there is not much chance of prosecution for them afterward.

I also want you to know that we have heard a lot about the Oregon Law. Well I will give you proof that is a slippery slope. In the New York Times, Derick Humphrey, who is the author of The Final Exit, said that the Oregon Law would be disastrous if we didn't allow lethal injection, this is immediately

after passage of this law in Oregon. He wants to go one step further, lethal injection. You can't help but say we have a health care crisis in this country. We have a budget deficit. We hear a lot about saving money, saving money. I can't believe that we would pass something like this and the fiscal aspect would not enter into that. I believe it would. I think we than become judges on who is worthy to live and who is not. And that is where I will stand and fight, since this weekend I volunteered my time at the special Olympics in Orono and as I looked around I realized that many people look at those people and think they are not really worthy to draw off the state funds. And it really broke my heart to think that we have come to that point. So I would ask you to really search your hearts and see if you are willing to make that decision of who can live and who should live and who shouldn't because it will come to that point if we pass this. I urge you to vote against this motion. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: Death is a process, suffering is part of life when my father was a young man he was diagnosed, he was about 21, he was diagnosed with about six months to live by two separate doctors. He went on to live to be 56 years old, when he was 56 he was diagnosed with hemochromatosis which is a rare blood disorder. My father wasn't just my father he was my best friend. We did everything together. We ran races together, we played chess together with chess tournaments. In the month of June we were running up Mount Washington in the Mount Washington race and he was beating me as he usually did. From June until September he progressively got worse with the disease he had and at the end of his time in September when he finally passed away he had lost so much weight that I carried him to the bathroom in my arms. But this is a process that I had to go through and we shared a lot of things on death and dying. And I know I would never want to suffer through that again, I would never want to give that up. After he passed away we moved to Maine to help my mother, she was crippled, she was wheelchair bound.

Two years after we got up here she was diagnosed with a brain cancer. They put her on morphine which kept her very comfortable, she didn't suffer, she wasn't really feeling much of anything And the one thing that she really feared most was not having somebody with her she didn't want to be alone. We shared that process of death and dying. I think when we try to find measures to short circuit that, especially using the medical profession we are perverting the medical profession. Doctors that provide hope, to heal and to relieve pain and suffering, not to end life. Not to long after my mother passed away, my good neighbor, a very good friend of mine next door was diagnosed with cancer and he was on the oxygen and he lasted for quite awhile and we spent night after night. I'd go over, he lived right across the street from my house, and I'd go over and spend nights with him holding his hand and talking about death and dying. And I really believe after going through that experience with my father, who was my best friend, my mother, and my good neighbor, who was a wonderful person, that most

of all the people around them are who suffer when other people get close to the end of their life.

I watched it with my mother, my father, and my best friend, their body shuts down they accept their death and like I said I see that the thing they fear most is being left alone. Jack Knight was my next door neighbor and a lot of his friends didn't stop by to see him, when he got real sick. That was a big thing with him, he was really upset about that and he asked me, "Paul, how come my friends don't come by and see me." And I said, "Jack they don't want to see you in this condition. They want to remember you the way you were. Don't begrudge them for that because they love you and they are suffering with you." And I really believe that the people who love people who are dying when the people who are dying reach a certain stage they're the ones that are suffering the most, not the people dying.

We have modern day drugs and medication that will alleviate 99 percent of the pain if not all of it. My mother had brain cancer, she had a tumor on the back of her head when they diagnosed it, when they found it, it was the size of my thumbnail by the time she died it was almost as big as my fist. I don't begrudge anybody for supporting this. I understand where they are coming from, nobody likes to see suffering, but folks suffering is part of life. Let's concentrate on alleviating the pain, making people comfortable in that dying process, sharing with them, making sure they're not alone. I wasn't sure I was going to stand up and talk on this issue because it is such an emotional issue with me as you can tell. I brought with me something I carry on these very emotional issues and I remember it all the time. It is from the Federalist Papers, I will read it. So numerous indeed and so powerful are the causes, which serve to give a false bias to the judgment that we upon many occasions see wise and good men on the wrong, as well as on the right side of questions of the first magnitude of society. And I feel as though the people on the other side of this issue are on the wrong side and I urge you to vote against the pending motion. Thank you.

The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Thank you Mr. Speaker, Men and Women of the House: I, too, have been sitting here through this debate and it's very, very personal to me as well. I lost both my mom and dad sixty days apart of one another. I watched them suffer, as you just heard from other people. My mother had advanced stages of breast cancer and she was the type, both my mom and dad worked 18 hours a day, their whole life was working. We owned stores, out with the public and their life was to go to that store, open that store and work until dark and come home. Well both these people came down with lung cancer and breast cancer respectively. They lost their life effectively at that point. We did everything we could. The doctors did everything they could, but then they got to a point where they were in a hospital and all their quality of life is gone. My father, I watched him go from a man of my size down to 70 or 80 pounds I watched the cancer he had eat his body daily. If you don't think that man was suffering every day he was in that state, I really don't understand what you call suffering. I don't think, they both, we discussed this issue many, many times, my mother and my father and I want you to know if they were here today they would be voting to

support this measure and that is why this bill is very personal to me.

When your mother lies there and you talk about the doctors and how they are suppose to be healers and to relieve suffering. Them doctors when you get them in a corner room in the middle of the night you corner them and you ask them. They'd be glad to do what we are asking you people to vote for today if there wasn't a law that prevented them. I can tell you that from personal experience from two different doctors, many different doctors and two different hospital settings. For me to read stuff that says the AMA says this is unethical and improper, well I want you to know what's unethical and improper is to watch your mother drown in her body fluids because she made that living will decision, that when it comes to a point don't do anything more. So what do they do, they pump her full of morphine for days and days and weeks on end allow her kidneys to fail and then you watch them drown in their body fluids.

Our family sat there day after day, night after night and watched that. My father 60 days to the day prior to this allowed the cancer to eat him pound by pound, inch by inch until finally everything in his body failed. Now if you people think that's humane and that's not suffering and that's not something a doctor should step in and assist in relieving them and as I say you can tell from my parent's background there life was lost the day they were strapped to that bed. That was their quality of life. We went through the whole nine yards, but when they got down to the last couple of months where they didn't even know you half the time and they would just beg you to do something. I'd ask you to support this motion. Thank you.

The Speaker: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Thank you, Mr. Speaker, Members of the House: When I hear people say suffering is part of life, I wish those people would have been to the testimony. If we could use props here I would like to have a video of the testimony in front of the Judiciary Committee. The people who spoke in favor of this bill, the people with Lou Gehrig's disease that were just begging for the choice, when the time came, that they could die with dignity. They didn't have to shot themselves and make a tragedy, further tragedy for their families. They could ask for help and die with their family around in dignity.

I run the town dump back in my town usually every weekend, when I first heard of this bill I was very excited, but I was kind of a closet supporter. So I started feeling the sense of the people in my town, almost every one of them come through the dump on a Saturday and I was absolutely amazed at the support for this, all ages, all political spectrum. So it gave me courage I had no idea of the support out there. A lot of people are nervous about it but if you ask them if they want the choice themselves, yes they would like that choice. To me that is the ultimate question. We have heard that this denies equal access because it only allows certain few to make this choice. Three of my friend in the last five or six years have made the choice to end their lives by taking a pistol out, one of them let the car idle went out into a swamp and shot himself. The other two shot themselves. They had the choice because they still had the strength to do it. People in the hospital, a lot of them in their last days

only have the choice of asking for an injection or something. So yes it denies some people access for this, mentally incompetent or so forth. I think there are great safeguards in this and I think we need those in there, but it does allow a lot of people access and for that I support it.

As far as the man who testified, the man who had Aids, I wasn't sure what his point was. He said he does not want the option of making this choice. Well, he doesn't have to choose that, but to have the option and he said he doesn't want to encourage others to do this, nobody's encouraging others to do this. I wasn't sure what his point was then and I'm still not.

The doctor who testified at the hearing representing the doctor's union, I guess, I talked with him afterward and he said a lot of doctors are leaning this way but some still don't want to have to do this. I still think that even the doctor's don't get the point. They don't have to do it. It's still a matter of choice. Like so many good bills that come before us. This is another choice bill, choice for adults. I'm hoping that the 117th Legislature can be known as the choice Legislature. Thank you.

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

Representative LANE: Thank You Mr. Speaker, Ladies and Gentlemen of the House: This touches a very personal part of my life, one that I was to busy campaigning to truly deal with. We would love to legislate away pain and suffering, we would love to be able to pass laws against death, but I rise to say there are some things that laws and legislation and statute will never reach. This is as close to me as last September, when my father lay dying in Togus with cancer. And it raises some very real questions, when is the right time to make a choice to die. Is it at the time of diagnosis when the bottom has fallen out of your world. Is it in the middle of the night, when fear of what is to come overwhelms. Is it in the morning when you see the pain on the faces of those you love and know the sorrow they face as they walk through this valley with you. Or is it when the bills mount up and you feel like a burden to all. Together as a family we went through this valley. We went through the shock, we went through the disbelief, the denial, the sorrow and we were able to reassure him with all the love that we had and probably up to that point in our lives never could express, that in no way was he ever a burden. I want to tell you we cherished every moment of life we shared with him. And indeed if you can understand the last hours together were the most precious. Painful, heart rendering but precious.

Now let me tell you ladies and gentlemen, of a subtle fear that is permeating and invading our society and that's a fear of being a burden to those they love. It's the fear of the sick, it's the fear of the elderly, it's the fear as medical costs soar and we have the ability technically to prolong life. With this legislation the doors open wide and I ask you when will it become the honorable and responsible thing to do to end a life that's become burdensome and expensive. And I say to you ladies and gentlemen, we don't need \$20,000 for a study there are many, many studies if you care to investigate and if there is one chance that this piece of legislation allowing someone to help someone else kill themselves can be misused in our society, I'm asking you to vote against it. 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 Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Members of the House: I've had just two telephone calls concerning this bill. Both from old people, I know them both, they were very rational people, in fact I think they can think better than I can think. The first one said don't pass this bill and she gave me her reasons. The second one, and it shook me to no end, said please pass this bill. I'm not going to tell you to vote for it or against it, I'm just passing on what these two folks said. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Thank you Mr. Speaker, Men and Women of the House: I had a questionnaire this spring and one of the questions was on the euthanasia bill. My questionnaire showed that 65 percent of the people supported this question on doctor assisted euthanasia. Senator Benoit in the Franklin County area had a questionnaire also and his questionnaire showed 71 percent supported this type of legislation. Now I had a bill in the revisor's office on this particular subject, and my bill was so similar to Representative Richardson's and I want to commend him for putting his bill in. My bill was so similar to his that I withdrew mine. It would be a mistake not to bring this subject before this body, I'm glad it has reached this far. Times are changing on many issues and the right to choose is one of those issues. I represent 8,500 citizens and the majority of those citizens appear to support this type of legislation. There are many unresolved issues regarding this subject, one being the physician issue and I note from a piece I received today from the physician magazine reader survey that apparently 38% of physicians would participate in this type of program. So as I say, there are many unresolved issues regarding this subject and it should not be shoveled under the rug. I'm convinced there needs to be something in place regarding this issue, whatever that is and I look forward to the vote here today. Thank you.

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

Representative GATES: Mr. Speaker, Men and Women of the House: I rise in support of this bill and I appreciate all the work that the Judiciary Committee has done. I think the difficulty of this issue is shown by the three separate reports of the Committee. The Representative from Bangor, Representative Lumbr, raised an important question, I would just like to give my response. Her question was people can do this themselves now and why don't we just leave it at that, why do we need this law? Well, I think the answer to that is given in the title of the bill and that is the Death with Dignity Act and I just don't think there is anything dignified today about killing yourself with a gun or slitting your wrists or putting yourself in a car in a garage and killing yourself that way through carbon

monoxide. Inherently, no one has any experience committing suicide, people don't know what they are doing, so that is why I think a physician assisted suicide is so important. It gives dignity to this person's choice to commit suicide. I think the other thing that is just very important is the patient has many more protections under this bill than current law offers that person now, many more protections and likewise a physician, should a physician choose to participate, is offered protection as long as he or she follows the statute. My community has had a long history of experience with hospice programs, its been a wonderful thing in my community and I think this choice is an important one for someone facing a terminal illness. Thank you.

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Sirois.

Representative SIROIS: Thank you Mr. Speaker, Ladies and Gentlemen of the House: Some 32 years ago I experienced death and all I can tell you it's a beautiful feeling and as far as I'm concerned I'm going to let the Almighty take care of that part, death is part of living. Thank you.

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

Representative WATERHOUSE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to make a brief comment. The previous Speaker, the good Representative, Representative Gates, talked about the hospice community in his district. I was talking to a hospice person at the work session on this bill from the Maine Hospice Council Incorporated and they were very, very much against this bill. They reiterated what I said previously, the fact that the people that they visited and the dying process the main thing they wanted was someone to hold their hand, someone to be there during the process. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Thank you Mr. Speaker, Ladies and Gentlemen of the House: As a member of the faith community, I believe there is only one great physician and it is in his hands that the power of life and death resides. Humans cannot usurp this power, we can only support a dying person through love and caring, through prayer and presence. I urge you to defeat this bill.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question is acceptance of Report C "Ought to Pass". All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 152

YEA - Barth, Benedikt, Brennan, Bunker, Cameron, Cross, Etnier, Farnum, Gamache, Gates, Gooley, Green, Hatch, Johnson, Jones, K.; Jones, S.; Labrecque, Libby JL; Lindahl, Marvin, Mitchell JE; Morrison, Ott, Perkins, Reed, W.; Richardson, Rowe, Saxl, J.;

Saxl, M.; Stevens, Stone, Tripp, Volenik, Winglass, Winn.

NAY - Ahearne, Aikman, Ault, Bailey, Berry, Bigl, Bouffard, Buck, Campbell, Chartrand, Chick, Chizmar, Clark, Cloutier, Clukey, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Driscoll, Dunn, Fisher, Fitzpatrick, Gerry, Gieringer, Gould, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Hichborn, Jacques, Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kilkelly, Kneeland, Kontos, LaFountain, Lane, Layton, Lemaire, Lemke, Lemont, Look, Lovett, Lumbra, Luther, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Murphy, Nadeau, Nass, Nickerson, O'Gara, Paul, Peavey, Pendleton, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Rice, Ricker, Robichaud, Rosebush, Rotondi, Samson, Savage, Shiah, Simoneau, Sirois, Spear, Stedman, Strout, Taylor, Thompson, Townsend, Treat, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Waterhouse, Watson, Wheeler, Winsor.

ABSENT - Adams, Birney, Carleton, Chase, Donnelly, Dore, Libby JD; O'Neal, Whitcomb, Yackobitz, The Speaker.

Yes, 35; No, 105; Absent, 11; Excused, 0.

35 having voted in the affirmative and 105 voted in the negative, with 11 being absent, Report C "Ought to Pass" was not accepted.

Representative TREAT of Gardiner moved that the House accept Report A "Ought to Pass" as amended.

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

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I have no need for a long speech here because I think we have heard both sides of the issue and I must say I got emotionally involved listening to both sides. It's very rare speaking on a personal level here and not as Chair of this committee that I could call myself wishy washy in terms of how I view the issues but I must say this is one issue where I was completely wishy washy and just could not decide which way to vote. I think there's some good reasons for that and I think that after listening to the debate today that there are probably other people in this body who would like to know more and would like to have more of a public debate on the issue. That's what Report A will do.

It sets up a task force, and I want to make this very clear, it is not a task force which either favors passage of this bill or disfavors passage of this bill, in fact, committee members who voted for this option probably are leaning both directions on this. Some are leaning more toward passage of the bill, others are leaning more toward not passing the bill. But I think what we agree on is that we would agree with the statement that the good Representative from Bangor, Representative Lumbra said, and I know she opposes Report A, but I still think her comments on this are still worth repeating. She said "I think we need to think about this thoroughly" and I agree. This is an issue that needs to be discussed and it needs to be discussed more in a public way. New York had a task force which was a very similar task force, it's through the end result of that task force report was to urge against passage of a bill similar to the one that we have just defeated.

I don't think though that we should sit here and take what New York says or any other state says, we need to look at this ourselves and have the dialogue that needs to go on. This task force is set up to

actually take place over the next year and to have a series of public meetings. It is not imperative I said to be skewed in either direction and therefore the membership of this task force includes people who are really sort of neutral. Doctors and nurses, hospice members, two members of the Judiciary Committee and I assure you we will work hard to insure that it is a very balanced committee from the point of view of the Judiciary Committee members, hospital members, a judge or justice who has retired, a college professor, people that can really be open minded to take in information from people who have their minds made up, perhaps. Who can come to the commission which will have public hearings that will have an opportunity for the public to get involved and to get educated on this issue and see if they remain 70 percent in favor of this bill or in fact upon further reflection, the public sentiment is different.

I would just like to say one personal thing again and I think listening to the debate today, I just want to thank the members of this body who have stood up and given their personal stories on both sides of this issue. It's something that's really difficult, emotional and personal and that's the kind of issue it is and I think that's why it's such a difficult one. I myself called my parents on this one, I rarely do that, you know, I sort of figure I know what I think on stuff, but I said I'm going to call my parents and they're like why aren't you doing this, vote for the bill now. What's your problem? This is a right we ought to have, we ought to be able to die with dignity and I said well I'm not there yet. There's a lot of issues and let me go through some of them and I did. And they said well okay, that's second best, all least you're willing to talk about it and think about it more.

I don't think anyone in this body should be afraid to learn more about the issue and discuss it. To discuss it is not to pass it finally, that is up to this legislature and it will definitely come back to the 118th Legislature, there is no doubt in my mind. It seems to me in the interim rather than having the same old debate that we had this time, let's see if we can move it forward a little bit and find out more and involve the public. So I urge you to vote for the pending motion and join with at least five members of the committee to continue to look into this issue. Thank you.

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

Representative NASS: Mr. Speaker, Men and Women of the House: I rise and ask you to vote in opposition to Committee Report A. My main concern here is I listened to all the testimony about this very emotional issue is that we're especially not ready yet for a legislative committee to deal with this issue. The public discussion on this is ongoing. It's going to continue throughout the succeeding years. I just have the feeling that this issue is not yet right for any kind of legislative action and I would ask you to postpone this. The doctors, the Maine Medical Association, while not being opposed to this study committee has not yet taken a position on this. The risk it seems to me is we're going to divide various associations like the Medical Association that need to decide what position doctors are going to take on this issue. This issue is not yet right for a legislative study committee and I urge you to vote against Committee Report A.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Thank you, Mr. Speaker, Ladies and Gentlemen of this House: I would ask you to vote against the motion on the floor. This body is notorious for sending things out for study committees and it is just as notorious for not following them. You can go back to the major study that was done reorganizing state government, the five major studies of education. I ask you this morning. If this study committee had been working in the last six months and had they presented to you a recommendation that this bill should pass, would it have changed your mind? I ask you not to support the study and I ask you to defeat the motion on the floor. Thank you.

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

Representative VIGUE: Thank you, Mr. Speaker, Ladies and Gentlemen of the House: I ask you to please oppose the pending motion. I can't believe that we are at this stage of civilization and discussing anything as sickening as this particular idea. Here we are defending capital punishment for a person who might have committed a crime, six, seven, murdered twelve, fifteen people and we defend this person against taking his life. We're trying to figure some way on how to do away with people because they are old and they are sick. My upbringing tells me that I not the judge of this particular issue. There is a being that has a little more to say than this particular House. I ask you to please reject this motion and probably follow through on the motion for the next one coming up. Thank you.

Representative MARTIN of Eagle Lake moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I hope you will oppose the pending motion so we can go on to accept Report A from the Committee on Judiciary. I have already given you my reasons so I won't belabor the point. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Lumbra.

Representative LUMBRA: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I support Representative Martin's position on this and I can't resist saying, here we go again. Every time a bill is defeated it seems we want a study or a commission. Please defeat this.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I would draw your attention to a handout that was sent out to you by the good Representative from Bangor, Representative Lumbra. One of the things that is in this handout is to defeat her particular position is the Report of a task force, a task force in the state of New York. Now the fact of the matter is, that the establishment of a task force does not automatically mean that it's

going to come back with a report for physician assisted death. But it does mean there will be some kind of focus and center of focus for looking at this very vital issue. So I think it is kind of misstated the way it's put before you. Having been around this place for awhile, let me predict what will happen if you don't have a task force. If you don't have a task force this will still come up in the next session and the next session without even the background of a task force or any focus and you'll be condemned to eternity these same kind of discussions, and same kind of debate. If you want to move this ahead, if you want to deal with this in a deliberative manner and this is not prejudging one way or another how we deal with this the best way is to deal deliberatively, which is what this body is suppose to do. Rationally, which is what this body is suppose to do and comprehensively with this issue. So I think it is a little bit misstated so before you vote for this pending motion, I would ask you to consider that and vote against it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Hartnett.

Representative HARTNETT: Thank you very much, Mr. Speaker, Men and Women of the House: I'm going to ask you to support this pending motion to indefinitely postpone and if I could I'd share the comments of our Senate Chair in Judiciary which is we do have a task force here and it's the 186 members of the Maine Legislature. And by judging from the personal stories and opinions you have heard today on the floor, I have no doubt that wisely this body without a task force can make this decision. The New York State Task Force spoke of a 220 pages of something I read some months ago and for the benefit of all of you I ordered two copies of it and one of them sits in the law library. So if you feel a compelling need for a task force at no charge you can go downstairs and read the report. At the risk of sounding cliché, why I'm against the task force is that if there is any hope of this sort of legislation passing I do feel that the genie will be out of the bottle.

One only has to look at the Holland experience to see what was first mentally competent people requesting euthanasia quickly became the disposition of those the society thought as worthless or a burden. I want you to feel like you've gone home and done something today and if you vote for this pending motion, you most certainly have. You have made as strong a statement as you can that the way western civilization has dealt with this issue for all of its years is the way we're going to continue to do with it and that life, all life, rather they are very sick, mentally incompetent, mentally retarded is precious. There is one final thing I'd like to do is the Representative from Penobscot, Representative Perkins, said that the testimony I read from the gallant young man before our committee that he didn't quite get the point. His point was that no the answer to our problems is not to euthanasia the weak and dying but to promote hope, search for cures and make accommodations so that everyone has the security of feeling like valuable and needed member of society.

If we need a task force, it is to establish how we can achieve these goals. That was the point Mr. Mark Weeks made and it is the point I make for you today and I ask you for the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I'll be very brief. The reason I made the motion to indefinitely postpone, this is one of the issues we can study it as many times as you want to and you can have as many reports as you want to, it isn't going to make any difference because people will continue to vote the way they feel. It is no different than abortion, or gay rights or any of those kinds of issues. You can study them to death, take whatever position you want to and when it finally gets before this body, people will vote the way they personally believe. A study will not make any difference.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

A vote of the House was taken. 90 voted in favor of the same and 44 against, subsequently, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

The Speaker resumed the Chair.
The House was called to Order by the Speaker.

On motion of Representative JACQUES of Waterville, the House recessed until 2:30 p.m.

(After Recess)

The House was called to Order by the Speaker.

Divided Report

Majority Report of the Committee on Business and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-404) on Bill "An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks" (H.P. 801) (L.D. 1118)

Signed:

Senators: HARRIMAN of Cumberland
CIANCHETTE of Somerset
Representatives: CAMERON of Rumford
LIBBY of Kennebunk
REED of Dexter
SIROIS of Caribou

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: GOLDTHWAIT of Hancock
Representatives: ROWE of Portland
BRENNAN of Portland
POVICH of Ellsworth

Was read.

Representative ROWE of Portland moved that the House accept the Minority "Ought Not to Pass" Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: As you can see, this is a divided report. The Majority is "Ought to Pass" as amended. The Minority is "Ought Not to Pass". I am on the Minority Report and I moved that report.

If you haven't reviewed the L.D., I would invite your attention to L.D. 1118 and the amendment that we will be debating, which is (H-404). L.D. 1118

proposes to further limit the liability of ski area operators in Maine for injuries or death occurring while skiing. Maine presently has what is known as the general ski liability statute. The statute is Title 26, M.R.S.A. Section 488. It states, in part, that each skier who participates in the sport of skiing shall be deemed to have assumed the risk of dangers inherent in the sport. It does not expressly identify what those inherent risks are. The bill before you L.D. 1118 as amended by the Committee Amendment does attempt to expressly identify the inherent risk.

L.D. 1118 attempts to replace the current general language with this specific statute listing all these numerous risks that are considered inherent in the sport of skiing. The list of risk includes items for which the skier expressly assumes or shall have considered to voluntarily assumed the risk of loss or damage and for which there can be no recovery. I would invite your attention to page 1 of the bill where it defines inherent risk of skiing. The amendment deletes lines 33 - 35, but that laundry list of those identified inherent risks of skiing remains.

The primary proponents of the bill, of course, are the ski area operators and owners. They argued that numerous frivolous law suits are filed each season by skiers and if this becomes law these suits will be reduced, thus their legal expenses will be reduced. I wasn't provided with actual figures, but I did recently read in a newspaper that the Vice President of Finance and Administration of Sugarloaf, USA had said that over the past 11 years 66 assorted claims have been filed against that resort. Of those 34 were skiing related injuries. That is 34 claims over 11 years. That is for a single resort, but it is the largest. That averages to three claims per year. I may be disputed. You may hear other figures today, but I didn't hear anything that lead me to believe that it was necessary to do this or that it was necessarily in the economic best interest of the state to do this.

I must say that I was shocked when the bill was initially presented to the committee. It was presented with an amendment that could have prevented a skier from bringing a suit against the ski area operator for injuries caused by negligent operations, if the injury arose out of the acceptance of an inherent risk of skiing. Therefore, there would be no liability. I was also taken aback by the absence of any potential liability by the ski area operator, due to negligent maintenance of the ski area. This was apparently an oversight on the part of the drafter and it was later corrected.

I am pleased to see that the proponents of the bill did remove what I considered to be the most grievous aspects of the bill. The Committee Amendment you have today is absent on most of those. I applaud the Representative from Rumford and the others who worked on the bill. However, I felt even after these amendments were made, I still could not support the bill.

I would like to tell you why, if I could continue. The bill came to the Business and Economic Development Committee because it dealt with economic development. As I said, I heard no facts or figures that proved to me that this was a real problem in discouraging or preventing economic development in the ski industry. The presentation was that these are Maine businesses and most of the