

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Seventh Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 3, 2014

beginning at Page 1

On motion by Senator **JOHNSON** of Lincoln, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Volk to Adopt Senate Amendment "B" (S-246) to Senate Amendment "A" (S-208). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#225)

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **VOLK** of Cumberland to **ADOPT** Senate Amendment "B" (S-246) to Senate Amendment "A" (S-208) **PREVAILED**.

On motion by Senator **MILLETT** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Millett.

Senator **MILLETT**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I'll be very brief. I'm requesting a roll call on Senate Amendment "A", just to be clear, because we just had a roll call on Senate Amendment "B". I'm in opposition to both amendments. I concur with my good colleague that this issue is very critical. We, in the Education Committee, have spent numerous and calculable hours discussing how underfunding of education has left our schools and our administrators struggling to address things such as professional development, implementing policies that this good Body have voted in support of, and until we address funding we are really tying the hands of our educators behind their backs. The amendments, as proposed, do nothing to address that issue at hand. In fact, I'm quite distressed with the Senate Amendment "B" that took away the bi-partisan nature of a taskforce that would serve. With this amendment, now that is no longer required. If anybody follows the work of the Education Committee, a lot of our work happens on that basis and results in some very strong policy discussions and decisions. Lastly, I would just say that, to

address the issue of teacher negotiations, I certainly would welcome addressing that issue in a bill on its own. Thank you.

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

Senator **MILLETT** of Cumberland requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#226)

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO, WOODSOME

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, Senate Amendment "A" (S-208) as Amended by Senate Amendment "B" (S-246) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-208) AS AMENDED BY SENATE AMENDMENT "B" (S-246) thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/10/15) matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Patient-directed Care at the End of Life"

S.P. 452 L.D. 1270

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

Tabled - June 10, 2015, by Senator **BRAKEY** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 10, 2015, Reports READ.)

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **KATZ** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you very much, Mr. President. Men and women of the Senate, some issues are easier than others and I suspect that this one will be a very personal decision for each of us and we will view it through the lens of our own personal experiences. I think all of us remember Brittany Maynard. She was the beautiful, poised, and accomplished 29 year old whose story captivated all of us over the past year. As you may remember, in 2014 Brittany was diagnosed with a particularly aggressive form of breast cancer. She went through treatment but the cancer returned and her diagnosis was changed to terminal and she was given only a few months to live. She bravely and publicly announced her intention to become a resident of the State of Oregon, which has an End of Life Law, so that she could participate in their process. Her words are profound. With her husband by her side, she wrote, "Goodbye to all my dear friends and family that I love. Today is the day I have chosen to pass away with dignity in the face of my terminal illness; this terrible brain cancer that has taken so much from me but would have taken so much more. For people to argue against this choice for sick people really seems evil to me. They try to mix it up with suicide and that's really unfair because there is not a single part of me that wants to die, but I am dying," she said.

This premise for this legislation, ladies and gentlemen, is very simple; a competent adult ought to have control over his or her own life, generally free from government interference. We already honor that principle in many ways now. We have the right to make medical decisions for ourselves and to refuse treatment if we choose to refuse it. Even if others think that that treatment might help us and be best for us, we get to decide what's best for ourselves. These libertarian ideals are engrained in our society and in our law, but life is a continuum and just as we respect a person's right to make their own decisions during their own life that same ability should extend to decisions at the end of life as well. It's about dignity. It's about self-determination. It's about the right to choose one's own path. Admittedly, this path is not without its challenges, but we can deal with those challenges as other sister states have.

Again, Mr. President, this bill is simple in its goal. If a competent terminally ill patient, who doesn't have long to live, makes an informed decision to end his or her life sooner rather than later a willing physician should be able to assist that person with an appropriate prescription to be administered only by the person who is dying, not by anybody else, but only by the person who is dying. I suggest it should be each individual's right to decide because it is their life and no one else's. For a cancer patient whose palliative care doesn't curb their incredible pain despite the best efforts of doctors and hospice, for the ALS

patient who wants to make his or her own end of life decisions, that right ought to exist.

Let me quickly walk through the bill with you, a bill which really comes from the experience in other states and is carefully crafted over years by people in other states. First of all, Mr. President, it's important to note all the safeguards which are built into this bill. A patient first has to orally request this life ending medication from a doctor. The doctor has to certify that the patient is terminally ill. The doctor has to refer the patient for a second opinion on terminal illness. That's not it though. A second request now has to be made by the patient, at least two weeks after the first request. Even after that that's not enough. A written request has to be made by the person, acknowledged by two witnesses who don't have anything to do with the patient, are not interested, are not heirs, not the doctor himself or herself, but disinterested witnesses. Then, and only then, Mr. President, if a physician is willing to, and again I emphasize a willing physician, they can write that prescription for phenobarbital or some other similar drug that can be filled by a willing, and I again emphasize willing, pharmacist. There are plenty of protections which have been built into the law to make sure that it is appropriately used.

I know that this proposal elicits strong emotional responses from people on both sides. To those who have strong religious beliefs and cannot bring themselves to vote for a proposal like this, I honor those beliefs and suggest you follow those principles. There are other arguments here which I think that argue in favor of it. For those of you who don't have those strong religious principles, I ask you to consider those.

There are a number of objections to this bill, but first of all let me say that the good news is we have considerable experience in this country from elsewhere where we can look to about how this would actually play out. Oregon has had a similar law since 1998, Mr. President; 17 years ago. Washington has had a similar law for the last 6 years. They have been joined by Montana, New Mexico, and 2 years ago our neighbors in the state of Vermont. Similar legislation is pending in many, many other states.

We've heard many fears about this bill and they are fears which, frankly, I have worried about myself, that doctors would wrongly prescribe medication for people who really aren't eligible. There have been 9 separate studies now in the state of Oregon which have proven those fears unfounded. Over all those years in Oregon, Mr. President, only 1,100 people have chosen to receive a prescription. What's interesting to me is of those who received it only 750 have chosen to actually ever use it. Last year 62 doctors wrote 122 prescriptions in the state of Oregon; 95 of those people died in peace in their own homes. At the beginning, Oregon's medical community was lukewarm at best about this law and only 25 doctors took part in the beginning. That has changed. Of all the patients who have participated 82% have been cancer patients whose life was about to end. About 8% have been Lou Gehrig's Disease patients. Many people said they wanted to have it available at their bedside table and, as I said, never actually used it. Many of those feared a loss of autonomy, dignity, and decreased ability to participate in the activities of life that we all find make life livable.

Again, the law hasn't been misused. Some argue that since pain can be controlled there is no need for this option. Well tell that to someone who's in extreme pain from cancer, or make that decision for them. It just does not eliminate the suffering of some. I would suggest that, in true compassion, we should not judge the choices that other people, other than the dying person, chooses

to make about how they meet his or her own death. Some, Mr. President, are worried that this will promote elder abuse and, essentially, murder by greedy heirs. Again, it hasn't played out that way in any other state. Not a single case has been raised where that has been substantiated. There has been a concern that this will be used more by the disabled community. A legitimate fear, but, again, in Oregon not a single case has been suggested where this has been misused in that way. Additionally, you hear some who will say that the right to die may turn into the obligation to die; that somehow, as a society, we will use this as a way of lowering healthcare costs. I worry about that, but I respectfully disagree again for a couple of reasons. First of all, this isn't suicide. These people who are qualifying are already dying. Secondly, again, study after study has shown this just hasn't proven out. You hear, Mr. President, that hospice does a great job and that this law will somehow replace the great work these people can do. My own parents passed away and had hospice care. Those people who cared for my folks were angels. End of life care and hospice and the right to use this procedure are not mutually exclusive. People will still have the choice of whether to use generally palliative care. Again, we can ignore the contrary, but the fact is that palliative care just doesn't work with everyone.

No one, Mr. President, is suggesting that we legislate by public opinion poll, but a recent Gallup Poll showed that 74% of people in this country agree that this option ought to be available for themselves and their families. Only 14% disagree. Support cuts across generations, across gender, across political parties, and, although the Maine Medical Association did testify in opposition to this bill, even physicians nationally, a majority of them, are in favor of this type of legislation, and just last week the California Medical Association voted to withdraw its opposition to end of life legislation in that state.

Let me end, Mr. President, with a few words from others, people who learned about this bill and sent me messages on Facebook. They are representative of the dozens and dozens of people who have weighed in on this, almost all in favor of this law as long as it is carefully crafted. One person wrote, "I understand the objections and, of course, those who have such objections will never exercise this, but for those who wish to die on their own terms before a crippling incident robs their memory or strength or causes them unyielding pain, we, as a society, are doing more harm than good if we prevent them from access to such methods to end their suffering." Another person wrote, "I totally agree with giving people control after watching my Mom struggle and through my own hospice work." Another wrote, "When a terminally ill person accepts death it's our turn to be selfless and honor their wishes." Another, "This is about freedom, the cornerstone on which this country is governed. If your belief causes you to choose to sustain life with life sustaining suffering that is your choice. If not, than you should be equally free to choose how to end your own life." The next to the last thought, "It is between a person and their God."

Lastly, Mr. President, I would just say that I know we will all view this bill with a prism of our values and our own experiences, but I hope you will join me in making this most basic right available to our families and our communities. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, as a Senator alluded to, it was a very emotional hearing at the committee and something that made it even more so for me was the request from my father-in-law to come and testify, which made me want to support him. I've known him for 36 years. I really respect and admire him and the thought of him not being around to bounce ideas off of, to share the love and events and joys and sorrows that we've had made me sad and made me also want to honor his request and one that my wife and I have spoken of about having these kinds of choices. Once we knew about Oregon and what they provided and then what's lead to other states to provide, it seemed fair as long as it was well protected. We looked into the bill we really felt that it was. The concerns that someone would be clear headed about the choice, wouldn't be just trying to escape a momentary pain, would have to make sure that they expressed their wishes to more than one person at more than one time. All of these were taken into account with lots of experience behind us. We're not having to recreate something here, or initially create something. The testimony was overwhelmingly in favor and yet I don't ask you to just go on anybody else's testimony. I ask you to look in and see what you'd like for the people you love. That made it hard to even speak about that. I knew what I wanted for me but I was speaking for this wonderful man who has so much to offer, but I also know that he can take a lot of pain but he made choices about what's best for his life. It is his life, it is my life, and it's yours. If you choose not to you don't have to, but please allow those who would like it the chance to end their life in the way they choose. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Penobscot, Senator Gratwick.

Senator **GRATWICK:** Thank you very much, Mr. President. Ladies and gentlemen, I rise in support today of L.D. 1270, too. This has been the most difficult issue I've had to deal with in the Legislature, both from a personal and a professional point of view. I believe that the final question of life and death must be focused on the patient, on what the patient wants after due deliberation. A patient should be able to choose to maintain life with all measures, to choose comfort measures, or to ask for help with passage over the threshold. The healthcare provider must be very careful, very thoughtful, and always respect the wishes of the patient. Thank you, Mr. President and ladies and gentlemen.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Haskell.

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, the good Senator from Kennebec is correct. We all bring our own experiences to this decision. Sitting through the hearing was not an easy thing. People feel very strongly and passionately about these issues. I've had some experience with dying. I lost my first husband, as many of you know he was 53 years old, to lung cancer. He stayed at home and he had hospice care and it was extraordinary care. He made a choice, and those of you who might have known him would have appreciated, he said, "I would like to live until I die." That's just exactly the way he approached those last few months of his life. Lung cancer is not an easy one to watch, but I was given an awful lot of help and care. This is not a decision that he would have made because he had all of that good care, because I had

probably the biggest bottle of narcotics I've ever seen in my life, liquid, available to me, to be able to use to comfort him when we needed to, to relax him. I would ask, "Is there enough in here to end his life?" They said, "Probably, but do everything you can to make him comfortable." I had that option and he was comfortable. When he passed away his dog and I were on the bed beside him. Live until you die. That's the way he would have made that choice.

That choice isn't available to everybody. We found that out as we listened to the testimony. Some of these diseases don't lend themselves well to just big bottles of narcotics. Some of these are tough ones. Some people don't have the insurance that's going to get them hospice care, or think they don't have that care, or don't know to ask for it. They are left with other kinds of methods. That's the thing, frankly, that tipped me over the edge. For a while I was thinking, "Now we really need to improve healthcare in this state." We've got a bill coming about palliative care. It's an extraordinary bill. We need to pass that. We need to make sure there's excellent palliative care in our state. We need to make sure there's healthcare access for people all across our state, from one end of the state to the other. Should we do this until we have that? That's what I wasn't sure about. Then some of the testimony led me to change my mind. I'm going to be supporting this bill.

There are some people, and I'm sure you can imagine the ones that you might know in your life, who, when they're faced with that end of life decision without a process like this, have resorted to firearms. It's a tragic thing to think about because the impact on the family; of having somebody in your house use a firearm to end their life is very tragic and has a huge impact on that whole family and everybody they know. To think that individuals like that would not have access to a well-designed, physician supported method of ending their life, I made the decision that I'd like to make sure that those people don't ever have to resort to that kind of a method, that they are able to have carefully prescribed, well-defined, access to the end of their lives the way Peter did. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, it is a very personal choice, obviously, and it's already been said that we each bring our own experiences to it. For me, this bill is dealing with a very difficult matter; how to live your life to the end. I very much appreciate the thoughtful design of this bill to provide protection against the things that the good Senator from Kennebec spoke of, Senator Katz, so that we don't have a problem with allowing this decision, this choice, for a terminally ill person to open the door to abuses. I think this bill is wisely constructed to protect against that. Others have spoken to some aspects of that, but I wanted to share with you that, for me, for someone to decide to keep their dignity while knowing they will be dying soon is very important. This bill honors their choice to meet their imminent and certain death on their own terms.

I'd like to speak for a moment about pain and suffering. Obviously, different people experiences in how they pass and how they choice to meet it differ. Everyone should have the ability to make those choices to the end. What this bill allows is for someone who has the prospect of losing all of their sense of identity, or all of their ability to retain some dignity and interaction

with people in their lives, or an overwhelming pain and suffering, to know that there is a choice that they can make to end life on their own terms when they are terminally ill. I'd like to share with you some comments sent to me by someone who is a recently retired hospice social worker, spent decades of their life on end of life care. She spoke of how she supports this bill and that it's desperately needed by the terminally ill whose physical and mental suffering is beyond the scope of palliative care, superb medications, and psychosocial support. She says, "I and my hospice colleagues can recite verbatim the stories of patients whose suffering continued in spite of the best medication and psychosocial support. Why do we remember? Because the suffering we witnessed will always stand in stark relief to the promise we made to all patients that no one will die in pain." She talks about a woman, still relatively young at 45, dying of amyotrophic lateral sclerosis, ALS. She'd been ill for years and spent her last months in their hospice house with her therapy dog by her side. She couldn't move, speak, and barely swallow. As it progressed, she talked about how no medications took away her pain and what she remembers the most is opening the door to the hospice house and hearing her screams. She goes on to say, "I know that she would have wanted this option if it were available. She begged for it." She went on about another gentleman, an engineer with a brilliant mind, with end stage colon cancer. He became so agitated that for four hellish weeks his family could not keep him in bed. It was as though his brain was on fire and up all night. He walked the hall and garden paths. The anxiety never subsided. They tried every drug and combination of drugs, every alternative therapy available. As a palliative care physician shared with me, at the end of life, as the body shuts down, everything changes and sometimes medications have no impact at all on suffering.

I hope whether you believe that this could ever be the right option for you or not that you'll keep in mind that every person's journey through life is their own and we should allow them the decision, the opportunity, through this bill to make those decisions for themselves with the wise safeguards that this bill puts in place against abuse. I hope you will join me in supporting the pending motion. Thank you. Sorry, I meant to say in support of the bill, not the pending motion. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today in support of the pending motion. I realize that many of you, probably like me, are reaching a point in life where you are dealing with some of these issues personally and, unfortunately, in my family we lost my father to a sudden illness where palliative care was necessary. We were faced with the decision in a very short period of time to determine whether we should expose him to the trauma of surgery to try and correct the aneurism that had burst in his head or whether we should allow him to receive the care that would remove the pain and allow him to naturally come to the conclusion of his life. It's not an easy decision to make, particularly not when you are standing in a hospital emergency room, surrounded by other distraught family members. We made that choice to bring him home and allow him, with the use of medication, to rest comfortably. It was outstanding care provided to us in our home for him. For several days he did rest comfortably and ultimately passed on. It was a choice that he, at that point, was ready to

make, although I never had that conversation with him because we were robbed of that opportunity. His aneurism happened late at night. He was rushed to the hospital. He did enjoy a special holiday time just before that. In fact, that evening he had just cooked the second Thanksgiving meal for family members and friends at his house and he went to bed in an exhausted but peaceful state. We never know what is going to occur. We don't know how or when the end of our life may come.

I've also in my life experienced the tragedy of an illness. My wife is a breast cancer survivor, as I know some of you in this Chamber have family members. She went through an incredible amount of surgeries and treatments. There were some very difficult times during that period. There are times when you are medicated and at a point where you're not fully aware of your options or, in some cases, you're directly advised not to make any significant decisions or sign any paperwork because of the medications and the treatments that you're receiving.

To me, this is a difficult decision. I respect the way that people have presented this, but, to me, this is more about the choices we leave with the living who would be required to bear the burdens of the choices that they helped someone to make. I don't understand why people have the illnesses they do, Mr. President. I don't understand why people suffer. I am appreciative for the wonderful things that medicine has brought to us in easing the pain of those who are suffering, to the compassion and the dedication of people who work in end of life care, in hospice and palliative care, those who minister to people sometimes when no one else that loves them is available or around them in emergency rooms. I just think it is a horrific idea to have to make the choice to end someone's life, particularly in circumstances where we're dealing with people who are in extreme pain. I hope that we think very carefully before we take this vote, Mr. President, because I don't believe Maine is ready for this. There are choices available. Clearly there are other states who offer this. I'm not saying that we should, in any way, be cowardly about how we approach this, but I think we need to be thoughtful and careful because we are talking about the end of a human life. I think that when we make those decisions there's a long process that goes into that. In our court systems we agonize over the ending of a life when somebody can't make that choice or, if somebody has broken our laws, we agonize over whether or not taking that life justifies the act that they are accused of. I would hate, Mr. President, to reach a point here in Maine where we have created an environment where we accept that the ending of a life has no value or significance. I think we need to be cautious in how we pursue this because it leads to, I believe, a very disturbing place. Thank you for your attention.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you, Mr. President. It is difficult for me to listen to the remarks of the good Senator from Penobscot, Senator Cushing, because it was reminiscent of experiences in my own life, but I would just like everyone to remember that we are not talking here in this bill about the decisions that sons make for their fathers or that daughters make for their mothers. We're talking about decisions we make for ourselves. Competent adults should be allowed to make for themselves. I'll end with one quote from a letter I got from a woman in Sabattus. She said, "If you want to fight to the last moment to cheat death, go for it, it's not my place to judge, but if you want otherwise for yourself what

possible business is it of the State of Maine to prevent me from exercising my right to have a death of my choice?" Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today to express my support for the Ought Not to Pass motion that is now on the floor. I know that there are several reasons why people in this room have taken a position opposite from mine and I completely respect all of you. Perhaps many believe that the option of assisted suicide is so personal that each person should have the choice of when and how to end their life. After all, they might say it is a matter of choice and the decision of one person to end his or her life does not mean that others have to decide to the same thing. I, however, disagree. Not only does one person's decision always impact others, but our actions today will send a message across the state about the value and dignity of all human life and I value all human life. It is for this reason that if we were here voting on whether or not to have the death penalty in Maine I would also be opposed. It's why I stand for the life issues when we have those in front of us as well because I don't believe that any one of us knows when life begins or when life should end, including ourselves. Those whom it will impact the most negatively are likely those who most need us to reaffirm their value and worth as human beings, no matter their condition or diagnosis.

This past winter Maggie Karner, a Connecticut woman who's living with the same medical condition that Brittany Maynard had, penned an article that was published in the *Hartford Courant* entitled "Suicide Option Would Undermine My Cancer Battle." In the article Karner confronts the push by assisted suicide advocates in her home state to adopt a similar measure. Among other things, she says, "I have been diagnosed with a terminal brain cancer. Because of my diagnosis I would likely be eligible for the state's help to commit suicide under a bill currently under consideration. That is terrifying. Like many residents, I have wondered whether I would want my doctor to offer suicide as a treatment for deadly cancer. The out-of-state proponents of the bill regarding physician assisted suicide suggests having the ability to end your life legally as comforting, but I can tell you from personal experience that it is nearly as troubling as the cancer itself. You see, I get strength and comfort from the knowledge that nobody is going to give up on me; medically, psychologically, or holistically. Right now I have the firm support of the state and my fellow citizens and my desire to live, no matter the cost or burden. If that were to change, the tiny knowledge that I might be straining my family, friends, doctors, or community resources unnecessarily would be a heavy burden. The constant option for suicide would wear at my resolve and I fear become an unspoken duty for me and others."

Ladies and gentlemen, we don't live in pure isolation. One person's decision to end their life and one legislature's decision to sanction it would surely impact all of us. One person's decision to end their life and one legislature's decision to sanction it would send a message that some people are less valuable and less worthy. Fellow Senators, when we, as a State and as a society, say that suicide is wrong and tragic in most cases but acceptable for others we tell those others that they are more expendable and for those with terminal illnesses, who do not want to take their

own lives, that message may be harder and harder to ignore. Please support the pending motion.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, this bill is not about sanctioning a decision by a person on how to die when their death is imminent. It's about allowing that choice to be made by the person. It's not about choosing death. A person at that stage in their life must accept that they are going to die, it will happen soon, but we should allow them the dignity to make decisions for themselves on what level of function, capacity, and pain they want to endure to meet their natural end or not. That acceptance is the thing that we cannot change here. As much as we would like people to live, we must accept that people do die and it's almost always very painful, but should we not allow a person the dignity, the little bit of control left in their life, to make a decision on how they will die? Many people who, in other states that have a bill like this, went through the process, got the medication they would need to take to end their life at the time of their choosing, they were terminally ill, but a significant number of people, just knowing that they, if they reached that point they could not continue that fight and struggle that they wanted to continue, had that option chose to get the medication and then never used it. It's still a very personal choice. This is not a sanctioning. It's not an obligation to die in a particular manner. It's the choice for the person to make that decision for themselves and accept the way that they want to die, as we all should, just as we must accept that a person inevitably will die. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Oxford, Senator Hamper.

Senator **HAMPER:** Thank you, Mr. President. Ladies and gentlemen of the Senate, the State of Maine not only condones but it endorses the killing of the unborn. Now I'm being asked to condone and endorse this. I'll be supporting the Ought Not to Pass Report. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU:** Thank you, Mr. President. Ladies and gentlemen of the Senate, this morning's debate has been very personal to each and every one of us because we can't help but base it upon our life experiences and situations that we've faced with people that we loved dearly that have been in situations where it's end of life and that's very emotional for each and every one of us here. I want to tell this group this morning about another experience, another life experience, that I've had that I think is important to the debate here this morning. As leadership in the State Senate we are invited often to go and speak to different groups around the state. This past winter I had an opportunity to speak to a group in Portland. We talked about the State budget. We talked about the issues that were important to our state that were going to be incredibly well debated. After we finished up that event my Chief of Staff and I went to Becky's Diner in Portland to grab something to eat. As we were sitting there this well dressed gentleman, who had been at the event earlier, came by my table. He came by for one purpose and that

was to advocate for this very bill. That wasn't something that we discussed in the forum or anything like that, but he wanted to come by and voice his support for this bill. I got to tell you, it was probably one of the most disturbing conversations that I've ever had with somebody. It wasn't confrontational in any way, but he wanted to share with me what a great cost savings initiative this would be. Let me tell this group, I don't believe that there is a person that is elected to the State Senate that is viewing this in that way. I don't believe it for a minute. I think that every one of us would have been equally offended by that conversation, that a gentleman that obviously had been very successful in his life, a bright gentleman, could think in those terms was just amazing to me. You know, you have to ask yourself; how would you like to be that gentleman's Mom or Dad? Would you want him in your will? I'm not suggesting that he probably doesn't love his parents. Maybe it's a complete reach on my part to come to that conclusion, but I suggest to you that there are some people that look at this from a financial perspective. Again, probably the smallest of minorities that you'll ever, ever find, but I know for a fact that there's at least one gentleman that looks at this through that lens and that scares me and it ought to scare us all. We need to be very, very careful what kind of behavior and what kind of things we normalize and endorse as a society. I think that this is a bridge too far for the State of Maine. Thank you, ladies and gentlemen.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, thank you for the courtesy of allowing me to rise once again to speak on this issue. I recognize the day is long, we have much to accomplish here before we leave this Chamber or this building, but the significance of this issue begs for a reflection on the choices that we're making. On our desks today was submitted a letter by a former colleague and member of this Body. I'd like to just share a couple of parts that really spoke to me. This is an issue, I think, that transcends politics and causes us to look at this matter as basic human beings and policy makers who are trying to judge issues that are really beyond the scope of what we are, I believe, qualified to judge. Our colleague, Senator Craven, offers her thoughts on this in the letter. She says, "This bill is of particular concern to me as I am intimately acquainted with end of life issues and hospice care. As many of you know, in addition to being a hospice volunteer, I also take care of my husband who suffers from Parkinson's Disease. I can tell you that, even as the primary caregiver for my husband and even as I watch him fight the effects of this disease, I remain firmly against physician assisted suicide. I see the way I and others care for my husband and know that the love and support we give him is a true demonstration of his compassion." I know people who love us and care for us, these are now my own words, Mr. President, don't want to put us through any more pain and suffering even when they, themselves, are bearing incredible burdens during an injury or illness. I think of my mother, who is suffering from some diseases, including Parkinson's. I think of the choices she's had to make with the passing of my father. I would not like her to think that she is ending any suffering for me by making a choice to end her life. I value and appreciate the time and look forward to spending more time, particularly when we are done for the summer, going to dinner and just enjoying the simple pleasures with her and, when my mother-in-law gets back,

spending the summer enjoying and bringing joy to those who brought us into this world and nurtured and cared for us and I would be very sad and disappointed to think that others might miss that opportunity because, during a period in someone's struggle with an illness, that they might feel that it was more appropriate to take this option to eliminate the cost, both physically, emotionally, and financially, to their family. I thank you again for the courtesy you have afforded me in listening to my comments and I would welcome your light following mine in support of the pending motion.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I want to thank Senator Katz for bringing this bill forward and I understand it's the decisions of the individual. It's difficult to understand the pain the individual is going through. One doctor told me that things are only as bad as they seem. Certainly things can seem bad at the moment from pain, suffering, thinking about your family, thinking about what you're doing to your family. It's just so hard. I know, as a law enforcement officer, I've gone to suicidal situations and some of them I got to before they committed suicide and talked them out of it. Other ones I've gone to that had already taken place. One of them was my DARE student's. Another one a husband to a teacher that I used to teach DARE with. I just barely didn't quite get there in time. I was on the phone when it happened. Serious situations. I know that we all have to think about that individual. It's very difficult, but I think the big key here is time. It's a matter of time, how and when it's going to happen, and how do we determine to take that pill or whatever and know it's time. I think one of our Senators brought forward to me that Ted Kennedy was given three months to live with brain cancer and he lived 15 months. His wife said that they can never - they felt so impressed to be able to have that extra time as a family moment. Only because of moments like that, I couldn't go with this bill and I do appreciate what Senator Katz brought forward. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, I just want to make sure it's really clear when the term "physician assisted" that this is not anyone else doing this. This is to provide you the means. There's been another group that's been around for a long, long time that's provided the means when people choose to plan ahead, but it's not quite as painless as the method that this would provide and give you the choice to take with your own hand. As sad as that may be, it's a lot less painful and messy than some of the other choices that people are choosing every day. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition of this motion today. Being a paramedic firefighter for 27 years, it brings on a whole new meaning when you have the person away from their family, in the back of the rescue knowing they are going to die, and they tell you, "I wish I could end my life." It's not a conversation that

anyone wants to have, but it's a conversation that we have to have when we are in the rescue with them. It's their personal time and they take a belief in me and my colleagues about conversations that they can have with us because their family's not around and it's emotional. They can't have this conversation in front of their family because family members get very upset. Everyone gets very emotional. When they are alone in the back of the rescue they express themselves to us and many times we've had patients say, "I wish I had this option, but it does not exist." That's why I will be voting against the pending motion currently. Thank you.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey, to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#227)

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, LANGLEY, LIBBY, MCCORMICK, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFOSKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, MILLETT, MIRAMANT, PATRICK, ROSEN, VALENTINO, WOODSOME

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Majority Ought Not to Pass Report **PREVAILED.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.