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House Legislative Record

of the

One Hundred and Eighteenth Legislature

of the

State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick who wishes to address the House on the record.

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. During yesterday's session I inadvertently voted in a matter I had not intended to. On House Roll Call number 85, I am recorded as voting no. I had intended to vote yes. Thank you Madam Speaker.

ORDERS

On motion of Representative GAMACHE of Lewiston, the following Order: (H.O. 23)

ORDERED, that Representative Duane J. Belanger of Wallagrass be excused April 3 for personal reasons..

AND BE IT FURTHER ORDERED, that Representative Joseph E. Clark of Millinocket be excused April 3 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas M. Davidson of Brunswick be excused March 27 and 31, and April 1 and 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Lucien A. Dutremble of Biddeford be excused April 9 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Christopher T. Muse of South Portland be excused April 7 for health reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

In Memory of:

Lionel "Lee" Conary, of Oakland, whose compassion, generosity and positive outlook on life were hallmarks of his service to the people of the State as a teacher, a member of the House of Representatives and a state employee at the Bureau of Insurance. Lee's devotion to his wife, Sally, and daughters, Heather and Kim, was well known and much admired. He will be sadly missed by all who knew him; (HLS 292) by Representative POULIN of Oakland. (Cosponsor: Senator CAREY of Kennebec)

On objection of Representative POULIN of Oakland, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending adoption and later today assigned.

Recognizing:

Kelly Stubbs, of Sherman Mills, a freshman at the University of Maine, who personifies the great heart and fighting spirit of the Lady Black Bears that has carried them from Maine to Louisiana in the NCAA Tournament, and in extending our congratulations and best wishes to her; (HLS 299) by Representative JOY of Crystal. (Cosponsor: Senator MICHAUD of Penobscot)

On objection of Representative JOY of Crystal, was removed from the Special Sentiment Calendar.

On motion of the same Representative, the Sentiment was indefinitely postponed.

Thomas Santaguida, of Kennebunk, who has been named 1997 Warden of the Year by the Maine Warden Service. He is currently a Warden Investigator assigned to Division "A" in Gray and has been with the Maine Warden Service for 8 years. We extend our congratulations and best wishes to him; (SLS 89)

On objection of Representative MURPHY of Kennebunk, was removed from the Special Sentiment Calendar.

Was read.

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

Paul Crowley, a 7th-grade student at the Middle School of the Kennebunks, who is the 1997 State Spelling Bee Champion, and who will go on to compete in the national competition. We extend our congratulations and best wishes to him on this achievement; (SLS 91)

On objection of Representative MURPHY of Kennebunk, was removed from the Special Sentiment Calendar.

Was read.

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

REPORTS OF COMMITTEES

Refer to the Committee on Legal and Veterans Affairs

Representative AHEARNE from the Committee on **State and Local Government** on Bill "An Act to Prohibit Legislators from Accepting Gifts from Lobbyists" (H.P. 185) (L.D. 238) reporting that it be referred to the Committee on **Legal and Veterans Affairs**.

Report was read and accepted and the Bill referred to the Committee on **Legal and Veterans Affairs** and sent up for concurrence.

Divided Report

Seven Members of the Committee on **Judiciary** on Bill "An Act to Ban Partial Birth Abortions" (H.P. 390) (L.D. 535) report in Report "A" that the same **"Ought Not to Pass"**

Signed:

Senators: LONGLEY of Waldo
BENOIT of Franklin

Representatives: THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
MAILHOT of Lewiston
POWERS of Rockport

Three Members of the same Committee on same Bill report in Report "B" that the same **"Ought to Pass"** as amended by Committee Amendment "A" (H-163)

Signed:

Senator: LaFOUNTAIN of York

Representatives: JABAR of Waterville
NASS of Acton

Three Members of the same Committee on same Bill report in Report "C" that the same **"Ought to Pass"** as amended by Committee Amendment "B" (H-164)

Signed:

Representatives: WATERHOUSE of Bridgton
PLOWMAN of Hampden

MADORE of Augusta

Was read.

Representative THOMPSON of Naples moved that the House accept Report "A" **"Ought Not to Pass".**

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. We will now be debating what I believe to be one of the most difficult issues that we face in this House and probably the most emotional. First, before getting into the debate I would like to thank the members of the Judiciary Committee who worked on this issue with a high degree of professionalism and giving each other the courtesy of listening to each others views and working these bills. I would hope that the debate today will carry on with that tradition that was established by the Judiciary Committee of keeping the debate at a high level.

It may be helpful for me to first go through what the existing law is on abortions. In Maine, it is the public policy of the State of Maine not to restrict the women's exercise to her private decision to terminate a pregnancy before viability, except as provided in Section 1597-A, which is the parental involvement statute. After viability, an abortion may be performed only when it is necessary to preserve the life or health of the mother. It is also the public policy of this state that abortions may only be performed by a physician. It is criminal violation to perform an abortion in violation of this provision. A physician is, currently under Maine law, guilty of criminal violation if they perform an abortion after viability unless the life or health of the mother is in danger.

LD 535 is "An Act to Ban Partial-Birth Abortions." This bill would further restrict a woman's right to choose what is in her best interests when her health or her life is at stake. The bill would set forth as public policy in this state that a singular medical procedure would be banned regardless of the effect on the health of the woman. It would allow for the procedure to performed if the life of the woman was in danger, but it would not allow the procedure to be performed even if it had an adverse affect on the woman. Making a decision as to which medical procedure will be used is not good public policy. We are saying that by passing this bill that it is public policy to allow for an abortion when the health or the life of the woman is in danger, but if it is only her health, we are going to ban this procedure. We are going to ban this procedure even if it causes more damage to the woman than another procedure which is available. We are going to say that you cannot use this procedure, but it is okay to use a different procedure, we just don't like this one. It is okay to use a different procedure even though the result is the same, but we just don't like this one. Therefore, you should vote it into public policy.

I understand the arguments on the other side, that they don't agree that any of these abortions should be performed. I believe that is an acceptable point of view. It is very acceptable. It is a very difficult area. To have a public policy as established by the Supreme Court of the United States and then to restrict it in this way, which I think is inconsistent, is bad public policy. We should not be involved in prohibiting specific procedures. We are not in the position of determining what medical procedure is in the best interest of the people involved in any given incident. That is a medical decision and a personal decision, which should be made by the doctor and the woman involved.

You will hear much graphic testimony here today about the procedure. You will hear that, therefore, because of the nature of the procedure you should enact this legislation. I suggest to you that any abortion, if it was described, is not a pleasant description. The law of this land as set forth by the Supreme Court is specific. We cannot go down the road of choosing a procedure and banning it. We must uphold and protect woman who are going through very difficult situations and we must reject LD 535. I ask you to join with me in supporting the current motion, which is "Ought Not to Pass." Thank you.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I ask you to join me and defeat the pending motion so that we can move and accept Committee Report "C." There has been a lot of discussion regarding the health issue and I am going to be addressing that this morning. Let's discuss the current law regarding abortion after viability. Title 22, Section 1598, Subsection 4, Abortion after Viability. As defined in current statute, viability "means the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life support systems." An abortion performed after viability is prohibited except "as necessary for the preservation of a life or health of the mother." The critical word in this section of law is health. There are those who want to include health as an exception in LD 535. There is a very logical reason for the absence of the health exception in LD 535.

In the Supreme Court of the United States Ruling in Doe vs. Bouling, the word health is broadly defined. "Medical judgment may be exercised in the light of all factors, physical, emotional, psychological, familiar and the woman's age relevant to the well being of the patient." The court wrote "All these factors, physical, emotional, psychological, familiar and the woman's age may relate to health. This allows that attending physicians the room he needs to make his best medical judgment." This landmark ruling makes the prohibition on abortions after viability, including the ban and even including this partial-birth abortion, an absolute joke and a sham. It amounts to a most symbolic, but unenforceable, statement that by the state that abortions after viability are frowned upon. With the view of the Supreme Court's ruling and broad definition of health partial-birth abortions can and will be performed at any stage of the pregnancy no matter the reason.

If we look at the statement of the person who directed the proabortion campaign against the partial-birth abortion ban bill in Congress, Mr. Fitzsimmons, who admitted his argument was based on lies and that 2,000 to 3,000 partial-birth abortions are performed each year, then statistically that represents one partial-birth abortion for every 80,000 to 120,000 persons annually and nationally. On a prorate of basis this means that statistically that 10 to 15 partial-birth abortions per year for a population the size of Maine. We must consider this regardless of the argument that only one to two occur in Maine simply because there exists no accurate reporting system. Currently, from data from the Department of Human Services there are 66 abortions that are performed that have no idea what they were. They are simply known as unknown. This bill will save one to 15 babies a each year.

Based upon an article in the *Washington Post* on 9/17/96 by Dr. David Brown in a study published in 1991, doctors reported that of the 1,765 infants born with a very low birth rate at seven hospitals, 20 percent were at 25 weeks gestation or less, of those that had completed 23 weeks, 23 percent survived. At 24 weeks, 34 percent survived, yet none were yet in the third trimester. Thus, most, if not all babies, killed during the partial-birth abortion would probably survive if permitted. This is cruel and senseless killing of children. I am deeply encouraged to know that abortions are on the decrease here in the State of Maine and that teenage pregnancy is also on the decline. We still have a long way to go. Personally, I would like to see no abortions in Maine, but I am too realistic to expect it to occur.

LD 535, the ban on partial-birth abortion, will bring us back to the realization that life is too short and should be lived to its fullest. To cheapen life, to reduce its value will only perpetuate the attitude that life is worthless. It will only signify that it is easy to hurt, maim or even kill another human being. I know that everyone in this chamber, as well as the members of the other body, would love to end all violence and with this bill, LD 535, we can send a message that life is indeed valuable and that we should do everything humanly possible to do so. Today violence is rampant in our nation. People, including young children, are killed every hour and people ask why even children commit murder without any apparent concern? I can only state there is no concern for the unborn child. There is usually no concern for young children, nor for the teenager, and the result is often another violent, uncaring person. I believe this is primarily due to a lack of parental concern that begins with an uncaring attitude toward abortion.

I urge you, my colleagues of this body, to defeat the pending motion so we can approve this bill and save lives of the unborn children in Maine, while providing an example for the other states to follow. Madam Speaker, I request a roll call.

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

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

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

Representative NASS: Madam Speaker, Men and Women of the House. I rise today to offer a choice on this difficult issue. I cannot vote against this bill because that would be a vote in support of so-called partial-birth abortion. I do not believe that the State of Maine, by policy, should be in support of this procedure or more importantly, I do not believe the citizens of Maine, now or in the future, will support a procedure that involves killing the baby that is for all practical purposes born. The experts who we would normally turn to for guidance in this area are split. Doctors tell us the partial-birth abortion procedure is never necessary. Others say it should always be available for that rare occasion when it is necessary or better for the woman.

On the other side, I can also not vote for this bill. I do not believe that government should have, or effectively can have, a role in telling its citizens what medical procedures are or are not available. That role is best left to, in this case, the woman and her medical advisors. Over the past two or three days you have all received many brightly colored flyers, which document the positions held by both sides of this issue, both the extremes. If you have read these flyers, you will have a good grasp of those who are prochoice and those who are prolife. However, there are no flyers describing a choice, which at least three members of the Judiciary Committee wish to offer. We would suggest that for now and for Maine that we essentially provide a ban for partial-birth abortions by adding that to the definition of abortion, which is currently in the statutes. As the Chairman of the committee has provided, that this definition, the law currently states that late-term abortion is banned in Maine except to protect the life and health of the mother. This proposal would, in fact, provide and maintain this law, but it would specifically enumerate a ban on partial-birth abortion, again, using the generic term.

There also is a policy statement in Title 22, Section 1598 and in that section we would delineate the medical term for this. It would add the sentence that essentially provides or expands this ban. We would provide that partial-birth abortion is banned except to protect the life and health of the mother. A part of the law that Maine currently holds and the court cases surrounding this issue currently supports. Is it the political solution? Absolutely. This is a political issue. Is this a final solution? Absolutely not. I think this is the solution for now, for today and for Maine. I urge that you vote against the Majority "Ought Not to Pass" Report so that we can go on to discuss additional issues. Thank you.

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

Representative JABAR: Madam Speaker, Ladies and Gentlemen of the House. I rise to indicate that I cannot support the Majority Report and I would like to state why. Being an attorney we deal with language and all of you are familiar with the question that is many times asked somebody, when did you stop beating your wife? Answer yes or no. As you know there is no answer to that question, yes or no, because it assumes that you have been beating your wife. I believe we are confronted with a very similar question with the partial-birth abortion, LD 535. Are you for or against partial-birth abortions? Yes or no. I don't believe it is that simple. We are confronted with a very emotional issue that can be very confusing and misleading. The reason I cannot support the "Ought Not to Pass," even though I may philosophically agree with the Majority's Report, for the following reasons. There is perception out there that late-term abortions are allowed without restrictions. That they are allowed upon demand for reasons not related to life or health. Such abortions are clearly not allowed in Maine now, but people do not believe that. LD 535 clearly bans such late-term abortions and I agree with that goal. As terrible as the procedure is and we all have heard descriptions and seen pictures of it, LD 535 recognizes that it may be necessary in some situations. That is where it involves the life of the mother. It is not a ban on the procedure that we should be focusing on the need for the abortion and not necessarily the procedure.

Where I cannot support LD 535 is its failure to recognize the health of the mother, as another example, when the use of this procedure may be medically necessary. I also cannot support the majority opinion because I believe we need to take an affirmative stand and comment on the present partial-birth abortion issue. Some have said to me, why do this if this is the law already in Maine? Why single out this procedure and put it into law on this specific procedure? My answer to that is that we have been confronted with this issue. It has become a national issue. We see it on the national media and we have to deal with it. I don't believe it is sufficient to simply state that is the law in Maine. When confronted with the question, do you support partial-birth abortions? You say, well I don't. Why didn't you support LD 535? Well, because that is already the law in Maine. People don't understand that. They are confused. A lot of people are confused by the issues that we have before us. I believe it is necessary to make a specific comment on the partial-birth abortion. I ask you not to support this Majority Report so that you can consider the amendment which deals with that issue that says that I do not support partial-birth abortions unless it involves the life and the health of the mother. There is a very small difference between the two and I recognize the position of the people in the opposition who believe we should not go that extra step. Let's confront the issue for what it is and let's take a position one way or the other and I believe the amendment will clearly state that we are dealing with partial-birth abortions as being improper unless it is for the health and the life of the mother.

One last comment, on the issue of health. In Maine, if you look at the statistics, this has not been used as a loophole by women to go out and get abortions where they wouldn't ordinarily be able to get it. I believe in 1996 there is recorded only one of five years before you can count them on one hand. If there was evidence that the health criteria had become a loophole to which

women were going and getting abortions on demand then I would be willing to address that particular issue, but I don't believe that is an issue in this state. Maybe it is in New Jersey, but it is not an issue in this state. I believe by the definition of health in there, with the life of the mother, it is something that doctors and women can deal with on the logical and rational basis. It is for this reason that I reluctantly do not support the Majority "Ought to Pass" and hope that we will address the amendment after that vote. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I will not give you statistics on the pros and cons of partial-birth abortion. I will give you a little history of a young combat-trained infantry soldier in occupied Germany. I had visited Daucau and other slaughter houses made famous by a man named Hitler. My office in Germany was a putz-frau. A putz-frau in German is cleaning lady. She and I used to sit and talk and I had to learn German to get along with her. She was Czechoslovakian and escaped. I asked in German, biz zie heiroton, are you married? She said she was married. I said, haben zie kinder, which was do you have any kids? She proceeded to tell me that she had one and that the child was killed because it wasn't pure. My question to you is, have we progressed from 50 years ago to the present? I am not sure we have, so I ask for support for Representative Ahearne and his brave attempt to protect the least protected that we know, the unborn child. I am sorry.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Since *Roe vs. Wade* was passed 20 some odd years ago technology has advanced incredibly. In 1973 operations were not performed on babies in the womb to correct deficiencies so that they would be viable upon birth. In 1973 abortion procedures had been the same for years and years and years. Yet, in *Roe vs. Wade*, Justice Stewart spoke of the possibility that perhaps in later stages of pregnancy that the state should be permitted to restrict the abortion procedure, a certain procedure or even to prohibit it. It was recognized when *Roe vs. Wade* was discussed, that at some point there may come a time when a state may find that it would be in the best interest of the state to prohibit certain types of abortions. In 1973 physicians did not hold a child in their hands and render it lifeless. In 1973 the abortion took place totally within the confines of a woman and gave her every right to control her body. In fact, the aim of *Roe vs. Wade* was to ensure an empty womb, an empty uterus, because that was the woman's choice. The aim of *Roe vs. Wade* was not to guarantee the woman a dead baby.

Today, as technology has advanced, a surgeon holds a tiny file in his hands. He has pulled that child from the womb with the help of an ultrasound in a breech delivery process. An 80 percent born individual dies because 20 percent of him still remains in the birth canal. That is where technology has taken us and it is time to relook at some of the responsibilities that *Roe vs. Wade* said that we would have to take. *Roe vs. Wade* has since been reviewed in the Casey decision. In the Casey decision, the United States Supreme Court decided that a woman's right to an abortion was valid, but that that definition of that right as fundamental was revoked. The court has constructed a new standard of review that allows restrictions on abortions before viability so long as they do not constitute an undue burden for the woman. Viability, according to Roe turns on technology. When the Roe decision was passed, viability was 27 to 28 weeks and this is discussed in Roe. Viability now is 23 to 24 weeks, second trimester.

While many of you would like to keep this as a discussion of late-term abortions, this procedure is used as early as 20 weeks. Why is this procedure used? Doctor McMann developed this procedure because he found that the procedures that he had to do at 24 and 25 weeks were very physical and very straining and very difficult to kill a child as a six-month fetus. It would take 45 minutes to one hour to perform an abortion. Then he thought that some of these are easier than others. What made it easier? There was a foot present and if I took the foot, I could easily access the baby and I wouldn't have to go through the actual cureatage. After three days of dilation a woman comes in, the ultra sound is performed. The baby is inverted if it is head down. It's feet are presented to the dilated cervix and forceps are used to draw the legs of the baby forward. This cuts the procedure to about 20 minutes and it is not difficult.

They are done in clinics and offices, not hospitals, not surgical ambulatory suits. They are done in offices. If this is to save a woman's life, she spent three days dilating and goes to a doctor's office to have her life saved or her house saved. At 24 weeks the arms, legs, bottom, spine, fingers, toes and everything is formed. The doctor knows as he draws that baby from the womb that his is drawing forth a live fetus or a live child. The difference we find between this procedure and other abortion procedures and why we find it so abhorrent is because of the lack of three inches this child would have constitutional rights. A child would be an individual, in three inches, with the same rights afforded to the child as the woman had. The same exact rights. Why does the head need to be collapsed in order to remove the baby from the cervix? This is because the dilation is not meant to be so that the babies head can come through the cervix. The cervix is meant to be a speed bump. It keeps the head from sliding out and prevents a live birth. Not enough dilation and you have an abortion. Too much dilation and you have a live birth. It is a little tricky.

That is why we have a problem with this particular abortion procedure, because one human being holds another human being in his hands and renders the child lifeless in order to produce a dead fetus. The Supreme Court spoke quite a bit about the state's interest. I am talking to you about the child's interests today. How can you deny that in three inches the child has constitutional rights? How can you justify that the life and health of a mother is saved in a doctor's office? If this procedure is what the health and the life of the mother turns on, then perhaps it should be an appropriate life saving arena, a hospital operating room, a surgical fleet or somewhere they can do monitoring, access blood supplies and plan for all the contingencies for a woman whose needs are so dire that the child must be killed in order to save her life. They don't do these things in clinics and they don't do these kinds of things in an office setting.

We have heard a little bit about that there are no late-term abortions in Maine. We have heard a little bit about trust my doctor. I trust my doctor. I do trust my doctor. I don't go to a clinic. I actually know my doctor's name and next year I can tell you with some certainty that I know who my doctor was and who my doctor will be next year.

Information provided by the Maine Vital Records Bureau of Health, Department of Human Services, acknowledged that there were 94 forms received out of the total 2,615, that contained information that did not place the actual gestation of the aborted fetus. I went over there yesterday and looked at those 94 sheets. There was a lot of information I couldn't see. A lot was blocked out. Actually 83 of them did provide the information as to when the last menstrual period was and when the abortion

was performed. They all fell reasonably within 12 to 13 weeks. Three others contained no information whatsoever. No date of last menstrual period. No date of abortion. No date of gestation. Nothing but an abortion was performed and a provider signed that an abortion was performed. I don't know who the provider was. That was information that was not allowed to me either and I really don't want to know. What I want you to know is that the doctors can't take the time to fill out a form that is required by statute to allow us as policymakers to know what is going on, this is in statute, how many of our other abortion statutes are let slip? Personally, I am suspicious of a form that has no information whatsoever regarding the pregnancy and the date of the pregnancy. That is not unusual from 1984 to 1996, there are unknowns every year. The forms are just given a lick and a promise and mailed to the Department of Human Services. There is not, in my opinion, the effort put into it to meet the required statutory information. The figures we rely on may or may not be complete. I think my doctor would fill it out completely. I have seen her work and she probably would.

What we have is a procedure that is easier, quicker and lucrative. Do you know how much a partial-birth abortion costs? It costs $2,500, cash on the barrelhead. A clinic in Dayton, Ohio performs them on one day a week. If you are in dire distress and your life needs to be saved, you have to wait until Thursday. That is besides the point. The point is that physicians hold a live child in his hand. In his hand are tiny legs with tiny toes, a back, a spinal column that he actually uses to trace his finger up to find the soft spot on the back of the baby's head. The soft spot that moms know their kids aren't supposed to touch and doctors diagnose dehydration in your child by examining the soft spot. This soft spot proves to be the babies undoing because it is so easy to pierce that soft spot. At least it is easy for the doctor. It is not so easy for the child. In order to make sure that when that baby finally completes his passage through the birth canal that the child is dead, the doctor inserts a suction catheter and removes "the cranium contents." Your brain. The part of you that regulates the breathing, your heart, your thoughts and all your bodily functions. Therefore, you have, not an aborted fetus, but a dead child. It is big difference. This is not a D & C. This is not something that happens totally inside of a woman. Each succeeding inch that is born is left under the control of the woman.

One doctor, when asked why he did not dilate the cervix enough to allow the birth of the head said, "I could, but you don't understand. The point is not to deliver a live birth. The point is to deliver a dead baby. That is what I was hired to do." There is a difference here. A dilation and suction is not a D & C. It is not a saline abortion. It is not an abortion where the child is destroyed and then expelled through labor. That is decided not to be preferable because it requires labor and hospitalization. This, in office procedure, is cheaper, believe it or not, because you don't have to go to the hospital to save your life. It is cheaper because you don't have to go to the hospital to save your health. You can do this with very little inconvenience right in the doctor's office. Yet, we still have a doctor holding a child in his hand ready to render the child dead. Would the child live long after birth? I don't know. Maybe not. The potential for life cannot be ignored. The potential for survival cannot be ignored, not at this stage. I am sorry, not at this stage, not when that child lacks only three inches. He will become a citizen of the United States and protected by the US Constitution. I would ask you to reject this motion. Thank you.

On motion of Representative THOMPSON of Naples, tabled pending his motion to accept Report "A" **"Ought Not to Pass"** and later today assigned.

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

TABLED EARLIER IN TODAY'S SESSION

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

Expression of Legislative Sentiment in memory of Lionel "Lee" Conary, of Oakland (HLS 292) which was tabled by Representative POULIN of Oakland pending adoption.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I first met Lee Conary in the early 60s while I was an instructor at Thomas College. I was teaching accounting and taxation and Lee happened to be one of my students. Also as an advisor to the fraternity, Lee Conary was a member of the fraternity. I became personally involved with Lee and met Sally, his wife, and through the years we have remained good friends. I recently asked Lee to do some work for me for constituents. He responded in typical Lee Conary fashion, quickly and effectively. The Insurance Bureau has lost a loyal friend. Thank you.

Subsequently, was read and adopted and sent up for concurrence.

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

Divided Report - Committee on **Judiciary** - (7) members Report "A" **"Ought Not to Pass"** - (3) members Report "B" **"Ought to Pass"** as amended by Committee Amendment "A" (H-163) - Report "C" (3) members **"Ought to Pass"** as amended by Committee Amendment "B" (H-164) on Bill "An Act to Ban Partial Birth Abortions" (H.P. 390) (L.D. 535) which was tabled by Representative THOMPSON of Naples pending the motion of the same Representative to accept Report "A" **"Ought Not to Pass"**. (Roll Call Ordered)

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. I am not here to talk for a long time today on this issue. I just think it is time that I should talk to you about some of my experiences. I know we talk a lot about walk a mile. We have done it with other things and I think, in this particular situation, I have some experiences which might shed light on this. As some of you know, I am a RN. I haven't worked in a long time, but when I started my career I started working as an emergency room nurse and I also worked in the clinic. Between the two of those roles I had much experience with a lot of the problems that we are talking about that happens, even today, with abortions and all the trauma that went into that. I have been there. I understand that. I have three daughters and I understand the need for them to have choices.

One of the other things that I did in my career, in a very happy moment, I met and married my husband and we moved to Detroit, when he was still a student at the University of Detroit. During that time, I worked at Mercy Hospital in Detroit. I was pregnant at that time, but I worked in OB-GYN and I worked with sick babies and preemies. That is what I did. I spent my time during my pregnancy looking at a lot of these babies that are now considered abortions. They qualify for that. That is how I made my living. Nurturing those babies and dealing with their parents and doing the best I could to make sure that they had some quality of life and dignity in that hospital.

I remember one particular baby. This little baby was born premature and it was one of the first babies that I had to deal with alone there, without other nurses present. I worked very hard with that baby to make sure that it had an opportunity to live and that it got the medication it needed and during my watch that baby died. I remember having to watch that baby take its last breath. I was the one who had to wash that baby up. I was the one who had to show that baby to its father and explain what happened. I was the nurse that had to wrap that child up and carry him to the morgue. It was a very, very emotional time for me, especially being pregnant myself, in dealing with the fact that this was a real live child. I carry that vision with me today. I always wondered whether or not I had done enough as a young woman, without that much experience, whether I could have done something else, whether I could have made a decision that would have kept that child alive longer. I don't know that. I won't know that until I meet that child in Heaven and ask forgiveness if there was something I could have done better.

For me, this is a very personal issue because I can put a face, a name and an experience with the statistics that you are dealing with today. We are dealing with an issue that, as you have all heard before, that deals with live children. I don't call this a partial-birth abortion or D & C or an intact dilation and extraction as you hear it. To me it is a labor that is induced. I know that I have six children of my own and I had two miscarriages so I know a lot about inducing labor. It is induced labor in a partial birth of a baby that is a footling breach. We have all dealt with that before. I think even with your own family. These are common terms, but this is what this is. I don't see this as an abortion. I see this a labor and delivery process that is stopped intentionally. If you look at the words that came from the American College of Obstetricians and Gynecologists, they are not necessarily on my side on this. In my own words, they describe this procedure as deliberate dilation of the cervix, usually over several days. Instrument conversion of the fetus to footling breech. Breech extraction of a body, except for the head and partial evacuation of the intercranial contents of a living fetus to affect vaginal delivery of a dead, but otherwise intact fetus.

I am also somebody who has spent a lot of time here talking about discrimination. I have also talked about the dignity of life, and about the words of St. Francis, because this is where my spirituality comes from. I have listened with great interest to the words of the Penobscot Indian Nation, when they talked about the problems they are having with their own spirituality, and the problems they are having with, what they perceive, genocide because of some of the things we are doing here today. I can relate to that too. My question to you is whether or not we have reached a point in our debate where we have no conscience. We are not looking at human beings as real people in all stages of life. This is life. We can talk about whether or not the constitution describes life as something that starts with conception, but we usually agree that when you have a viable baby that is delivered that this is life. I am going to just ask you to think about these things when you are making these decisions. There is a point at which future generations are going to look back here and decide whether we had the courage to recognize our own humanities here and whether or not we respected life in all its stages and whether we gave our hearts and our best to making good decisions. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. Nobody argues that life is valuable. We all know life is valuable and those of us who support choice also believe that life is valuable. The issue is not preemies, premature birth has been mentioned by the last couple of speakers. Nobody is saying that preemies should not be given every opportunity to thrive using the latest medical technology and offered the opportunity for a healthy life. However, that is not what we are talking about for late-term abortions. This is a really gut-wrenching decision made by women who are facing a very difficult time. This is a medical decision that needs to be made in concert with the woman who is affected by it. I am appalled by the allegations about this being a money-making procedure. I cannot believe that physicians in the State of Maine would use generation of funds as a reason for performing this procedure. You can always read that this procedure is not pretty. No abortion is pretty, but what is also not pretty and equally horrifying, are the pictures of thousands of women who died during those years when politicians thinking they knew better than doctors made abortions illegal. What is sadly lacking in this debate are the pictures of women, the women whose lives and health may be fatally in danger. Women whose lives and well-being sold us are willing to sacrifice because voting for this bill is easier than saying no. It is easier to say yes to this ban if we insist on just thinking about the graphics of the procedure and refuse to listen to the stories and respect the lives of women caught in these tragic circumstances.

I, too, am a nurse and yes, I did at one time work in obstetrics. I have been there in tragic situations when doctors and patients were faced with really difficult situations. I also have a friend who died in childbirth because the life and health of the woman was not considered. I urge that this House support the "Ought Not to Pass" recommendation on this LD.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. I also want to thank the other members of the Judiciary Committee. It is a committee I enjoy serving on. I am not able to be there as much as I would like due to my other commitments, but it is a wonderful committee with very good people who are very respectful of each other as you have seen today, I believe. As you can see, I am on the Majority Report that is before us today and I urge you to support that as difficult for me having members of my family, in-laws, who disagree with me strongly on this. On the other hand, I have always been proud to have been born and raised in this state of ours and certainly proud to serve in this Legislature and serve people in this fashion. Part of the reason why I am proud to live here is because I believe our predecessors, before us in this Legislature, have done an extremely good job dealing with this issue in the past, not this particular term certainly, but the issue. I think in terms of the paperwork that has come before you today on both sides of the issue, I think there is at least one that has no rhetoric in it has to do with the existing laws. I urge you to read that. It is very, very clear that our predecessors thought this through. They have extremely good and extremely tight well-worded laws that take into account not just the life, but certainly the health as the Constitution requires.

I am also concerned about what the proper role of government is. It always weighs on me when I vote on things in here. It is just the little bit of Libertarian in me. If there is any of it in me, I don't see Representative Perkins here, but with all due respect to him, I worry about whether the role of government should be in the operating room, the role of government should be telling physicians who are performing legal, constitutionally protected operations exactly what they should be doing from one minute to the next. I worry if that is our role as government to be in the operating room. I also wonder as this LD 535 would do making physicians liable for a Class C crime if they performed one of these operations. It is currently a Class D crime to perform an abortion after viability and this would make it a Class

C crime under 535. I wonder if that is a wise move. I also wonder if it is a wise move in 535, as it authorizes civil actions for damages against people who violate the law if this was passed, including the father and potentially the paternal grandparents if they allowed this to go forward, unless they consented to the abortion or it results, from the plaintiff's criminal conduct. Are we potentially making fathers and grandparents guilty of civil action in this case?

I would strongly urge you to join with our neighbors who we often hear so much about to the south of us in New Hampshire, who a while ago rejected this concept, and defeat LD 535 and support the Majority "Ought Not to Pass." On a final personal note, these are all personal notes that we are dealing with today, as two years ago I stood before you and spoke on one bill that I think was before us at that time that is back before us today. I will speak before you again as a soon to be father of a second child with my wife two months away, roughly, from delivery. That is part of the reason I want to get out of here on May 31st. Please do all you can to assist. I want to urge you not to impose your will on what may, I certainly hope it won't be an issue, but if my wife's health is viewed to be in some sort of jeopardy and she, in her heart of hearts and consulting with her physician and her God, determined that it is necessary to do something to protect her health and perhaps her life in a very horrible operation, granted, but that should be up to her. That should not be up to any of here to dictate that and perhaps make her position guilty of a Class C crime. Thank you very much for your patience.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. First of all, I want to say I do believe that the desire of the good chairman of the committee has been met in this debate. This debate has been very civilized. It has been kept to the facts and when emotion was displayed on the floor, whether by my friend Representative Vigue or Representative Etnier, that was honest emotion. There was no rancor and no bitterness. I think we should be proud of the Maine House and how we are conducting this debate. Having said that, I have been asked two things before I spoke, the third thing goes without saying, keep it short. The other two things were can you introduce humor? No, there is no humor that can be introduced to this debate. The second was can you work in Chamberlain? Yes, I will work in Chamberlain.

As the good chairman said, again at the beginning, this is perhaps one of the most difficult votes you will be asked to act upon. It certainly is, as far as I am concerned. I have been in the Legislature for four terms and this has come before us again and again in different forms as other abortion bills. I am prochoice. I have voted against all those bills in the past. I intend to vote against the other pending bills that will come before us later. I do have a major problem with this particular bill. There are very strong feelings on both sides, because I think both sides act out of principle and they feel it difficult, understandably, to compromise on issues of principle. Perhaps this particular issue is one on which, whether we are prolife or prochoice and I think those are simplistic terms, but they are in the arena, perhaps on this we can find common ground. I do not intend to address this on moral grounds. I agree with Senator Mitchell, that is not the place of us in public office to impose our moral views one way or another.

I will address it in terms of the Constitution and on a personal note. To me the major constitutional issue here involved is *Roe vs. Wade*, apply to what are referred to as partial-birth abortions. I will not repeat the procedure involved. I do not wish to repeat it and it has been discussed on the floor. I think we all understand what is involved here. My own reading of *Roe vs. Wade* when you are dealing with essentially an 80 percent live birth, you are not dealing with a fetus. You are not definitely dealing with a fetus in the womb, but a fetus in the birth canal. I have questions that this procedure even falls within the parameters of *Roe vs. Wade.*

Secondly, there is the more recent opinion of *Planned Parenthood vs. Casey*, which says essentially, that the right to abortion is not absolute. After viability, abortion can be prohibited except to protect the life of the woman and that more weight should be given to the protection of the child. Frankly, I think *Planned Parenthood vs. Casey* is applicable to this particular procedure. I would find it difficult, in fact impossible, to support this procedure on existenting constitutional grounds. The argument is made or has been made that this procedure is rare. That is debatable. But even if it is rare and I believe it is in Maine, even if it is rare, it is not credible to sanction it for that reason. We are very lucky in Maine that murder is rare, statistically, but we don't sanction it. There was also the argument made that it is necessary to save the life of the mother and I believe in some cases this is true to use this procedure. Also, the argument has been made to preserve fertility.

What concerns me here is that there are other alternatives which are available. Which apparently would have less attendant risks to the woman. Why cannot they be used, which falls definitely within the parameters of *Roe vs. Wade?* In fact, there are a number of doctors who perform abortions, that are not prolife who refuse to utilize this procedure, but utilize existing alternatives. I suspect and it is a personal opinion and not necessarily in Maine. But I know elsewhere than many of these procedures are utilized for other reasons than the protection of the mother or the health of the mother and that includes gender choice. I do not think that is a valid reason for aborting and that is entirely personal. I have a daughter and I find that offensive, personally.

About 27 years ago, maybe 30, when I was a freshman student at the University of Maine, in Zoology, we had to go through this procedure which was called pithing frogs. We were told by the instructor that the frog didn't feel pain. I grew up in rural Maine and had a lot of experience with various types of wildlife, including frogs. It struck me that that that animal or those animals were in pain. A number of us, this is early student rebellion, this is going back before Vietnam and everything else. A number of us liberated the frogs. It didn't seem necessary that we had to do away with 20 or 30 frogs to prove a point. Obviously the frogs were disoriented when you do what you do. Since then there has been so much criticism of this practice in classrooms as inhumane, that it is not often used today.

My question, if it is inhumane to do this to a frog, is it not inhumane to kill what is a human baby or 80 percent? A human baby through a procedure that is even more repulsive than pithing. I believe this is a barbaric practice and I don't even believe it is abortion. There is a word for it and that is infanticide.

Chamberlain, at the end of the Civil War, during the last week of the Civil War, when people were still killing and maiming each other although the end of the war was certain, Chamberlain walked over one of the battlefields with so many dead and dying and maimed on the battlefield and he had one question which he could not answer and he could not answer until his dying day. It is in the *Passing of the Army.* The book that was published after he died of his experiences in the last campaign. He walked over the field and he saw what was there and I know some of you know what it looked like there on the battlefield and I won't describe that and he said, "How will God judge the mutilation and killing of his handwork, his image?" How do we justify that to the least able to defend themselves? Some will disagree with this,

but I stood up prochoice and I will sit down prochoice. I do believe there is a point where we have to draw the line. I believe this is the line and I respectfully urge you to draw that line and defeat the pending motion and then move on to support an amendment, which will protect the woman. Let's think about the woman and let's think about the child. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. The good Representative Lemke was entirely right. This is not a prochoice or a prolife issue as far as I am concerned. In fact, a great deal of these communications I had over the phone and in letters were from people who proclaimed themselves as being prochoice. In fact, one particular woman said that she had always been fighting for women's' rights on different issues. As Representative Lemke said, a great deal of those people who consider themselves prochoice had decided to say this far and no further. We heard a lot of things today and I am not going to repeat them. I will address *Roe vs. Wade* to the point that somebody didn't include the fact that in *Roe vs. Wade*, the Supreme Court made note of the Texas statute that made it a felony to kill a baby in the state of being born or before actual birth. That statute still stands.

We talk about the right of the mother and we talk about the decision of the doctor between the mother and the doctor. We talk about what government should and shouldn't get involved in and whether it should even be involved in medical decisions. I would dare say that government has imposed itself in a great many medical decisions, in health care issues and whatever. You have to ask yourself if society or the government, we as people throughout society have our government make a lot of our laws, actually all of our laws. At this point when we are having a baby being delivered live does the state have a compelling interest to protect human life and the dignity of that human life? I won't describe the procedure. You have all heard that. To prevent cruel and unusual treatment, as the good Representative Lemke mentioned, about the pain. If you read any documents on this procedure, a great many physicians, including the ones who perform it have admitted that the fetus feels excruciating pain and you have to ask yourself if any person has had any dealings with biology. The good Representative Lemke and myself or anybody in the medical profession could say, how could it not hurt?

This is three inches from being born. This is not a fringe issue. Congress overwhelmingly passed this partial-birth abortion ban and just recently it was passed in House, was veto proof and then it has gone on to the Senate. A very many Congressional Democrats have said that I have always supported women's choice before, but this is too close in infanticide. The health of the mother was mentioned. It is very important, but shouldn't we weigh that at this time and I heard things in committee mentioned that this is just another procedure. Why is this procedure any different than the existing procedure because it is particularly barbaric? Is that what you object to? Maybe it is not so much the procedure as it is the timeline. Where do we draw that line? If we draw it three inches this way, how much further down the road is it going to be three inches this way? Will you have a live baby? We say that we haven't cut the umbilical cord yet. You may have some health education, because of whatever, and you are going to do away with the baby.

There has been no religious aspect mentioned on the floor. The health issue, the rights of the mother, the rights of the doctor to decide for the medical profession. Some people have said it is not a moral issue. There are no good and bad people on either side of the issue. I would agree with the good Representative Thompson. Things got very heated in our discussions because emotions run high, but we were always civil to each other. I respect people's opinions, to disagree with you, even though I might say I think they are wrong. To me, this is not an issue of depriving a woman of her rights with a doctor. This is an issue of here we are folks. That is close to infanticide. Can we not say that this baby, being born live, can be protected? Even with the health and the health is a very vague description if you look at *Roe vs. Wade*, the Supreme Court describes health as depression. Actually, the abortionist, decide what the health issue is. The health aspect on this bill will make this bill needed. I ask you to vote against the pending motion and decide yes, we believe in prochoice. We believe in a woman's right to choose. We believe in the medical profession to make decisions. We, society at this point, has a compelling interest to protect human life. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. This bill is unprecedented. Never, to my knowledge, in the history of the Maine Legislature, have the 186 members of this body determined what is and is not an appropriate medical procedure. To my knowledge, none of the 186 members of the 118th Maine Legislature are physicians. We are not capable of foreseeing every circumstance. It is entirely inappropriate for us to be deciding, here today, what is and is not the proper medical procedure. This bill is unnecessary because we already have in place a prohibition against post-viability abortions except for the purpose of saving the life and the health of the mother. Furthermore, there have been only two third-trimester abortions in this state in thirteen years. I have not heard today any clear and compelling arguments that this procedure is happening on a regular basis. We've heard a great deal of emotions, we've heard a lot of references to what goes on in other states. We've heard extremely disturbing graphic descriptions and we've quoted from debate in other bodies, but I have yet to hear a clear and compelling argument that this is, in fact, taking place in Maine on a regular basis today. An that is why I argue that this bill is unnecessary.

Furthermore, I believe that the bill is here in order to raise emotions, in order to allow us to make graphic descriptions, in the hopes that you will fall for the arguments that Maine women are frivolously, and in a casual manner, undertaking what would be the most extraordinarily disturbing, gruesome and tragic experience one could undertake. And I would argue to you that that is not taking place on a regular basis in Maine.

Please, let's leave medical decisions to doctors and their patients. Not one of us can predict every single circumstance which could take place. Thank you.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Mack.

Representative MACK: Madam Speaker, Great Honorable Members of the House. As some of you may or may not know, I'm Jewish. My direct descendants were fortunate enough to flee Eastern Europe, Russia, Ukraine and Galerest. Latvia are fortunate enough to come here to America where we cherish our freedom. This is the first country we could live in and say that we are Jewish and practice our religion without fear of retribution or being shot, but other relatives of mine and other Jews were not so lucky. They were left behind in Eastern Europe and were there when the Holocaust occurred. It wasn't just Jews, it was anyone else who Hitler didn't deem pure enough, black, gays and gypsies or anyone who wasn't blonde haired and blue eyed enough for them. The Jews and everybody underwent grotesque experiments in Nazi, Germany. Arms and legs were removed

and were tried to be sewn back on. They were grotesque experiments that I don't want to go into here. They were treated like animals. Some were kept alive just for manure to use as fertilizer.

My grandparents were in World War II and were able to fight that oppression and fight for the freedoms that we hold so dear in this country. Today, babies are being murdered right here in the United States of America, right here in the State of Maine. If you question if this is murder or not, the question would be when life begins. If you believe that these babies right before they are born are not alive, then I would see how you could go for the pending motion, but there is no question in my mind that these babies are living human babies. They are older than many of the preemies or the small babies who can survive. They are viable and can survive outside of the womb and killing them is definitely murder. I think everyone in here would agree that murder is wrong.

As my great honorable colleague from Bridgton described, it is not the viability we are talking about the babies here, it is the location. It is not the timing. It is not the stage of development the baby is in. It is just its location. Is it inside the womb or outside? It is just three inches that separate it. I don't know when the intentional killing would be necessary to save the health of the woman. There might be other procedures that are needed, with an unintended consequence, would be that the baby died. The intention should never be to kill the baby. These abortions or these interrupted deliveries can be done for any reason, like gender selection, the baby might have a cleft lip, some small deformity, but where will it stop? Will it stop with gender as DNA testing gets better? You might be able to tell more about the child. The child might not have blonde hair and blue eyes. The child might not be pure enough so they are killed. How is this any different from the way my Jewish relatives were treated in the concentration camps by the Nazis? This is grotesque and this is barbaric and I urge you to please vote against the pending motion.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I want to apologize for my inability to control myself in the last couple of issues that I spoke on. It was just a bit much for me. I would like to say one thing in response to my lawyer friends and quotations and as far as the constitutionally protected right and how this is the Supreme Court of the land's decision. I want to bring a point. The Supreme Court for many, many years defended the rights of slave ownership. We did this for hundreds of years. We had a right and this was a Supreme Court decision and continued through the years until it became proven an inhumane thing to do. I kind of suspect that maybe through the years we may prove that this is a very inhumane thing to do. I tell you, I urge you to support Representative Ahearne's amendment and follow his light. I thank you very much and I am sorry again.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MacDOUGALL: Madam Speaker, Honorable Men and Women of the House. Today is April 10th and it is interesting that it is the one year anniversary where President Clinton had his veto ceremony and he based his decision on the fact that these were rare procedures. Yet just recently Ron Fitzsimmons, Executive Director of the National Coalition of Abortion Providers, told the press that he had lied when he had claimed that partial-birth abortions were performed only rarely and in extreme medical circumstances. He knew that this was untrue because when the partial-birth abortion ban act was first introduced, in June of 1995, he called doctors who used the method and I quote, "I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances." Fitzsimmons now estimates that up to 5,000 partial-birth abortions are performed annually. He said, "They are primarily done on healthy women and healthy fetuses." It has come to light that they are not rare and not always on unhealthy women and babies.

During the debate, I have also heard that government should not be involved in this particular discussion today and on this particular decision. I would remind my colleagues that yesterday this House overwhelmingly supported an LD that required daycare facilities for children and infants to be smoke free. I have got to believe that some of the reasoning for that support was that children and infants are helpless, they need our protection and, of course, they are innocent. I urge you to vote against the pending motion and to support Representative Ahearne's amendment because, truly these are the most innocent and helpless of our society and they need our protection. Thank you very much.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I speak to you today as the mother of four wonderful children with a long and sometimes complicated obstetrical history. You will be happy to know that I will not embarrass myself, my son or you by discussing my personal medical history with you. Suffice it to say that I have heard many women's stories and I know when a woman miscarries she feels deep disappointment at losing the life that might have been. Imagine then if she is in the last trimester of pregnancy and loses that pregnancy. Imagine the planning which has already gone on. The mother to be is showing and in maternity clothes. She has accepted the congratulations of friends and relatives. By that time she has thought of names to give the child. Perhaps she has even bought baby clothes or painted a room. The hope is, the expectation is, that there will be a new member of the family and then something happens, something catastrophic occurs. Perhaps the woman begins to hemorrhage. Perhaps the fetus grows without developing a brain or develops some other fetal anomaly. A medical condition is diagnosed, which warrants being told that all you have wanted and expected must be terminated. It is devastating for that woman. Termination of a pregnancy is heartwrenching, and an anguished heartwrenching, decision because the news is bad news. Will we make the messenger of that news, the savior of the life of the woman and the health of the woman, a criminal?

Obstetricians are highly trained physicians. They are physicians, who like all other doctors, took the hypocritical oath to preserve life. They do not make recommendations to end the pregnancy in the third trimester lightly. They are considering the safety of the woman whose life and health may be fatally endangered. Trust and respect the doctor's rights and responsibilities to exercise his medical judgment for which he was trained. Proponents of this bill speak graphically and sometimes show pictures, which upset the squeamish amongst us. Surgical procedures involve blood and other human excretions, none of which look pretty in photographs. For my own point of view, natural birth is not pretty until the baby is cleaned up and wrapped up in a blanket and has a little bow in its hair. Dilation and extraction is a surgical procedure in which the birth canal is enlarged in order to allow the extraction of the fetus. The extraction is done in such a way that it has the least possible damage and trauma to the woman who is already in trouble.

Let me share with you the story of Eileen Sullivan, who testified before the Judiciary Committee on March 11th of this

year. These are her words, which I will read to you. "For as long as I can remember I have been the happiest when I was in the company of children, whether it was my nieces and nephews, my friend's kids or the children from the nursery school I started several years ago. My life has always included children, so when my husband and I watched the home pregnancy test slowly show a positive result, we were ecstatic. I kept checking the test against the diagram on the package. I couldn't believe it. After three long years of trying to conceive a baby, we had done it. We were going to have a baby. In the following weeks we shared our good news with friends and family. My rather large Irish Catholic family, I have 10 brothers and sisters, were elated. My parents, already the proud grandparents of 18 grandchildren, were ready to welcome our new addition. My long awaited pregnancy was easy and blissful. As I chartered my baby's growth, week by week, the bond grew stronger between us. Many nights I spoke to my baby saying that I accepted it just as it was, boy or girl, dark eyes like mine or blue eyes like my husbands. I didn't care. I was just so happy that we would finally be parents. At week 26 I went to my obstetrician for a routine ultrasound. In the darkened room my husband and I tried to see the image of our baby on the ultrasound monitor. My doctor began by taking a few measurements and commenting on what he was seeing. When he suddenly got quiet and really focusing on the monitor, I sensed that there was something wrong. He confirmed that there was indeed a problem and that he would like us to have more tests immediately. We went to a genetic specialist for another ultrasound. As the doctor examined the condition of our baby, she related her findings to us. Our baby's brain was improperly formed and pressure by the backup fluids, his head was enlarged, the pallet was cleft, the heart both malformed and failing, the liver was malfunctioning, the feet were clubbed and there was a dangerously low amount of amniotic fluid. For two hours the specialist detailed the problems with our son. Each item she listed became harder to hear than the one before it. I could not bear what she was telling us. My husband and I held one another and tried to understand what was happening. This was a nightmare. We spoke to a genetic councilor and had a battery of additional tests including an amniocentesis and a placenta biopsy. When the test results came back the prognosis was the same. The anomalies were incompatible with life. We had worked too hard to get pregnant to lose our baby without a fight. My doctors were going to have to answer many questions. I called anyone who would give me more information including my mother. She is an adoption placement worker with Catholic Social Services and has seen many babies with serious physical anomalies. She helped me make sense of the medical information I was being given and urged me to see another specialist. It had been explained that the foremost problem with our sons condition was his heart. We went to see a pediatric cardiologist. His prognosis was not any better. According to the cardiologist, the heart had one oversized malformed chamber pumping while the second was so minute it could not function. Our babies heart condition was lethal. He would not live. We wept. We discussed what we should do. What was the best and safest for me and the baby. Our obstetricians explained our options. We challenged every answer we were given by doctors hoping that they would tell us there were some, any chance that our child could live, but the evidence was overwhelming Our son would not live. After all the talking was over, we were faced with the hardest decision of our lives and we opted to terminate the pregnancy. Our long awaited, much anticipated baby was not going to make it and there was nothing we could do to change that fact. What we could do was choose the best way to end our pregnancy and help improve our chances of a future pregnancy. Given my son's various anomalies, the doctors were concerned that labor would not be successful. My reproductive medical history raised additional concerns, moreover, because there was no chance to save our son, the doctor's could not justify a c-section. Our doctors made their treatment recommendations to us based on a detailed understanding of both the complexity of my medical history and the condition and anomalies that were affecting our baby. Our doctors concurred that an intact D & E was the most appropriate option in my individual situation. For my husband and I the opportunity to see and touch our child is extremely important. We were able to say our good-byes. The fetal autopsy that was performed afterwards provided important information to us about the risks we faced with future pregnancies. The findings of the autopsy were indeed valuable to us. We found that our baby had genetic syndrome called Frinz and that, unfortunately, we have a 25 percent chance of reoccurrence in any subsequent pregnancy. In spite of these devastating odds, my husband and I are currently trying to conceive. Due to the limits of medical technology, we will not know if our future child has the same anomalies until late in the second trimester of pregnancy. So you see, I am here today not only to defend a medical procedure that I have already chosen, but I am also here to protect the medical option I may need in the future. Keep this bill from becoming law. Please leave these difficult medical decisions where they belong, between women, their families and their doctors. Losing our son was the most painful experience of our lives, but thankfully we have access to the best medical care. Do not take that away from us and other families that will follow."

I can only echo Eileen Sullivan's words and ask that you let current law, which prohibits post-viability abortions, except in cases where a woman's heath or life is in danger, stands. Please, for our sake, defeat LD 535 and keep the current law intact. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Ladies and Gentlemen of the House. I rise to support the pending motion to accept the Majority "Ought Not to Pass" Report. I know this is a difficult issue. It touches the emotions of all of us, husbands and wives, mothers and fathers, grandparents, members of the clergy, nurses, doctors and other medical personnel. None of us can escape the impact this issue has on our society. I think, however, that sometimes we are influenced by statistics that are aimed at really fanning these emotions and makes it a very divisive debate not only in the entire country, but apparently in this chamber this morning. We have heard that out in Ohio there is a clinic there that performs one of of these partial-birth abortions once a week and that if this Mr. Fitzsimmons is to be believed, he now claims that there may be 5,000 of these being performed around the country. It makes it sound like this is a big business and that a certain segment of our medical community has found itself a new and lucrative specialty. Someone said earlier this morning that they didn't believe that and I would concur. I don't believe it either.

What I do believe, however, is that is what is happening in Maine and I think Representative Townsend had given you the statistics that I think were confirmed by the Maine Bureau of Health and that is that there has only been two third-trimester abortions that have been performed in the last 13 years and I think that bears emphasis in repeating. The statistics from our own bureau have also indicated that 99 percent of all abortions for the past 13 years have been performed before 20 weeks, well before fetal viability. The bottom line for me is and no matter how rare this procedure is in Maine, doctors should be able to use it when, in those rare cases, a woman's life or health is at

stake. If we go ahead and pass this bill, we are agreeing that a doctor should lose his license and perhaps go to jail if he performs this procedure to save a woman's health or her ability to have a child in the future.

If I could, just for a moment, share with you some of the testimony that was given at the time this bill was heard by the Judiciary Committee. This was some of the testimony of a former district attorney who urged that the committee reject the bill. I quote, "LD 535 would create a new felony crime and would promote civil litigation. If it passes, the law enforcement community would be prepared to become the abortion police ready to look over the shoulder of every physician who performs the procedure at whatever stage of pregnancy." As I understand this bill, it applies not only to later term abortions, but to all types of abortions. This procedure at whatever stage then, would make them experts or require them to be experts on the subject of dilation and extraction and the individual female anatomy and calling in grand juries to examine very private medical records and paying thousands of dollars for expert testimony and analysis. Please let law enforcement do its job. Do not force them to monitor stop watches in doctor's offices or to pry into the lives of women. It would be my opinion that we should let these decisions lie where they should, between a doctor and his or her patient, not with politicians and certainly not with the police. Please support the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Madam Speaker, Men and Women of the House. I am going to pose a question to the members of this body, those that are now in the body and those that are not in the body, that if the members of this body would be willing to witness a partial-birth abortion in a doctor's clinic or operating room? If none of you are willing to be looking and witnessing this terrible tragedy, then why are we voting on this?

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I will try to keep it as brief as I can. It has been a long, long morning. In reference to Representative Ott saying that if we pass this law we would have to have abortion police. I would respond to that that we already have abortion police. We have a present law that limits certain procedures at a certain point. We don't have the law enforcement officer inside the delivery room or the abortion clinics making sure that doesn't happen. I don't see why that would happen in this situation here. There are a lot of laws that we have that because we don't have very many police officers, or whatever, we certainly don't have enough to cover every corner street. We have laws against a lot of things that we have never seen or never reported. I don't think that is a legitimate idea.

In reference to Representative Saxl's story, that was a very tragic story. In the committee, Representative Watson and I went back and forth with the dual of the doctors, and I don't want to get into that too much, but I would just mention that it was said that this procedure is never medically necessary for the mother or the child. The other thing is that bad cases make bad laws. A great deal of debate we may have, I don't know when the bill is going to be coming out or not, on the death penalty is, these people who get the death penalty, say that I believe in it, but I don't really want to support it because what if we put somebody who is innocent to death? I am not equating somebody who has malformed organs, or whatever or whatever the situation is, when they are being born as not being innocent. In all the literature I got on this procedure, including the person who performed it most throughout the country, that a vast majority were performed on healthy babies, not on the situation of Representative Saxl. When questioned about this, said that there are some babies that are born with the organs outside their bodies. The prognosis for a lot of those babies is good. In fact one baby had a very huge organ outside her body and she became his head nurse.

Those anecdotal stories are sad, but I don't think they make good law. I am thinking about those other babies, those healthy babies. I hope you will too. Thank you.

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

Representative POWERS: Madam Speaker, Ladies and Gentlemen of the House. I feel compelled today to speak about what I am doing here as a legislator. Yes, we are here performing policy and we do that by making law. I am a firm believer that the most correct and simplest language should be used in forming those laws. Correct language means accurate and enforceable and in this case, medical language. The term partial-birth abortion is not helpful. As I have experienced during the hours with the Judiciary Committee, in both public hearings and work sessions, it serves only the purpose of generating intense emotion. When we do talk about this procedure, we should be using correct terminology. However, I am not willing to support the enumeration of any medical procedures in this issue. The amendment that has been proposed is what I call a legislative slight of hand, like the classic shell game. We are invited to wave our hands over existing law as if we are doing something. We would be doing nothing other than creating a redundancy.

As you can see on paper that has been referred to a couple of times already this morning, Title 22, Section 1598 presently states that it is illegal to perform any post-viability abortion unless the life or the health of the mother is in danger. Post-viability is a medical decision. The life and health of the mother are medical decisions and the selection of which procedure is the best and safest is a decision to be made only by those professionally and medically trained to make it. I will not legislate what ought to be a decision made by a woman, her higher power and her doctor. As a legislator, I will presume to suggest the proper medical procedure for a physician. Our law, as it is written, is adequate and correct. Please support the Majority "Ought Not to Pass" on LD 535.

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

Representative BULL: Madam Speaker, Men and Women of the House. There has been a great deal of discussion on this issue and it is a tremendously emotional and tremendously personal issue. I rise today in very strong support of the Majority Report "Ought Not to Pass." There is no question that this is not a pleasant procedure. I simply cannot believe that any woman would do this casually. The decision of whether or not to terminate a pregnancy, I can only imagine must be very traumatic, wrenching, emotional and very, very personal. I have a problem with government trying to dictate to a woman or to a doctor about any medical procedure. We have heard a lot of facts and figures today. There are already laws on the books about abortion post-viability. I think those are accurate. Again, this is not something done casually. We are sitting in dangerous precedence here today if we allow this state to dictate to doctors that no, you cannot make the medical decisions that you have been trained to make. Ultimately, the decision on whether or not to have an abortion is the decision made between a woman, her doctor and her God. I implore upon you, men and woman of this body, to not inject government into that equation. Please preserve a woman's right to choose to make that very personal emotional decision. Please accept the Majority "Ought Not to Pass" Report. Thank you.

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

Representative LANE: Madam Speaker, Men and Women of the House. It is very difficult for a lot of us to stand up and speak on this issue. I have heard a lot of things said. I have heard things, like terms, like procedure and terminate pregnancy and the fact that we, as a Legislature, have no business dictating medical policy. It seems, over and over again, in this whole debate that there are some things left out. We are not talking about the removal of a kidney or open-heart surgery. What we are talking about is not a human excretion. We are talking about a situation that is unique in all of nature and that is a situation where a woman, by a miracle, becomes a source of life for another life. I won't argue with you about your decision of when that life begins. For me, it begins at conception. No one has yet been able to explain how life begins and because it is such a unique situation, we have to treat it as such. This is not just a medical procedure. This involves another life. What a privilege to bear a child.

I want to talk to you about shock factors. Recently a lot of us saw that in California, or someplace, they discovered a field a aborted babies in cardboard boxes. We were shocked and the community out there scrambled to find the right thing to do with these objects of an abortion clinic. They were trying to come up with the money to give them a burial. We were shocked recently when we heard of a young unmarried couple who killed their newborn child. What is the difference folks? When are we going to allow? What is the difference? Three inches? That young unmarried couple faced trial for murder.

I want to share with you a couple of people who have faces that are in my life. One was a friend of mine. Years ago, I was engaged to be married and she was going to sing in my wedding. She found herself in an uncomfortable situation of having extra tissue in her body, fetal matter, a baby. She ran around and asked us to help support her as she sought an abortion, not in Maine, but in a state where it has been legal. I am not proud to say that I supported her. It haunts me. By the time she gathered up enough money, she was six months pregnant and went to Maryland for the abortion. When she came back it was about time for my wedding and she was a changed person. She wore dark glasses and cried incessantly and she said that nobody told me I had to name my child and bury it. Nobody told me that was all she would say. I was so young and hardened and insensitive I was simply mad at her for not singing at my wedding. I then had my own children and recognized the miracle that vsttyin a life within a life truly is. Some of you men will never understand that. You never will understand that. What a privilege. Where do my choices begin? I would never choose to terminate a child that is deformed. When do we choose to terminate children that become deformed after birth? When is that coming to us?

I will tell you about another friend of mine who was young, single and swinging and got pregnant maybe 10 or 15 years ago. In the middle of her abortion she cried, "Oh my God. Forgive me." She didn't even know God. Instinctively, she knew what she was doing would go wrong. Nobody told her. She lived with that. Perhaps some of you resent the emotionalism of this, but these are real people that are in my life with real faces who have lived with the consequences of their choices all these years who still have nightmares and who still see faces and still see children that are about the age of their aborted fetuses or babies and wonder. I don't think this particular issue before us to be part of the prolife or prochoice debate. It is a procedure that is not necessary. It is barbaric and those governments and states that have heard the debate and US Congress have heard it over and over and have decided, overwhelmingly, to ban partial-birth abortions. We should do no less. I don't care if there is only two in 100 years. Should we do away with murder as a crime because it is so rare? I don't think so. I ask you please to vote no against the pending motion of "Ought Not to Pass." Thank you.

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

Representative PERKINS: Madam Speaker, Men and Women of the House. For those of you who know me, know that I am prochoice on almost every issue, including abortion. This has been very difficult for all of us. I have a question, sort of, and I hope somebody can answer it. As I understand it, what we are talking about is very late-term. The fetus is turned and brought out feet first and the head is left in and then I would call the baby, because most of it is out then, it is killed for whatever reason. I have a question. As we have heard here before already and maybe this question has been answered today and if it has, please forgive me. The question for those that are proponents of this procedure being legal, could you tell me why not let it come the rest of the way out and then kill it if it is deformed or something? Are we killing it inside while the head is just inside so that we deliver a dead baby because of the legal ramifications? Could somebody please tell me the medical reason to protect the mother that we don't let it come all the way out and then kill it?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. As we go through issues like these, believe it or not, I watch Representative Perkins as he takes in the information. I have never seen a man struggle more than I have in the last two days. The answer Dr. Haskell gave and this is a quote from the *American Medical News* during one of his interviews, when *American Medical News* asked Dr. Martin Haskell why he could not just dilate the woman a little more and remove the baby without killing him, Dr. Haskell responded, "The point here is you are attempting to do an abortion, not to see how I manipulate the situation so that I can get a live birth instead." I hope that answers your question.

I would like to continue with a little bit of information about the terms used here today. Opponents of the partial-birth abortion ban insist that everyone writing about the ban should say that it bans a procedure known medically as "intact dilation and evacuation." The bill before Congress and here makes no reference whatsoever to intact dilation and evacuation abortion. More importantly, the term is not equivalent to the class of procedures banned by the bill. The term intact dilation and evacuation was invented by the late Dr. James McMann and until recently was idiosyncratic to him. It appeared in no standard medical textbook or database, nor anywhere in the standard textbook on abortion methods. That book being called *The Abortion Practice* by Dr. Warren Hearne. Because intact dilation and evacuation is not a standard, clearly defined medical term, the House Judiciary Congressional Subcommittee rejected it as useless for the purposes of defining the offense. Indeed it is worse than useless.

A criminal statute that relied on such a term would be stricken by the federal court as void for vagueness. Dr. McMann used this term, intact dilation and evacuation, quite broadly. He used it to describe the removal of babies who are killed entirely inutero as well as the removal of babies who have died entirely natural deaths inutero. Those two procedures would not be banned by this legislation. The term partial-birth abortion has been defined and has been passed by Congress only to be vetoed, as we know and is back. It is a clearly defined term with no ambiguity.

Dr. Martin Haskell tells what his partial-birth abortion is. The technique where the doctor internally grabs the fetus and rotates it and accomplishes the somewhat equivalent to a breach type of delivery. When you compare the abortion technique to how you deliver a baby then you have a real conflict, is it abortion or is it a birth procedure?

Texas has a law that says that whosoever shall kill a baby during its delivery. It does not stress whether it is an induced delivery, forced delivery or early delivery, but it says that it is a felony to kill a baby in the state of being born and before actual birth. The Supreme Court in *Roe vs. Wade* took this into account and did not find that this was unconstitutional, as they discussed the Texas statute. Texas law makes it a felony to kill a baby in the state of being born and before actual birth. What is actual birth? It is when the head clears the birth canal. That is why we do this feet first. This is not challenging a woman's right to an abortion. We recognize that the Constitution and the courts found this as a right. This is challenging the taking of a life that is protected by the Constitution because this child is actually being born. The birth canal has been opened. The baby has been presented in a breach position. The baby continues through a birth canal. Those are all medical terms which very accurately describe the process being used. It is a delivery procedure. Forceps used to deliver babies who are having a hard time being born.

I don't think that we need to go so far as to kill a child who will probably already die. It might save a few Medicaid dollars. It is expensive to keep a child alive. If a child is already going to die and you know it, I don't think it is within our power to decide the time of the child's death, not when you have gone 80 percent of the way toward delivering the child. I ask you again to reject this motion and go on to pass the bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Madam Speaker, Men and Women of the House. Difficult decisions and difficult votes today, separating many friends and even seatmates. Any visitor to this chamber, since January, would have heard powerful speeches against the intrusions of government, intrusions into the north woods, intrusions into businesses, intrusions in the different professions, intrusions into labor management issues, intrusions into local education and into privacy issues. It doesn't take long to discover that the people of Maine and many members of both parties in this chamber have a strong libertarian streak at the core of our basic principles. Men and women of the House, we rail against government intrusion into our daily lives. We rail against this violation of our individual liberties. Look around, those of us that are still in the chamber. We are the government. This is a political debate, not a medical debate. Representative Townsend was correct earlier. I am a teacher, not a doctor. I will not vote to have government intrude between that woman in crisis and her doctor at that crucial moment when she most needs the best medical advice and best medical procedure she can receive to protect her life, her health and a right to future pregnancies.

Men and Women of the House, I don't want the 118th Legislature to be known as the Legislature which took decisions about medical treatment out of the hands of doctors and Maine families. I would urge your yes vote on the "Ought Not to Pass" report.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I will make it very short. On the answer to the question that Representative Perkins asked earlier about what the difference between the three inches this way or that way. During the news conference, the professor of obstetrics and gynecology and Wright State University was asked the same question after she had the press conference. The news reporter said, "Why do you think doctors perform this procedure?" She said, "You will have to ask them." The reporter said, "I want you to tell me why you think they perform this procedure." She thought for just a second and was hesitant, but then she said, "To deliver a dead baby." Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Sirois.

Representative SIROIS: Madam Speaker, Men and Women of the House. I am 72 years old and I have experienced quite a life for myself. I want to tell you that somewhere around the age of 40 I was operated on and I died. I am talking to you now and I want to tell you that I am not afraid to die. It is so beautiful. About this abortion deal, I think we are violating the law of God. At the moment of conception, either a girl or a boy, is an individual. I can tell you from the time that I started to move around and I was at the age of six or seven to about the age of 40, I was a devil of a man. I don't know why my wife married me. She is the best girl in the world. At that time I figured, enjoy yourself Rosaire and have a good time because when you die, that is it.

Back some 30 years ago I had to go to the hospital for a hernia operation. As a matter a fact, it was three hernias in one. I had a final. The doctor's name was Dr. Urgen from Hartford, Connecticut. He was a highly respected doctor at the time. I had a spinal and I was conversing with him while he was operating on me. After the operation he wanted me to rest. What he did was, he gave me an injection and apparently the injection was too strong for my system and I want to tell you that I started to go down, but before that the nurse was in my room checking me every now and then and I was coming to and going out. All of a sudden I started to go down. I mean going down. All within a few seconds I was out of my body and I looked at myself on the bed and I was just as white as the bedsheet and I was sparking as I was going along. The sparks were leaving me. They were fading away, but yet I stayed the same size. I was white, but not of a white that I know. It is not white like I am looking at papers. A different kind of white. You hear and you see, but you can't communicate.

I want to tell you that by passing this bill, we, maybe not me because I will probably die within a few years, but I can guarantee that within 50 to 75 years that not one of us is going to be left in this room. We all are going to experience what I have experienced already. It is so beautiful that I am looking forward to dying. Just yesterday I could only talk French and just yesterday I went to school and just yesterday I graduated and just yesterday I went in the Army and everything is just yesterday. Just yesterday I got discharged and just yesterday I went to work on the railroad and I worked 40 years. Just yesterday I took my pension some 10 years ago and just yesterday I am here. Life is so short and precious that we are here to do God's work. We, if we pass this bill, are violating one of God's 10 commandments. How else can the Lord and us spread his kingdom, but through us? You can tell that I am a Catholic and I am a Christian, but I am only a Christian since I died because previous to that life was the end and that was it. That was the best thing that could have happened to me, as far as I am concerned. I was a rummy. I was thrown out of bars and I want to tell you again that my wife is the best girl in the world. She didn't change me, but the Lord did.

It is so beautiful dying that we should prepare ourselves and live according to the Lord God so that when we die we are welcomed by him. He died for each and every one of us some 2,000 years ago. By passing this bill another thing that we are doing is we are, some of us over here are signing our death warrants, because if this doesn't stop here in the years to come some of us in this room right here are going to get old and are going to the hospital and they are going to monitor us and they are going to put us on a machine, your kidneys are failing, your blood is not good and they will say that they will give us a pill. By passing this bill, LD 535, you are opening up the door of the future down the line and I am telling you that some of us are going to experience that right here. Maybe not in 10 or 15 years, but it will come if we don't put a stop to this. This is first-class murder that is even worse than Representative Mack saying about the Holocaust because the Jews at that time could have gotten up and run, but a baby in a mother's womb can't do that.

To me, as far as I am concerned, this is first-class murder. If we, as a body, vote that in, some of us are signing our own death warrant because that is what is going to happen in the future. They are not going to stop that because when we get old and we are not good enough for the city, town, county, state or government, they are going to do away with us. We have to put a stop to this. This is what I am against. I am against this bill 100 percent and I thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Madam Speaker, Men and Women of the House. I stand in opposition of this bill for many of the reasons that have already been spoken. I am also against this partial-birth abortion for any reason, not just for the health of the woman. I am not afraid to say that. The other concern I have in the partial-birth abortion that hasn't been spoken is the affect on the woman while this is being taken place. I feel that through the process of, depending on the size of the fetus, turning the baby around is more traumatic to the woman than actually delivering the baby normal. I am for a woman's right to choose if she wants to have an abortion to have the best abortion possible up until the point of viability. If a woman has to have a baby early, then have an early delivery. Don't go through this type of method of the procedure that has been described. When the vote is taken, I am going to vote against this. If I get the opportunity to vote for Representative Ahearne's amendment, that is the way I am going. Thank you.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. There is no one in this room who could argue that this procedure is not gruesome and that this choice is not excruciating, but do we think in this body that the mother does not know that? Do we think that the family does not feel the moral weight of what they are considering? Why do we know better than the mothers, fathers and doctors involved? What qualifies us? If I were in this situation, why should Representative Ahearne or anyone else in here determine that my health wasn't important? I faced this situation. When I was 20 years old I got pregnant and I was unmarried. After a long, very excruciating time, I chose to have my daughter. I did that without the help of anyone in this room. I hope that we can allow the dignity of the families to make their own decisions. Thank you.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. In 1993, the first year I was here in the Legislature, we passed legislation codifying reproductive rights in the state. I think we did a fairly good job. One editorial said that no reason exists to change Maine's public policy this year. It is a policy aimed at assuring that abortion is safe, legal and with emerging alternatives increasingly rare. I believe that is true and that is why I urge you to support the pending motion.

I would also like to say that I have two sons, a 15 year old and a 12 year old. I was fortunate enough to be heavily involved with their birth. From the very time that my wife went for a sonogram to every visit that she went to the doctor, I was able to be there and able to participate right up through the birth. If at any point there had been a problem with that pregnancy that would have resulted in us having to make a decision about whether to continue with that birth, I would have hoped that we would have had all the options that were available to us that were medically necessary and medically sound. Thank you.

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

Representative KASPRZAK: Madam Speaker, Men and Women of the House. Just before we do vote on this bill, I would like to say just one more time that, first of all, I have not understood and I have not received an answer yet about what serious health condition a mother must be in before her life can be saved by this one procedure, which gives her a breached birth. And also, I would like to just read this description of the procedure, as described by a doctor who has performed over 1,000 of them in his own words, in case anyone has not put together the pieces yet.

With the lower fetal extremity in the vagina, I hope there are no children here any longer, I too believe that parents should be the ones to share these things with their children , the surgeon uses his fingers to deliver the opposite extremity, then the torso, the shoulders and the upper extremities. The skull of the fetus lodges at the internal cervical opening to the uterus. Usually there is not enough dilation for the skull to pass through. The fetus is oriented spine up and at this point the surgeon slides the fingers of one hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down. The surgeon then takes a pair of blunt curved scissors he carefully advances the tip curve down along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. There the surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents.

If anyone can explain to me why a child must be killed, why his brain must be evacuated before he sees his mother's face and that somehow the woman's health will be better off after this situation, or for once, might we consider the baby's health might be better off in this situation? I would love to hear it. I think we have spent a great deal of time not coming up with an answer to this. He also says that this procedure was used through 26 weeks or six months on selected patients. Doctors have testified that the only reason for using this procedure may be because, a living, just delivered baby, no matter how premature under the Constitution, and the deliberate killing of such a person is still legally murder. I don't know for how long that is going to be. The baby must be delivered dead. There is no other way about it. The abortionist must take care that he does not dilate the cervix a little too much because if he did so the head could flip across the Supreme Court's Constitutional line of personhood. Imagine that. Please explain to me why a compassionate society, supposedly, must protect this one procedure to take a child's life in this most uncivilized manner? Thank you.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Madam Speaker, Men and Women of the House. Unfortunately, I am not a doctor so I don't stand today to answer medical questions, but I will resist the urge to make medical allegations as well. I recognize that people today have been very passionate about their positions on this issue. We have heard ample anecdotal evidence relating to their passions to Nazi Germany, the Civil War, biological frog experiments, Joshua Chamberlain, as well as many amateur interpretations of Supreme Court decisions. I stand today to offer that this is not a choice issue, no more than open heart surgery is a choice issue. This is a personal, private issue between a woman and her physician shared between doctors and patients. I think that maybe some of my colleagues here in the Maine House have future careers in the US Congress, the White House or maybe even the Supreme Court. Today I need to remind us that we work for Maine. We work in Maine, not Ohio or Massachusetts.

I attended the press conference on both sides of this issue searching for information about this heretofore before unknown issue to me, personally. It is separation from the philosophical abortion debate in general. While at those press conferences, I heard no testimony from Maine women who said they were coerced into having this procedure or they had it and they regretted it or they had it and it went wrong or they wanted it, but they couldn't get it. There were no Maine women there testifying. We had experts from Ohio and patients from Massachusetts and it was all very informative. Indeed, they were experts testifying to what they knew and the experiences that they had had. Is this procedure done in abundance in Maine? No. Is there a problem with this procedure being done in Maine? No. Has anyone told us about examples in Maine? No. We have heard from no Maine women or physicians who say this is being done regularly, overtly, covertly or for money. Many, many extremely off the wall allegations today that personally embarrass me. Let's not make this medical procedure an example of our forthcoming debate over abortion rights. That will come soon. We have eight or 10 different bills that have been submitted, but this is not one of them.

Please join me and join the majority of the committee that studied this bill at length and join our peers from both sides of the aisle, to accept the standing motion and accept the Majority "Ought Not to Pass" Report.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I stood at the beginning of this process, this debate and I asked for civility and people to behave in a dignified manner and I am very pleased that this debate has gone on the way it has. Perhaps it is time to end the debate because I don't think there are any more minds that are going to change. I am not going to try to get the last word. I am just going to ask you to vote the way you feel you have to. Let's do it.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Madam Speaker, Men and Women of the House. I have to say one more word, I am afraid. I am here as a legislator representing the people of my town. From the people of my town, mostly all letters, saying please vote for LD 535. Please, I implore you. We all received this Maine doctors never medically necessary flyer. I am very pleased to see that two very well-known good doctors in my town are amongst the doctors on this list, Dr. August Valentie and Dr. David Walters. They are two very good doctors and they believe that this procedure is never medically necessary to preserve the woman's health or fertility, also Dr. Kurt Oswald. He is a member of my church. I respect these doctors highly and if they say that this procedure is never necessary than I go right along with them. I personally believe that this procedure should never ever be whether it is has ever been or rarely been in Maine. That I don't believe is the question. I believe that this procedure should never be done. That is why we need to vote for LD 535. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Shannon.

Representative SHANNON: Madam Speaker, Men and Women of the House. I do not know Dr. Valentie's specialty, but Dr. Walters sees my children as a pediatrician on a regular basis.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Madam Speaker, Ladies and Gentlemen of the House. I guess I have to ask, why all the gloom? Why all the long faces? This is a great thing we are doing today. It is a tremendous act on behalf of the people. However you feel or however you shall vote, there are those in our communities that would give their all to be in our place today. That is something we should really remember when we cast our votes on this issue. I concur with the Representative from Naples, Representative Thompson, all this debate has not moved a single vote one way or the other. This is a point of the heart. I guess the true question, as I have deliberated this to myself, I too have received a great deal of correspondence on this matter. It has given me great pause for thought. The point of deliberation for me has been are we in a defacto sense doing the opposite of what we intend to do with this bill should we pass it? Are we declaring our women savages? Are we saying that they cannot be relied upon in their judgments in the last trimester? Are we invoking the images of the black sorceress, Medea, who in a fit of vengeance murdered her own children? Are we going to imply that if we do not pass this legislation that we shall evoke the mandate of Sparta and those children that we deem unfit, we shall expose on the hillside? Are we going to go the other way, perhaps, and follow the lead of the People's Republic of China and enforce abortions as a population control measure? I agree with the Representative from Orono, Representative Stevens, this is not about those places. This is about the State of Maine.

In the State of Maine, I have to agree with previous speakers, that this is not a matter of choice. Were it simply a matter of choice, it would be an easy decision. The only choice here involved is two choices, ours. Shall we do or shall we not? The remaining choice is the choice of a woman. A woman whose much anticipated and celebrated pregnancy has gone catastrophically awry. Her only choice is how her child shall die. Shall it die before it is born or shall it suffer after it is born before its imminent death? Shall her health also be affected in that decision? Also at issue are the numbers and I will not reiterate the multiform renditions of those numbers, although I would remind my colleagues that this is a procedure that is a rarity in the state at best, which in the great sweep of numbers would render us almost an academic point, were it not for the emotional venue at stake.

There is also the matter of the great document that we all swore allegiance to on our first day here. In that great document of this United States we have the promise of the 19th Amendment, which gave women the vote. This is one reason why this is a great moment today because we have an opportunity to fulfill that promise by removing that stigma of Medea and that we do not trust our women. We are all born of mothers and we must trust those mothers. We have little other options. We must carry on the legacy of Susan B. Anthony and

Margaret Fuller and others who labored hard for that place amongst what theretofor had been the domain of only me and let them stand among us as citizens. That stand requires something of protection under a law, as has ever been the case, for we question this procedure and rightfully so, but we also would perhaps rhetorically question why a stunt pilot would take a parachute with him or her. Do they plan on crashing their plane? Are they somehow cheating their destiny by carrying that parachute? No, they do not intend on crashing that plane, but if such an event should befall, them we would certainly hope that they would be prepared to negotiate their own safety and thus it is with this. This is a great opportunity for us as legislators. An opportunity to stand for those women in our lives. It is an opportunity to assure that our titles bear witness to our acts. In that assurance I urge my colleagues to vote in favor of the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. I hate to belabor this. I am a mother of three married daughters and I am very close to my daughters and I have had the privilege of being in the labor room when they have delivered for me eight grandchildren who I love dearly. I want you to know that. I want to share this one thing. I am against partial-birth abortion. However, if one of my daughters had to have a procedure done to save her life at that time, believe me, I would want to protect her life and I would want to save her health. I guess you know where I stand. I am going to support Committee Amendment "B." I hope you all will think about it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Men and Women of the House. I am afraid I didn't raise my hand because I didn't intend to speak. My husband is a doctor and when I had talked to him about this he had one thing to say and that was, "Why would you, as legislators, want to make the laws on medical procedures that we are trained and educated and have a great deal of expertise in making those decisions?" I cannot in good conscience put myself in a position where, down the road, I hear that a woman's health or a woman's life was compromised by a decision I made as a legislator and not a trained medical person. I have had two pregnancies with two nonviable fetuses and it is never ever easy. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 88

YEA - Bagley, Bigl, Brennan, Brooks, Bull, Colwell, Cowger, Davidson, Dunlap, Etnier, Farnsworth, Fuller, Gagne, Gamache, Green, Hatch, Kontos, Labrecque, Lemaire, Lindahl, Mailhot, Marvin, McKee, Mitchell JE, Morgan, Murphy, Ott, Peavey, Pendleton, Pieh, Povich, Powers, Quint, Rowe, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Taylor, Thompson, Townsend, Tripp, True, Volenik, Watson, Wright, Madam Speaker.

NAY - Ahearne, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bodwell, Bolduc, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Fisher, Fisk, Foster, Frechette, Gagnon, Gerry, Gieringer, Gooley, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Lane, LaVerdiere, Layton, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, Mayo, McAlevey, McElroy, Meres, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Richard, Rines, Samson, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Tobin, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Baker CL, Cross, Goodwin, Jones KW, Kane, Tessier.

Yes, 49; No, 96; Absent, 6; Excused, 0.

49 having voted in the affirmative and 96 voted in the negative, with 6 being absent, Report "A" **"Ought Not to Pass"** was not accepted.

Representative JABAR of Waterville moved that the House accept Report "B" **"Ought to Pass"** as amended by Committee Amendment "A" (H-163)

On further motion of the same Representative, tabled pending his motion to accept Report "B" **"Ought to Pass"** as amended by Committee Amendment "A" (H-163) and specially assigned for Monday, April 14, 1997.

Divided Report

Majority Report of the Committee on **Judiciary** reporting **"Ought Not to Pass"** on Bill "An Act to Require a 24-hour Waiting Period before an Abortion May Be Performed" (H.P. 490) (L.D. 661)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives: THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
MAILHOT of Lewiston
JABAR of Waterville
POWERS of Rockport
NASS of Acton

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-165) on same Bill.

Signed:

Representatives: PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

Was read.

Representative THOMPSON of Naples moved that the House accept the Majority **"Ought Not to Pass"** Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority **"Ought Not to Pass"** Report and specially assigned for Monday, April 14, 1997.

Divided Report

Majority Report of the Committee on **Judiciary** reporting **"Ought Not to Pass"** on Bill "An Act to Require Parental Notification for Minors Seeking Abortions" (H.P. 491) (L.D. 662)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives: WATSON of Farmingdale
ETNIER of Harpswell
MAILHOT of Lewiston
JABAR of Waterville
POWERS of Rockport