

February 26, 1979

LB 316

issue unless you can suspend the rules and do away with all debate and all amendments.

SPEAKER MARVEL: Senator Johnson.

SENATOR JOHNSON: Mr. President, Mr. Clerk, I have an amendment to the Venditte amendment which I would like to have read.

CLERK: Read Johnson amendment found on page 651, Legislative Journal.

SENATOR JOHNSON: Let me speak to my own amendment to the Venditte amendment and indicate what it will do. Senator Chambers is absolutely right that during the debates that we had last Tuesday we discussed at great length the problem that lay with the viability definition. Now we always cast that as a problem of definition. In the end, when one reads the Colautti decision that the Supreme Court came down with in January of this year, one has to conclude that probably definitionally viability will be all right but the real problem lies as to how the determination of viability is to be made. I think that Senator Chambers made some excellent remarks on the floor of the Legislature last Tuesday and I know that his remarks and those of other of us did bear fruit because Senator Venditte has realized that LB 316 as amended needs to be amended further to make certain that we have a constitutional provision dealing with the determination of viability. Now Senator Venditte's amendment is not necessarily the most artful amendment, is not necessarily the ideal wording and language. On the other hand, his amendment will work so long as we make it clear in the amendment that the medical judgment itself concerning viability is a subjective one and lies with the attending physician and that is what my little amendment does. My amendment makes it quite clear that the medical judgment concerning whether or not the woman is carrying a viable fetus is the judgment of the attending physician. That is what Colautti was reaching at. Colautti was stating in the end that the Pennsylvania law was unconstitutional because it did not leave with the attending physician the ability of the freedom to ascertain in good faith whether or not this woman was with a viable fetus. My amendment to the Venditte amendment makes it quite clear that the judgment call lies with the attending physician who is following standard medical practice and exercising sound medical judgment.

SENATOR LEWIS PRESIDING