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How the House GOP's Abortion Bill Fell Apart

Women and moderates warned Republican leaders that trouble was coming, but it's not clear they listened.

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Republican leaders, including House Majority Whip Steve Scalise and Speaker John Boehner, knew more than a week ago that opposition to the abortion bill was brewing. (Alex Wong/Getty Images)

January 22, 2015 When Rep. Renee Ellmers implored Republican leaders to change course at a private party retreat in Hershey, Pa., last week, it was the first time many rank-and-file House members had heard of the simmering discontent surrounding an antiabortion bill scheduled to come to the House floor.

But it wasn't news to leadership.

In the week leading up to the retreat, a diverse group of Republican women, including Rep. Ellmers, Kristi Noem, and Cynthia Lummis, had brought their concerns to Majority Whip Steve Scalise. They said, according to people who were in the room, that the Pain-Capable Unborn Child Protection Act was turning into a bill that defined rape and distracted from the bill's intent of stopping late-term abortions. They were livid about a clause in the bill that required a woman to have reported sexual assault to police in order to be eligible for the procedure.

After the meeting, the women walked away confident that Scalise had understood their concerns and that once he relayed them to leadership, they would change the language in the bill. But the leaders didn't—either because they underestimated the depth of the complaints, or overestimated their own ability to smooth over rough feelings before the bill hit the floor.

What followed was two weeks of push and pull between GOP leaders and the growing ranks of women in their conference, between antiabortion conservatives and Northeastern centrists. The bill laid bare new divisions in the massive GOP majority, and was eventually pulled in favor of a noncontroversial alternative. But the damage was done: Phone calls flooded members' offices and leaders had to back down on an antiabortion bill even as March for Life protesters swarmed the Capitol grounds to commemorate the 42nd anniversary of the Supreme Court's *Roe v. Wade* decision.

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"I hate the way it all played out, but we just have to do better next time," Ellmers said in an interview while exiting the Capitol on Thursday, after the replacement bill easily passed the House. "The whole point of this is to make this bill stronger."

Why leadership did not initially listen to the women still baffles members of the conference, many of whom spoke privately to reconstruct a timeline of events leading up to the ultimate decision to pull the bill.

It is clear, they say, that leadership decided to gamble that their swollen ranks, the largest Republican majority in more than a generation, would easily accept the same bill that passed last Congress, banning abortions after 20 weeks of pregnancy.

The difference, the women said, is that in the last Congress the rape-reporting requirement was added to the bill in the Rules Committee just hours before it came to the floor, giving them little time to fight back. This time they were prepared.

"I've never seen the Republican women that strident, that forceful, and that united," one of the Republican women said.

Women, joined by male moderates who objected to having to vote on contentious social issues that could present electoral consequences for them, raised their concerns at an open-mic session in Hershey. And as they returned to their districts for the weekend, back-channel communication continued via staff throughout Tuesday's festivities surrounding the State of the Union address. That day, Ellmers and Rep. Jackie Walorski removed their names as cosponsors of the bill in protest. Female members communicated in an email chain throughout the week.

The women were nevertheless floored when Majority Leader Kevin McCarthy rose at a weekly closed-door meeting of the GOP Conference on Wednesday morning and said that although the bill was shrouded in controversy, it would move to the floor as planned.

Staff were kicked out of the meeting to avoid leaks, and as the usually hour-long meeting stretched to nearly 2 hours, Ellmers joined Rep. Marsha Blackburn and other women in again registering their complaints: Not only would the bill mire the Republican Party in an awkward conversation about rape, it would also turn off women and millennial voters, just the constituencies the GOP must court to win the upcoming 2016 Senate and presidential election.

"We saw there needed to be some more work on it," Blackburn said Thursday. "I wanted to make certain that we got the bill right in the proper form, and have always supported our traditional Republican platform: rape, incest, life of the mother."

Still, much of the pressure to keep the language from shifting was coming from outside groups who wanted to make the rape exception narrow, like it had been when it sailed through the House last Congress. They worried that without the requirement, the loophole would allow women to easily access late-term abortions. After the meeting adjourned, McCarthy, Scalise, and other leaders hosted diverse groups of members throughout the day to gauge support and hear their concerns.

During Wednesday's first vote series, however, it became clear that the objections to the bill were broader than expected. Walorski and other women met in groups on the House floor to discuss their grievances. Even more nuanced concerns were voiced, including that the rape-reporting requirement would clash with one already codified in military statutes, causing confusion for victims of military sexual trauma.

Around 3 p.m., McCarthy and Scalise huddled in the speaker's catacombs with a group of women including Noem, Walorski, and Rep. Diane Black.

"We had some disagreement on legislative language and we needed to work on that bill and make sure we had some consensus before it comes to the floor," Noem said Thursday. "I think leadership did its due duty, having a lot of meetings, hearing us, and at the end of the day, recognizing that we needed to have more time to have consensus."

Although McCarthy's public optimism belied the tension behind closed doors, it was clear leaders would have to tweak, if not not fully abandon, the bill to move forward. There were three options: Get rid of all exception language other than allowing the late-term abortion if the life of the mother is at risk; remove the reporting requirement and include only exceptions for rape, incest, and the life of the mother; or pull the bill entirely.

"We've got several bigger issues coming up next week and beyond," said one member, describing the sentiment behind closed doors. "We don't need to fractionalize our conference."

In the meeting, the decision was made to try the first route, one that had been espoused by Rep. Ann Wagner and other members at the morning conference meeting. But when the whip team fanned out across the floor during the day's second vote series around 3:30 p.m., leaders were inundated with complaints from not only women, but also Northeastern and Midwestern moderates, a growing and increasingly influential force in the caucus.

Rep. Tom Reed said members of the whip team approached him asking whether he would support a bill without the rape and incest exceptions. In response, he relayed the story of [his niece who had been raped \[http://www.thewire.com/politics/2014/03/rep-tom-reed-gave-emotional-house-speech-about-his-nieces-rape/359187/\]](http://www.thewire.com/politics/2014/03/rep-tom-reed-gave-emotional-house-speech-about-his-nieces-rape/359187/), noting that he is against abortion, but would never sign off on a bill disallowing the procedure for women who had been sexually assaulted.

"I'm pro-life, but I believe in the exceptions: rape and incest," Reed said later.

After the vote series, Speaker John Boehner and his top lieutenants huddled in his office for their daily management meeting. Despite their limited success, they decided to take one last stab at the possibility of moving an amended bill. Boehner himself took respite at the Capitol Hill Club as other leaders handled the legwork.

McCarthy called Scalise and his whip team into his office, along with Walorski, Blackburn, Black, and Wagner as well as Reps. Virginia Foxx and Martha Roby. A group of moderate male Republicans, including Rep. Frank Guinta, joined the meeting as well.

Roby, in particular, made a compelling argument to drop the bill, according to sources in the room. She said there was no reason to bring up messaging legislation that would never pass the Senate or be signed by the president, and would only harm the party's reputation when members already had earned their antiabortion stripes in their districts.

After an hour of back-and-forth, the meeting adjourned. Soon after, leaders sent word to their troops: They had moved too quickly on this bill, not fully internalizing members' concerns. The bill would be dropped. Instead, they would bring up Rep. Chris Smith's bill mandating that no taxpayer funds be used to fund abortions.

"When you rush things and don't do business and let the process work, you just run into trouble every time. So we've learned something," said GOP Conference Vice Chairwoman Lynn Jenkins. "It's just unfortunate with the pro-lifers here that the timing didn't work out this time."

McCarthy broke the news to Rep. Trent Franks, the late-term abortion bill's lead sponsor, fetching him from a reception. McCarthy also met with the heads of half a dozen top antiabortion groups, including National Right to Life and the Susan B. Anthony List.

"To say anything other than I was profoundly disappointed would be disingenuous," Franks later said. "We made the most desperate attempt to avoid these kinds of ... surprises by making sure that the bill that we introduced was exactly, word for word, letter for letter, the same as the one we passed last time."

Rules Committee Chairman Pete Sessions was notified that he would have to prepare Smith's bill for the floor immediately. Shortly after 8 p.m., the panel announced it would convene to swap out the two pieces of legislation.

"We landed on the one that was really easy to understand," Sessions said.

The substitute bill passed easily, with just one Republican, Rep. Richard Hanna, voting against it.

Franks said he has a verbal commitment from McCarthy to bring his bill back to the floor later. And outside the Capitol, House Republican Conference Chairwoman Cathy McMorris Rodgers tried to ease the tension with protesters, telling them the bill would come up again.

"The Pain-Capable Unborn Child Protection Act is so important, because it shifts the debate in the pro-life community all across this country and makes very clear the pain an unborn child feels is very real and very wrong," she said.

While Franks and others were unhappy, many women in the conference applauded the leadership's decision Thursday, noting that it might prove to be a teaching moment for them in the future. But it is clear that leaders still have much to learn.

"I think the leadership genuinely feels bad about this. Genuinely," one woman said. "I hope that that will translate into listening to people who have voting cards instead of listening to people who don't have voting cards."

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