MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate
December 2, 1992 to May 18, 1993

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, HARRIMAN, LAWRENCE, LUTHER, MCCORMICK, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

NAYS: Senators AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

ABSENT: Senator O'DEA

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, and 20 being less than two-thirds of the entire elected Membership of the Senate, the Bill **FAILED ENACTMENT** in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services"
S.P. 356 L.D. 1070

Tabled - March 29, 1993, by Senator **ESTY** of Cumberland.

Pending - **REFERENCE**

(In Senate, March 29, 1993, referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**. Subsequently, **RECONSIDERED**.)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **REFERENCE**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Protect Reproductive Privacy in Maine" (Governor's Bill)
S.P. 117 L.D. 318

Majority - **OUGHT TO PASS**

Minority - **OUGHT NOT TO PASS**

Tabled - March 30, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, March 30, 1993, Reports **READ**.)

Senator **CONLEY** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. L.D. 318 perhaps represents one of the most personal issues ever debated in American politics. This issue finally has arrived in Maine in the form of a debate about what we should do here with Maine's statutes and the Judiciary Committee conducted an extensive hearing about two weeks ago over at the Augusta Civic Center. I want to begin this debate by thanking the citizens of Maine who came to that hearing, and with this extremely emotional issue were able to come forward with different views, express those views without violence, without any interference with each others right to express their opinion. This is not the case in other parts of this country, we here in Maine, particularly on a sensitive issue such as this, ought to be thankful that we have such responsible citizens.

As a signer of the Majority Report I think it is important that this body know why I, as the Senate Chair of the Committee, signed the Report and I would like to speak to my reasons briefly. This Bill, entitled "An Act to Protect Reproductive Privacy in Maine" does four very simple things. What it does is codify the Supreme Court's 1973 decision of Roe vs. Wade, what this does is preserve post viability restrictions and adult involvement in this type of decision, what else this Bill does is repeal the 48 hour waiting period which was enjoined by a Federal Court a few years ago and the Federal District Court in Maine, a provision which we must look at very carefully because with the changing nature of the U.S. Supreme Court that particular law actually just by someone going to court might be re-established. Another important thing this Bill will do is to re-establish in Maine law exactly what informed consent a woman must be given by her physician when she is making this very difficult decision, the final thing it does is keeps intact our parental notification law so that minors in a very carefully crafted law a few years ago in this legislature had a procedure whereby adults can become involved in that very important decision.

This matter is something which each and every one of us in this chamber has an opinion on, has thought about deeply and has come to a very difficult decision making process to reach a decision of our own. I don't believe there is anything that can actually be said on the floor here today that is going to change anybody's decision one way or the other, because the very nature of this matter is so personal and so emotional that it has to be done on an individual basis. I can say as I know that the Senator from Oxford, Senator Hanley as well as Senator Berube from Androscoggin can say, that in the

ten hours of hearing on this Bill there were many tears, many emotions by individuals who came to testify on both sides of this issue. I believe that standing here as a Catholic it is important for me to say to you how it is that I come to my decision and how I reconcile my own religious beliefs with saying to you that I believe this law is necessary for the people of this State. As the oldest of twelve children I grew up in a household where abortion would be anathema. The idea of an abortion for my mother, for example, was just totally out of the question. That has been the teaching of my church, that has been what I have grown up with, what I have learned and as a Catholic I can say that I believe that that particular type of an act is a sin. That it is wrong. That is my personal decision, that is my personal opinion. The question I must ask is that as a Catholic who comes in and takes the oath of Office to serve the people of this State, who swears to uphold the Constitution and who was sent here by a diverse group of 35,000 citizens, I have to ask is it right that I come up here and impose my religious viewpoints on all of my citizens, on my Jewish citizens, on my atheist citizens, on my Protestant citizens. Is it right that I come here and bring my religious views to the point where I want them to say what the law is going to be. That is where I must draw the line, that is where I must say as a Catholic I should go out and preach love, preach those things in my church which matter so that I might be able to change people's minds, change people's feelings about maybe what they ought to do or how they ought to handle a certain situation, but I cannot and should not impose my religious views on the citizenry at large. The country has a long history for respecting this division.

The reason that we need this particular law, Roe v. Wade has been the law of the land by way of a court decision since 1973, but the women of my district and of your districts should not be in a position where they have to fear who is sitting on the U.S. Supreme Court. It ought not to be whatever somebody decides tomorrow from that particular body that controls what happens to women's bodies. That is why it is important that we go pro-active, that we take a stand here today, and that we pass this law which the Governor has given to us for our consideration. Thank you.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **BANKING & INSURANCE** on Bill "An Act Relating to Compulsory Insurance Limits for Hired Vehicles Used to Transport Passengers" (Emergency)

H.P. 728 L.D. 987

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-89)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-89)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-89) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended** in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent forthwith.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Protect Reproductive Privacy in Maine" (Governor's Bill)

S.P. 117 L.D. 318

Majority - **OUGHT TO PASS**

Minority - **OUGHT NOT TO PASS**

Tabled - March 30, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report

(In Senate, March 30, 1993, Reports **READ**)

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. In my three terms in the legislature, this being my fourth, I don't believe I have faced a more difficult decision either here on the floor of the House or the Senate or in Committee then the decision that was presented to us in deliberating 318. It's especially more difficult being a male policy maker and being forced to make a decision on this Bill. It's quite clear whereas most Bills impact the people of our State the same, this Bill will have a definite greater impact on the women in this chamber and the women throughout this State then it will have on their male counterparts. My basic philosophy in Government and

that I've espoused while running for Government is that limited government is best. There are only a certain number of areas that government should really be involved in. For me the question is what should this body do, what should the Legislature do to protect the health and welfare of Maine's people without imposing our own religious beliefs on them.

Senator Conley is right, this is a pro-active Bill. I want to get it on the record and make it quite clear that if L.D. 318 passes today and is signed into law there is absolutely no change. The rights that are available to women in our State now will be identical to those rights that will be available when the Bill if and when it is signed into law. I can't make that point strong enough, that 318 is pro-active as far as it protects those rights that are currently there and it would take an affirmative action by this chamber after this was to pass to change what rights there are in the area of abortion. I guess I would use the same argument that my good friend from Cumberland, Senator Conley, made by as far as taking a pro-active stance are we not imposing our own beliefs, our own will on the people of our State. As I said, whether or not this Bill passes right now those rights that are afforded to every woman throughout the State will remain the same. I think one of the biggest reasons why I signed Ought Not to Pass on this Bill is because there was no way for me to amend the Bill 318 and have the amendment be germane to address some of the concerns that I had.

Those concerns and those concerns that were raised not only in the ten hours of testimony but from my constituents who have called, who have written letters, who have spoken to me at the supermarket or gas station, who have some strong concerns about two very important issues, the issue of parental consent, exactly what position the State is going to take as far as parental consent for abortion for minors. Another very important issue that was raised to me, and I think it bears further discussion, is the issue of informed consent. I was involved on the Judiciary Committee when we crafted the adult involvement law at that point in time it was basically the only compromise that all sides could agree to. Whereas it was a compromise and it had things that both sides objected to it worked for the time being, but with the current Supreme Court case there has been a need to readdress that, to reassess where we are at now. There will be other legislation coming in front of this chamber which will deal with those issues, unfortunately this Bill does not allow me to deal with those issues and those issues are of concern to me and they are of concern to my constituents. It's for that reason, and that reason only, that I voted against this Bill and look forward to the further debate on the other Bills that will come before us in this body. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise today as a sponsor of L.D. 318 and would like to tell you that I rise not as the Minority Leader of the Senate today but as an individual Senator from District 24 which is Sagadahoc County and the town of Harpswell. I sort of divorce myself from the leadership position because the issue of abortion is an extremely personal issue, it's a difficult issue and I'm sure we've all really searched our souls to find the answer on how we will vote on this issue. One thing I think we can all agree on is it shouldn't be a partisan issue, and it never has been and I hope it never will be. I'd also like to say for the record that during this year I have never used my position as Minority Leader to try to influence any member of the Senate, Republican or Democrat, regarding this legislation. Once again I think this is a personal choice, not a party choice, not a political choice, a personal choice and one that we have to reach very deep to decide on. I'd also like to say for the record because I'm sure you have received some of the same letters that I have received that I'm not a devil worshiper, even though I support and have sponsored L.D. 318. That was in one of the letters I have received, they accuse me of that. I am not that I will assure you of that. I hope that you will support L.D. 318 and the Majority Report, the ten to three Report, from the Judiciary Committee. While probably there is not one single swayable vote in this Senate today I do want to take a few minutes to make some points and clear up some areas that I believe have some misinformation about the legislation.

First of all the proposal makes a policy statement that Maine Law will not restrict a woman's right to terminate her pregnancy before viability and after viability only when necessary to preserve the life and the health of the mother. Statistics available through the Vital Statistics Division of the Department of Human Services show that 98% of all abortions performed in the State of Maine are done before the fourteenth week. I do not support, except in extremely limited circumstances, abortions up to the ninth month. This legislation does not permit unrestricted late abortions contrary to rumors and correspondence you may have heard from. In fact, the new proposal leaves the law regarding viability unchanged, it does not touch that section of the law. It is the same law that has been in effect in Maine for the past fifteen years. This legislation also keeps two sections of current law, the informed consent section and the adult supervision section. Informed consent is very important because we should take every precaution to assure that women are not being coerced into one decision over another, but are allowed to make their own personal choices, the law requires that women be made aware and understand the procedure to be performed. The informed consent section also offers, at the woman's request, alternatives to abortion, childbirth and information concerning public and private agencies that offer economic assistance and adoption services. The adult involvement for minors section is very near and dear to me because I was in this chamber in 1989 when we debated it and that section of the law is really a compromise position between those believing in parental consent and those who recognize that sometimes parental consent is just not possible. This section of the law is extremely important, it has worked well over the past four years and is now being used a national model. Other States are using our adult involvement section to mold their laws after.

I believe that in a perfect world, and I wish we did live in a perfect world, parents should be involved in a minor's decision to have an abortion or to carry a pregnancy to term. Unfortunately though we don't live in a perfect world and all to frequently the pregnant minor is faced with the most terrible of situations. People say how can the situation ever be so terrible that they couldn't go to their parents and I would submit to you that there are those that are much less fortunate then we are in the Senate chamber and our children are. There are those situations, they exist in Maine, they exist in

our own towns, and they may exist in some of our families. Sometimes the pregnant minor simply cannot go to her parents. I feel that the minor should have some assistance though throughout the trauma she is experiencing, current law provides this. If input from a parent is not possible the law provides that an adult family member, a judge, a doctor, a social worker, a clergy member, a nurse or a professional counselor may assist the young woman with her difficult decision. I reiterate, this Bill makes no changes in this section of the law, no changes in this section of the law.

Finally, L.D. 318 removes the 1979 section of the law which was enjoined by the court under Roe vs. Wade but never enforced, requiring a 48 hour waiting period before an abortion could be performed. In reality in Maine a waiting period already exists. Nowhere in Maine can a woman walk into a doctor's office or provider's office and receive an abortion the very same day. The woman must first be referred then make an appointment, usually seven to ten days after the day of the first contact. I can personally tell you in that seven to ten days that woman has probably considered every angle of her pregnancy and she has deliberated long and hard about her decision on whether or not to have an abortion. Another imposed waiting period to the Maine statutes is not necessary unless the motivation is to simply make more hoops for Maine women to jump through. Additionally statistics show that abortions performed in Maine are from the metropolitan areas in Maine, Portland and the Bangor area, and an additional waiting period treats unfairly women who must travel to these areas, take additional days off from work, hire child care, and stay over night. L.D. 318 favors keeping the status quo which is reasonable access to all Maine women to make their own choices regarding abortions without additional governmental interference. I understand certainly, and I respect a great deal, the people who have a different opinion then I do on this issue and I know there are many of you in this chamber who have a different opinion from me. I respect that and I even understand it and I would never impose my will regarding abortion on anyone else in this Senate chamber because I don't think that's fair. I think it's my personal opinion and it would be my personal choice. I believe so strongly that the rights of privacy and freedom which are granted to each and every one of us under the Constitution of the United States are there so each individual can assess their own personal situation and make their own private decision on abortion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER**: Thank you Mr. President, Ladies and Gentlemen of the Senate. This is indeed the hardest issue perhaps that will be before us this year and it certainly is the hardest issue for me because I lose votes on both sides of the issue. Like my good colleague from Cumberland, Senator Conley, I am a Catholic and the youngest of a family of ten. I just wonder what kind of pressure my mother would have been under if this Bill were the law to abort that tenth child because certainly she could not afford to have that tenth child. This is not a religious issue for me. If the Pope were to die tomorrow and the black smoke turn to white and we had a new Pope and the new Pope approved of abortion that would not help me one bit. My problem with this is Biology 101. Those of you who took Biology 101 had to prove to the professor that you knew in fact how to work the microscope. He handed you a cut twig and you had to find cell division under that microscope. There it is, split, divide, increase, split, divide, increase, life occurred under that microscope. Surely in the womb that split, divide, increase must be a human life, what else can it be? Now when does that human life become a human individual? That is the crux of the problem for me and I can't get by it, I don't know. Certainly there's arguments that can be made that before you get brainwaves you don't have an individual, but that's not the problem we have here today. We have the whole scope of the matter in 318. There is, I think, some hypocrisy to this issue, and I think we should address it. Did you find the man of your dreams, are you going to get married and have a cottage small by a waterfall and did you find out that you're pregnant? Well congratulations you're going to have a baby. Did you get mixed up with an absolute sleaze bucket, and you wake up and you say to yourself My God what have I done, and you find that you are pregnant? Well don't worry about it because it is a fetus. So if you want the baby it's a baby and if you don't want the baby it's a fetus and I have a lot of trouble with that too. Mostly I am troubled by what we are going to do to our standards. We had a standard that said that human life in and of itself is intrinsically valuable. Now we seem to be saying the quality of a human life is what is valuable. The quality of a mother's life is so valuable that her unborn child only has quality if she says the child has quality. I wonder where that is going to lead us and I'm also afraid of the term viability, I'm not sure what that means either. The 93 year old woman in the nursing home who can no longer take care of her own physical needs, is she viable? The 26 year old man who had a motorcycle accident and is now a quadriplegic, is he viable? What is the standard that we're going to look to now for the value of human life, I don't know and it hasn't been addressed.

I, too, am very upset and sorry that we could not have this debate and respect each others views and where we're coming from. I am distressed by the people who want to call anybody who doesn't agree with them murderers, that is so absurd. We must surely give the people who came to the decision to support this Bill that they did so in good conscience and what they truly believe and respect that. Nor is it lost to me that on issues that I consider really pro-life, whether or not we are going to have just work laws in this State, whether or not we are going to take care of the mentally ill and not let the prisons be the primary care giver, whether or not we are going to feed children so they can learn, when you want help with these things the people you go see are the pro-choicers, I don't really understand that. Too many times people who call themselves pro-life are only pro-life in this area of gestation. I'm also very angry at people who would like to make adoption the answer to abortion, that is so foolish, it really is. The people who worry that those who gave their babies for abortion will have terrible trauma for the rest of their lives. Do you remember your newborn? Wouldn't it have been easier to tear out your right arm and give that away then give away your baby? Adoption is a cruel answer and I would never advise anybody to do it. For those people who had to do it you really have my deepest sympathy.

We have certainly all come here with a vote of conscience on a very hard issue. I could say that I have as much right to a vote of conscience as anyone else but because the extremists on the pro-choice side want to paint everybody as a religious fanatic

then I will abide you in that and from memory quote Jesus of Nazareth who said "What does it behoove a man to gain the whole world if in the bargain he loses his immortal soul?". Thank you.

Off Record Remarks

The President requested the Sergeant-at-Arms escort the Senator from Penobscot, Senator **BALDACCI** to the Rostrum where he assumed the duties as President Pro-Tem.

The President took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro Tem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. None of us really know how we would react at the sudden discovery of an unwanted pregnancy, despair, fright, elation maybe, regret, but nonetheless we must realize that there are instances when the choice of whether to conceive or not is not left to the woman, such in the cases of rape or incest. The ideal is to decide to bear children willingly within the bounds of love and matrimony, accepting responsibility along with that decision. There are many valid reasons, you know, for wanting to terminate a pregnancy. However, beyond all of these valid reasons and overriding all compelling issues is one which we must all remember and that is that there is another person waiting to be born alive. It's not my intent this morning to attempt to debate the pros and cons of abortion, we have heard all of the theological and biological reasons for keeping legalized procedures to terminate pregnancies. The issue is the Bill before us, L.D. 318, which addresses the issue of whether this State should go beyond allowances ruled by the Court in Roe v. Wade. We are led to believe that this Bill keeps the status quo, that it does not remove any existing restrictions but it does and you need only to read the Bill and the Statement of Fact. The issue before us, therefore, is not abortion, that's already been determined. The issue is whether or not Maine's laws should change the abortion rules that are on the books currently. We have to look at a reasonable approach to what is a most difficult, personal decision. The Bill deals with informed consent, in what cases do people not benefit from more information I ask all of you. Any mature, responsible woman making a decision as agonizing and as painful as this can only benefit from receiving additional information. This is not a simple decision, it is one that has ramifications that will last forever and ever. We owe it to those who will make these decisions to allow them all the information possible.

Then the Bill deals with the waiting period, it repeals a 48 hour waiting period, bear in mind that we are told that it doesn't change, it's a status quo, but it repeals the 48 hour waiting period. The rationale being that, at least the thoughts that have been shared with me, being that a poor woman often cannot afford to make two trips to the doctor, one to be diagnosed and the second time to have an abortion. If that is the case then we have to help them financially to be able to do that. How many of us in this chamber have made decisions that we later have come to regret and lamented, and I say this every day of the week, why didn't I change my vote or why didn't I do things differently, why didn't I think more about it? What could be more important then to consider whether or not we should terminate a human life. Then the Bill also deals with adult involvement. As a mother I often think of what I would have told my daughter if she had come to me, I honestly don't know. I know, however, that I love her very much and would continue to love her no matter what, no matter what she would be. It's my hope that if that were the case that she would come to me and we could cry together or laugh together and make the proper decision for her, that is if she were under eighteen and I would hope that later on in years, as well, if she were an adult. Children are very fragile human beings, they can be manipulated, they can be talked out of anything or talked into many things. To omit the parental notification from any choice Bill I believe in neither beneficial to the parent nor the child.

The Bill also deals with post viability. Viability is not defined in this proposal and it is left up to the physician to so determine when that occurs. If the State attempts to define viability it will essentially diminish access to abortion, thereby restricting a woman's right. There is the absence of a conscience clause that exists in our State currently. I have been assured that if this were pursued through litigation the courts could very well invalidate Maine's conscience clause. Language being proposed says that the State shall not restrict a woman's exercise of a private decision for an abortion. Current statutes which provide physicians or hospitals with a protected right to decline to perform or to participate in an abortion could constitute restriction and therefore be prohibited. Many proponents with whom I have spoken oppose the conscience clause which is currently on our books. This Bill then goes beyond Roe v. Wade, it exceeds even the freedom of choice Bill which is currently before Congress and I've read that throughout. The question then is why the need of this Bill if we have a Roe v. Wade on our books. Someone said to me the other day it's social progress. Really now, social progress in my view can only be determined if we begin to share the vast wealth we have in our country with those who don't have anything. That we better educate them, that we find them jobs, that we give them an opportunity to show pride and respect in their fellow man and woman, not by becoming a faceless and, in my view, a soulless society. I feel that in recent years we have gone beyond what is needed and we see deterioration in the morals of our society as a whole. When we read that two weeks ago a Louisiana judge ruled it is unconstitutional to teach abstinence in a high school sex education class because abstinence is a religious concept then we know we're all in trouble.

Our personal beliefs, religious and moral, should never be forced upon others because we represent people of different persuasions. I personally try

and live my faith by never wear it on my sleeve, so to speak. Instead we should look at the merits of legislation and how that will impact those who have sent us here and so there is a law on the books, lets live with it, there's nothing we can do about it and I would suggest that we leave things as they are and that you would vote against the Majority Report. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. One of the hard things I've gotten accustomed to as President is usually when I listen to an issue that I really have strong feelings on I get up and pace back and forth from one door to the wall and I can't do that anymore. The Senator from Androscoggin, Senator Berube, brings up some very good points. I would like to ask just one question to anybody who wishes to answer and that question is if this Bill does not pass does anything change? Does this deny a woman's choice? Does this deny the opportunity for a woman to make a decision on choice of whether or not she wants an abortion or not? Does this take anything away or does everything stay the same? Thank you.

THE PRESIDENT PRO TEM: The Senator from York, Senator Dutremble has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question from the good Senator from York, Senator Dutremble, this Bill if we were not to pass it does not change anything right this moment other then someone could immediately go into court and based on this Carey decision out of Pennsylvania which upheld a 48 hour waiting period, an individual could go into court and ask that that waiting period be placed back on the books here in Maine. So yes, if we don't pass this law somebody could do that, somebody could have done that yesterday, they have not. The more important question is what kind of a state are we going to be in if we sit back and wait and look at the U.S. Supreme Court over the next months, people are rumored to be leaving the Court, there are many questions about who President Clinton will appoint or won't appoint. Who knows what is going to happen tomorrow. If we do nothing something could happen to diminish what is presently the law of the land only pursuant to a U.S. Supreme Court decision. So I guess in answer to the good Senator's question, nothing will happen tomorrow if we don't pass this law but something could happen. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would dare venture that if the 1979 hold on the 48 hours which Judge Carter put on hasn't been touched for all these years it seems to me it isn't going to happen over night and if there was a problem with the 48 hours I think there should have been a Bill introduced to address the 48 hours. The discussion on this issue doesn't seem to be focusing on the 48 hours as much as the whole issue of choice and abortion. Whether or not the Supreme Court makes any decisions on that or not the laws of this State will not change regardless of whether we put this Bill in or not. Nothing changes until somebody comes in with a Bill that says that abortions will be denied in the State of Maine or that restrictions shall be placed on abortions in the State of Maine. This Bill does absolutely nothing to deny a person the choice whether it passes or not everything remains the same. The 48 hour waiting period is still in limbo, everything is the same. Nothing changes. If you vote for this Bill or against the Bill you're no more pro-choice or anti-choice or pro-life or anti-life then anybody else because nothing changes, absolutely nothing. That's why I had to come down and speak to you on this issue.

I made a very conscious effort in this last election. After deep soul searching and after I'm sure those of you who have been here for a number of years know where I have been on this issue, and how much time and conscience I've spent on this issue, and prior to this last election I went to all my newspapers and told them I am making the change, for the same reasons that the Senator from Cumberland, Senator Conley just stated, because I, as a personal choice and as a personal religion should not be making decisions for somebody else. Who wants to make a decision on abortion? It is not the laws of the State or it is not the laws of the country that have taught me the belief I have in pro-life, or the ideas that I have about abortion. What I know about abortion and the way that I feel about abortion is personal and has been learned through family and through religion. It is because of that that I say that I have made the decision to say I will not force my decisions and my ideas on somebody else, that was a very major change in my beliefs and I went to all of my newspapers and told them so. The government should not be involved in passing laws that would force me to impose my will on somebody else on an issue that is so personal. What's happening here now is you have a Bill up in reverse. As the good Senator from Cumberland, Senator Conley said, has asked us to make a decision that says the State is pro-active in this issue. It's just the same issue but now it's in reverse and whether you're pro-life or pro-choice, and I guess I'm talking mostly to the people who believe they are pro-choice, if you really believe that Government should not interfere when it comes to the issue of abortion then we should have left this out. I have made that change, I have been able to see and understand after talking with a lot of people and after some deep soul searching and after some major disappointment by some people to see where government should not be involved in this issue. But it is, it's back here, but it's in reverse and now I guess it's supposed to be okay. In holding with the commitment that I made to the people in my District, I don't think government should be involved in making decisions either way when it comes to this issue. When the Bill comes before the Senate that deals with restrictions I will vote that out too. The government should not be making decisions on this issue but let's make it both ways. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I guess I have to disagree with the good Senator from York, I guess maybe you thought I might be rising to do that. I think that the logic here is a little bit fuzzy, if as I heard the good Senator say, you believe that the government should not be involved in these decisions then we should leave things as they are. Well, what's wrong with that is that we are only one of three branches of government and there is another branch of government called the Judiciary which at

any moment which the good Senator from Cumberland noted someone could come and rescind and ask the court to have our 48 hour waiting period become the law of the land. We are a part time legislature we only meet for part of the year. I was one of the people who was so concerned about that very event, in other words people coming to petition the court to raise our 48 hour waiting period from limbo, that I wanted to have this Bill be introduced last year and I pushed rather forcefully for it. We decided no, let's wait, I think we were counselled by the leadership of these bodies. No, let's wait. The women of this State were very patient, now we are bringing this Bill before the legislature, we want Maine's law clear. We want it clearly stated as the public policy of the State of Maine that it shall be my decision, and mine alone, whether to begin, terminate or continue a pregnancy. I think that clarity is important in a law. It's a very simple thing, we ought to be sure, women ought to be sure. In deference to our President I believe that if you believe that it should be the choice of individuals and their families to make then you should vote yes on this measure. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I also would like to rise to perhaps rebut or disagree with some of the things that the good Senator from York, Senator Dutremble has made. He said that by passing this legislation nothing changes and I would like to take issue with that because I believe surrounding the 48 hour issue this legislation does make a change. Currently, in 1979 a 48 hour waiting period Bill was passed and was signed into law by then Governor Brennan. It was immediately enjoined by the court as being unconstitutional under Roe vs. Wade, which means that it was not taken off the books but it was not enforceable because of Roe vs. Wade. Last year because of the Casey decision which was handed down in a ruling that said that States could impose restrictions such as a 48 hour waiting period all that remains between having a 48 hour waiting period is one person to go to the court and ask that that injunction be removed. If that happened and if that happened perhaps in July or August or September when we weren't in session in the Legislature I believe that the Governor of the State of Maine would call us back into a Special Session to fix that section of the law because he is opposed to a 48 hour waiting period. We have taken a pro-active stand to try to anticipate what is going to happen in the future and lo and behold we do have legislation which would require a 48 hour waiting period, we will be considering it next week. The good Senator also said he doesn't believe government should become involved in placing restrictions on abortion and that's exactly what this legislation does. We make the statement in this Bill that government should not be involved in any further way then it already is as far as making restrictions on abortion. Again we are pro-active making that statement, so respectfully I would disagree with the good Senator and I appreciate him coming down from the podium and debating on this issue. I know and I appreciate his decision on this issue. I know that it has taken him a long time to arrive at this decision and as a woman I appreciate that. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I too must rise in deference to the good Senator from York and dispute some of the things that he has said. I'm concerned with his comments that he says nothing changes with this law and I do feel differently. My understanding of this Bill is that the fundamental question, besides the very agonizing issues that we all face, that I face as a mother, that I face as a woman of childbearing age that still hopes that this is not a tremendous question in my life. I think that we face the question of what we want our State Government and Legislature to spend its time doing. It is my belief that this law, for once and for all says this matter is not on the table for the legislature. I ran for the State Senate not because I wanted to stand here year after year and debate this question. I'm here because I'm very concerned about issues of tax policy, government reorganization, jobs and the economy, health care reform, tremendous issues that are in front of us that I think we need to spend our time dealing with. I'm sure I speak for many of you but for me in the last year since I started campaigning for this Office this has been a question that has come up over and over again. I had eight debates in my campaign. Every one focused on this issue so it was constantly in front of me as something that had to be debated over and over again. For the last month these blue slips have mounted up every day, my letters are tremendous on this issue. Strident people feeling very strongly on both sides of the issue. I think that it's tragic, that it's divisive that it's a tremendous distraction from what we should be dealing with. I think this Bill is pro-active but it's pro-active in a very positive way for government. We are asked to be less restrictive, less involved in people's private decisions. It's an agonizing decision I have no question in my heart that it is a terrible choice for anyone to have to make but I think that government shouldn't interfere and I think that we shouldn't be spending our time debating this over and over again. I respectfully ask all of you to consider less government involvement in this issue in supporting L.D. 318. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I totally agree with the good Senator from Knox, Senator Pingree that this matter should not be before the Legislature. I agree 100% and we should not be dealing with this issue. If this was something that did something then I could understand spending the time on it but it seems that it is focusing on the 48 hour issue and if we wanted to deal with that then we should have brought the issue up because I could venture to say that the issue of 48 hours by itself would be looked on by the Legislature slightly differently then the whole issue of choice. I think that you find even in the State of Maine where the focus of choice has gained wide support in our State, the questions of parental consent and 48 hours has not. So if you wanted to focus on that issue then you should have separated it out. My understanding is that this 48 hours is not still a major concern, that it still is not going to be something that we are going to have to worry about in the future, especially seeing that President Clinton is going to be making the next appointment to the Supreme Court.

The idea of choice and having a woman make a decision by herself is not being infringed on if you

vote against this Bill. It's not being denied, we're not saying that you cannot do it, we're not taking it away, we're not making it more difficult, we're not doing any of those things. It stays as it is, nothing changes, absolutely nothing changes when it comes to a woman's right to choose. As I have said that's the way it should be. It even says that in the Statement of Fact, the purpose of this Bill is to preserve current law. I do want to point out one thing though, if you think for one minute that by passing this law that you're sending forth the will of this Legislature so that other Legislatures in the future will have to live by, I want you to understand that I can come in two days from now and put a Bill in the Legislative Council and if it passes, regardless of what this Legislature does, I could have a Bill in changing this law. This does not deny any future Legislature from doing anything. You cannot bar any future Legislature from doing anything. It can be on the books and it can be changed the very next day, the very next day. If this Bill, I want to repeat that, if this Bill did something to take away the rights of choice I would be standing there with you because that's the commitment I made in my District. This Bill does not do that. It takes a pro-active choice now and makes those people who disagree with you say that we are going to reaffirm this through our Legislature the right of an abortion. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the years that I have served in this Senate I have spoken on this issue I don't know how many times and my position is clear. I'm for choice. I appreciate the position that the good Senator from York, Senator Dutremble finds himself in. He's right in some respects, he wrong in other respects and I say that with all deference. We do not mean this Bill to be a way of government interference, that's not what it's meant to be. A statement that was just made by the good Senator from York, Senator Dutremble is that you cannot commit one Legislature to another Legislature. That is absolutely correct, everybody who has been here for any length of time understands that and that is exactly why this Bill needs to pass today. To commit this Legislature that pro-choice is the decision of this Legislature in Maine. That is the significance of this Bill. It is to reiterate the many, many long years of toil that the women and the men of this State and of this Nation have done in order to get women in the United States and in Maine to be able to make the choice with the help of their Doctor as to whether they are going to have an abortion or not. That is the importance of this particular piece of legislation. It reiterates for this Legislature that that is what we want to do. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It does do something. For those of us who have been voting for choice for me it's my fifteenth year. When we had to stand and run gauntlets in the other body, as we lost time after time, this is an opportunity for each one of us to affirm our stand and for someone who has recently changed their stand, this is the first time they have had an opportunity to affirm their stand. I would think that they would embrace that, as difficult as the decision was, in making public stands, this is the public stand. To say that this doesn't make any difference is wrong. This Bill is here. To vote against it is to nonaffirm and it will be seen that way, should be seen that way. It is here and needs to be done. Thank you.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise this morning to speak in strong support of L.D. 318. I know we've all probably made up our minds but it is important today to make a statement on where the State stands on this whole issue of a woman's right to choose. Maybe we can't bind further Legislatures but it was twenty years ago when I first marched with my three little children in support of this kind of legislation. Twenty years later I now have two grandchildren and the same arguments are still being made. I think it's time for us to stand up and be counted. I wish we could feel as strongly about the need to educate young women and young men about the importance of becoming a parent and what it means to become a mother and father. If we could join together in that effort to try to reduce the number of abortions and the need for abortion I think we could make an effort that would be worthwhile. We could get beyond this argument of whether there should be more restrictions or less restrictions and work on reducing the number of abortions. I think we would be making a real contribution but nevertheless there will always be unplanned pregnancies and the question will always come up as to whether it should be the government that makes the decision on whether an individual becomes a mother or whether it's that individual's right to make that decision. I come down on the side of the individual and I trust that all of you will. I know you all have your personal reasons for voting whatever way you do, I hope you'll give all of us the chance to have the right to make a choice. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want to add my voice to the good Senator from Kennebec, my colleague Senator Bustin, this Bill does do something very important and what it does is partly political. It takes away the rights of politicians to interfere with this issue. It is one more step at keeping us out of interfering in the decision of Maine women. I ask for the yeas and nays. Thank you.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators AMERO, BEGLEY, BRANNIGAN, BUSTIN, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, FOSTER, HANDY, HARRIMAN, LAWRENCE, LUDWIG, MARDEN, MCCORMICK, O'DEA, PINGREE, SUMMERS, TITCOMB, VOSE, PRESIDENT PRO TEM - JOHN E. BALDACCI

NAYS: Senators BERUBE, CAREY, DUTREMBLE, GOULD, HALL, HANLEY, KIEFFER, LUTHER, PARADIS, PEARSON, WEBSTER

ABSENT: Senators None

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, with No Senators being absent, the motion by Senator **CONLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED.**

The Bill **READ ONCE.**

The Bill **TOMORROW ASSIGNED FOR SECOND READING.**

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act Relating to Compulsory Insurance Limits for Hired Vehicles Used to Transport Passengers
H.P. 728 L.D. 987
(C "A" H-89)

The President Pro Tem requested the Sereant-at-Armss escort the Senator from York, Senator **DUTREMBLE** to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator **BALDACCI** to his seat on the floor.

Senate called to order by the President.

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services"
S.P. 356 L.D. 1070

Tabled - March 30, 1993, by Senator **ESTY** of Cumberland.

Pending - **REFERENCE**

(In Senate, March 29, 1993, referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED.** Subsequently, **RECONSIDERED.**)

On motion by Senator **ESTY** of Cumberland, referred to the Committee on **BUSINESS LEGISLATION.**

Sent down for concurrence.

Off Record Remarks

The President appointed the Senator from Penobscot, Senator **BALDACCI** to serve as President Pro Tem for the session on Thursday, April 1, 1993.

On motion by Senator **BRANNIGAN** of Cumberland, **ADJOURNED** until Thursday, April 1, 1993, at 4:30 in the afternoon.