

# 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

STATE OF MAINE  
ONE HUNDRED AND SIXTEENTH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Tuesday  
March 30, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by Reverend Constance Chase Wells of the Sebago Lake Congregational Church.

**REVEREND CONSTANCE CHASE WELLS:** Good morning. You're starting late and I'm famous for long prayers. I've written my prayer this morning because I've been told I can only pray for a minute and a half. Would you share with me in prayer this morning? Let us pray.

God of grace and glory we thank you for this day which you have made, let us rejoice and be glad in it. We begin our prayers this morning by lifting to you the people in leadership of countries around the world. We especially lift the countries that made up the former USSR and the country of Russia itself, may there be a positive end to their conflict and strife. Dear higher power, those gathered here may have, we hope not, come to this Senate chamber filled with distractions and burdens, that is a reality in our life. Sometimes these distractions and burdens prevent us from listening to one another and seeing your presence in our lives. We all come to the day full of prejudices and judgments. God we ask that you give strength and courage to us so that we may be open to truthfully listen to each other. Open our ears, our hearts, and our minds to the needs and concerns of the people of Maine.

God of creative power be with these women and men guiding them to use their power in positive and creative ways, not abusive and oppressive ways. God of amazing grace come into this space with a healing presence. Be with these men and women as they give of their gifts in service to the people of this State. May they serve with courage, wisdom, clarity of thought. Give them strength and faith to do the task to which they have been called. Amen.

Reading of the Journal of Monday, March 29, 1993.

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency) S.P. 320 L.D. 973

In Senate, March 22, 1993, **PASSED TO BE ENGROSSED.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-77)** in **NON-CONCURRENCE.**

On motion by Senator **ESTY** of Cumberland the Senate **RECEDED** and **CONCURRED.**

**House Papers**

Bill "An Act to Clarify Mandatory Coverage Requirements for Participating Local Districts within the Maine State Retirement System" H.P. 785 L.D. 1058

Bill "An Act Concerning Rights and Privileges for Maine Veterans of the Persian Gulf War" H.P. 787 L.D. 1060

Come from the House referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED.**

Which were referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish a Mechanism for Ensuring Adequate Preservation and Maintenance of the State House" H.P. 779 L.D. 1052

Comes from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED.**

Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Authorize Maine Financial Institutions and Credit Unions to Sell Annuities" H.P. 778 L.D. 1051

Resolve, Requiring an Audit of the Functions and Records of Workers' Compensation Insurers H.P. 781 L.D. 1054

Bill "An Act Related to Documentation of Transaction Fees at Automatic Teller Machines"  
H.P. 782 L.D. 1055

Bill "An Act to Ensure Equitable Insurance Practices"  
H.P. 789 L.D. 1062

Come from the House referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**.

Which were referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Require the Department of Corrections to Pay Certain Juvenile Detention Costs"  
H.P. 780 L.D. 1053

Come from the House referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**.

Which was referred to the Joint Select Committee on **CORRECTIONS** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Increase the Number of Moose Hunting Permits from 1,000 to 1,500"  
H.P. 774 L.D. 1047

Come from the House referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Permit the Inclusion of Occupational Injury as a Reportable Condition under the Occupational Disease Reporting System"  
H.P. 776 L.D. 1049

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Amend the State Reporting Requirements for State Party Committees"  
H.P. 772 L.D. 1045

Come from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act Revising the Shellfish-harvesting Laws"  
H.P. 773 L.D. 1046

Come from the House referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**, in concurrence.

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Bill "An Act to Repeal the Laws Allowing State Agencies to Adopt Rules Having the Force of Law"  
H.P. 777 L.D. 1050

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

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Resolve, Providing for a Study of Taxation Issues Involving Seasonal Residents  
H.P. 771 L.D. 1044

Bill "An Act to Fund Court Security within County Government"  
H.P. 775 L.D. 1048

Bill "An Act to Amend the Distribution of State-municipal Revenue Sharing"  
H.P. 784 L.D. 1057

Bill "An Act to Clarify Various Tax Procedures and to Protect Taxpayer Rights"  
H.P. 788 L.D. 1061

Come from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning the Definition of Compact Area for Municipalities" H.P. 770 L.D. 1043

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Expand the Use of Telecommunications by Hearing-impaired and Speech-impaired Customers" H.P. 783 L.D. 1056

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish the Public Advocate Regulatory Fund Assessment for the Next Biennium" (Emergency) H.P. 786 L.D. 1059

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

On motion by Senator **ESTY** of Cumberland, referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

**COMMUNICATIONS**

The Following Communication:

**COMMITTEE ON AGING, RETIREMENT AND VETERANS  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Aging, Retirement and Veterans has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 30 An Act to Permit Arthur Rogers to Change His Retirement Option

L.D. 90 Resolve, Instructing the Commissioner of the Department of Defense and Veterans' Services to Transfer a Surplus Facility to the Town of Rumford

L.D. 91 An Act to Amend the Retirement Laws

L.D. 128 An Act Regarding Survivor Benefits

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Bonnie L. Titcomb  
Senate Chair

S/Rep. John Jalbert  
House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE**.

The Following Communication:

**COMMITTEE ON AGRICULTURE  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Agriculture has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 94 An Act to Impose a Fine on Owners of Dogs That Disturb the Peace

L.D. 378 An Act to Improve Milk Quality

L.D. 414 An Act to Permit Animal Shelters to Administer Rabies Vaccine

L.D. 420 An Act to Require Licensing of Cats

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy A. Paradis  
Senate Chair

S/Rep. Robert J. Tardy  
House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON BUSINESS LEGISLATION  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

The Following Communication:

March 26, 1993

**COMMITTEE ON BANKING AND INSURANCE  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to  
notify you that the Joint Standing Committee on  
Business Legislation has voted unanimously to report  
the following bills out "Ought Not to Pass":

Pursuant to Joint Rule 15, we are writing to  
notify you that the Joint Standing Committee on  
Banking and Insurance has voted unanimously to report  
the following bills out "Ought Not to Pass":

- L.D. 26 An Act to Ensure the Viability of  
the Maine Employers' Mutual  
Insurance Company
- L.D. 199 An Act to Provide Discounted  
Workers' Compensation Rates for  
Certain Employers
- L.D. 344 An Act Concerning Insurance Rate  
Increase Requests
- L.D. 360 An Act Regarding Escrow Accounts of  
Taxes and Insurance by Mortgagees
- L.D. 375 An Act Regarding the Workers'  
Compensation Residual Market  
Mechanism
- L.D. 504 An Act to Encourage Small Businesses  
to Provide Health Insurance to  
Employees
- L.D. 642 An Act to Strengthen Laws Against  
Uninsured Motorists

- L.D. 210 An Act to Increase the Availability  
of Emergency Information
- L.D. 281 An Act Relating to the Licensing of  
Counselors
- L.D. 362 An Act to Provide for the  
Registration and Licensing of Motor  
Vehicle Body Shops
- L.D. 434 An Act to Amend the Real Estate  
Brokerage Laws
- L.D. 452 An Act to Amend the Maine Returnable  
Bottle Bill

We have also notified the sponsors and cosponsors of  
each bill listed of the Committee's action.

Sincerely,

S/Sen. Alton E. Cianchette S/Rep. Annette M. Hoglund  
Senate Chair House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

We have also notified the sponsors and cosponsors of  
each bill listed of the Committee's action.

Sincerely,

S/Sen. Dale McCormick  
Senate Chair

S/Rep. Edward L. Pineau  
House Chair

**COMMITTEE ON EDUCATION  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

The Following Communication:

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 77 An Act to Provide Funds for School Lunches
- L.D. 118 An Act to Preserve Existing Elementary Guidance Services in Public Schools
- L.D. 205 An Act to Enhance the Effectiveness of the Quality Incentive Adjustment Allocation

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John J. O'Dea            S/Rep. Elizabeth H. Mitchell  
 Senate Chair                    House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON ENERGY AND NATURAL RESOURCES  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Energy and Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 258 An Act to Clarify the Municipal Role in Growth Management
- L.D. 369 An Act to Amend the Composition of the Maine Land Use Regulation Commission

L.D. 411 An Act to Promote Uniformity of Pricing among Municipalities Served by Privately Owned Waste-to-energy Facilities

L.D. 428 An Act Concerning Rules of the Department of Environmental Protection

L.D. 438 An Act to Protect the Public Health

L.D. 443 An Act Concerning Water Conservation

L.D. 487 An Act Concerning Closure of Municipal Landfills

L.D. 505 An Act to Set a Moratorium on Issuing Permits for Septic Tanks

L.D. 539 An Act to Ensure That Senior Citizens Have Access to Parks Purchased with State Funds

L.D. 556 An Act to Establish Greater Consistency among Federal and State Environmental Regulations

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence            S/Rep. Paul F. Jacques  
 Senate Chair                          House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON FISHERIES AND WILDLIFE  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 349 An Act to Give Preference to Landowners in the Drawing of "Any Deer" Permits
- L.D. 386 An Act to Protect the Smelt Population in Jordan Pond

- L.D. 415 An Act Concerning Registration Stations
- L.D. 440 An Act Concerning an Experimental Brook Trout Stocking in Somes Pond, Mount Desert, Maine
- L.D. 566 An Act to Allow Bow Hunters to Take Antlerless Deer During the Open Firearms Season
- L.D. 663 An Act Regarding Doe Permits

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. M. Ida Luther                      S/Rep. Dorothy A. Rotondi  
Senate Chair                                      House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Housing and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 436 An Act to Create a Small Business Energy Conservation Program through the Finance Authority of Maine

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Rochelle M. Pingree                      S/Rep. Rita B. Melendy  
Senate Chair                                      House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON HUMAN RESOURCES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Human Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 5 An Act Concerning Private Agencies That Have Contracts with the Department of Human Services
- L.D. 56 An Act to Establish a Psychiatric Component for Community Health and Counseling Services in Washington County
- L.D. 87 An Act to Provide Mental Health Services to the Elderly
- L.D. 137 An Act Regarding Substance Abuse Treatment Programs to Provide Nutrition Counseling
- L.D. 259 An Act to Reduce Hospital Costs
- L.D. 265 An Act to Restore the Availability of Prescription Drugs to Persons With HIV or AIDS
- L.D. 289 An Act Concerning Medicaid Services for People with Mental Illness
- L.D. 338 An Act to Require the Department of Human Services to Provide Hepatitis Vaccines for Volunteer Firefighters
- L.D. 342 An Act to Ensure Equal Medicaid Coverage for Hearing Aids to Boarding Home Residents
- L.D. 422 An Act to Create an Emergency Services System for Persons with Mental Illness in Kennebec County

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy A. Paradis                      S/Rep. Sharon Anglin Treat  
Senate Chair                                      House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**



The Following Communication:

**COMMITTEE ON JUDICIARY  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 42 An Act to Reestablish Capital Punishment in the State
- L.D. 89 An Act to Clarify the Standard for Punitive Damages in Negligence Cases
- L.D. 124 An Act to Improve Enforcement of Small Claims Actions
- L.D. 142 An Act to Impose a Cap on Awards of Damages in Tort Actions
- L.D. 147 An Act to Provide for Enhanced Penalties for Crimes Committed against Elderly or Handicapped Persons
- L.D. 221 An Act to Clarify the Liability of Fire Chiefs
- L.D. 261 An Act Protecting the Assets of Persons Accused of Crimes as Needed to Hire Legal Counsel
- L.D. 280 An Act to Amend the Child Protection Laws
- L.D. 290 An Act to Amend the Laws Governing Child Protection Orders
- L.D. 577 An Act to Amend the Wrongful Death Laws
- L.D. 835 An Act to Enhance Collection of Child Support

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Gerard P. Conley, Jr. S/Rep. Constance D. Cote  
Senate Chair House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON LABOR  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 45 An Act to Require Recovery of Unemployment Benefit Overpayments
- L.D. 219 An Act to Require Health Insurance for Laborers on Public Works Projects
- L.D. 229 An Act to Clarify an Exemption in the Laws Governing Unemployment Compensation
- L.D. 303 An Act to Amend the Exclusivity Provisions of the Workers' Compensation Laws
- L.D. 340 An Act to Require That Compensable Workers' Compensation Injuries Be the Result of an Accident
- L.D. 667 An Act Restoring the Right to Sue to Workers Injured Due to Gross Negligence
- L.D. 676 An Act to Limit Attorney's Fees in Workers' Compensation Cases

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. James R. Handy S/Rep. Richard P. Ruhlin  
Senate Chair House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON LEGAL AFFAIRS  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Legal Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 146 An Act to Amend the Election Laws
- L.D. 190 An Act Concerning Absentee Ballot Voting Procedures
- L.D. 234 An Act to Prevent Intoxication-related Injuries, Deaths and Damages
- L.D. 263 An Act to Reduce Access by Minors to Alcoholic Beverages in Agency Stores
- L.D. 326 An Act to Improve Election Day Voter Registration
- L.D. 339 An Act to Ensure Accountability in the Election Process
- L.D. 398 An Act to Limit the Size of Agency Liquor Stores
- L.D. 478 An Act to Amend the Laws Governing the Method of Recounting Ballots in Elections
- L.D. 489 An Act Relating to Credit Terms for Retail Liquor Licensees
- L.D. 515 An Act to Amend the State Election Laws
- L.D. 675 An Act to Amend Election Laws

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard J. Carey                      S/Rep. Beverly C. Daggett  
 Senate Chair                                      House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON MARINE RESOURCES  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Marine Resources has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 11 An Act to Abolish the Atlantic Sea Run Salmon Commission
- L.D. 33 An Act to Establish a Date for Removal of Fishing Shacks from Tidal Waters
- L.D. 96 An Act Concerning Lobster Licensing
- L.D. 110 An Act to Change the Legal Harvesting Size of Clams
- L.D. 148 An Act to Regulate the Season and Drag Size for Scalloping in Cobscook Bay and Passamaquoddy Bay
- L.D. 196 An Act Concerning the Use of Stabilizers on Fishing Vessels
- L.D. 311 An Act Concerning Shellfish Licenses
- L.D. 424 An Act to Establish Scallop Drag Sizes for Waters within the 3-mile Limit
- L.D. 439 An Act Concerning Atlantic Salmon in the Union River

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose                                      S/Rep. James Mitchell  
 Senate Chair    House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON STATE AND LOCAL GOVERNMENT  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 138 An Act Related to the Code Enforcement Officer Certification Program
- L.D. 238 An Act to Amend the Laws Governing Paper Streets
- L.D. 275 An Act to Amend the Employee Suggestion System
- L.D. 409 Resolve, to Increase Efficiency and Reduce Costs for State Agencies
- L.D. 463 An Act to Require the Provision of Local Law Enforcement

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Georgette B. Berube Senate Chair  
 S/Rep. Ruth Joseph House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON TAXATION  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 99 An Act to Amend the Laws Governing Real Estate Transactions
- L.D. 181 An Act to Implement the Recommendations of the Joint Standing Committee on Taxation Pursuant to Its Annual Tax Expenditure Review
- L.D. 277 An Act to Aid in the Administration of the Motor Vehicle Excise Tax
- L.D. 332 An Act to Amend the Lobster Promotion Fund
- L.D. 490 An Act to Repeal the Requirement for Registration of Truck Campers
- L.D. 511 An Act to Authorize Farmland Protection Impact Fees

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John E. Baldacci Senate Chair  
 S/Rep. Susan E. Dore House Chair

Which was **READ** and with Accompanying Bills **ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON TRANSPORTATION  
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
 Honorable John L. Martin, Speaker of the House  
 116th Maine Legislature  
 State House  
 Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 143 An Act to Establish Physical Qualifications for Insulin-controlled Diabetics and People with Visual Impairments to Operate Commercial Motor Vehicles
- L.D. 307 An Act Regarding Diesel Truck Registration
- L.D. 359 An Act to Amend the Laws Governing Use of Handicap Placards in Motor Vehicles
- L.D. 377 An Act Concerning the Transfer of Motor Vehicle Registration Plates
- L.D. 383 An Act to Establish Signs for Points of Historic Interest
- L.D. 496 An Act to Increase the Penalty for Failure to Use Car Safety Seats
- L.D. 533 An Act Concerning the Inspection Standards for Buses
- L.D. 535 An Act to Amend the Laws Governing the Use of Emergency Lights on Vehicles
- L.D. 552 An Act to Amend the Laws Pertaining to the Inspection and Registration of Automobiles
- L.D. 568 An Act to Create a Pilot Project at the Yarmouth Information Center

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joseph C. Brannigan      S/Rep. William B. O'Gara  
Senate Chair                      House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

The Following Communication:

**COMMITTEE ON UTILITIES  
ONE HUNDRED AND SIXTEENTH LEGISLATURE**

March 26, 1993

Honorable Dennis L. Dutremble, President of the Senate  
Honorable John L. Martin, Speaker of the House  
116th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Utilities has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 387    An Act to Require Accountability for Bulk-billed Telephone Services
- L.D. 448    An Act to Exempt Small Businesses from Demand Charges on Electric Rates
- L.D. 678    An Act to Make Additional Allocations to the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1993

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Harry L. Vose                      S/Rep. Herbert E. Clark  
Senate Chair                              House Chair

Which was **READ** and with Accompanying Bills  
**ORDERED PLACED ON FILE.**

**SENATE PAPERS**

Bill "An Act to Provide Equitable Representation on the Board of Trustees of the Maine State Retirement System"

S.P. 360 L.D. 1074

Presented by Senator **HANDY** of Androscoggin

Which was referred to the Committee on **AGING, RETIREMENT & VETERANS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Clarify Ambiguous Language and Correct Errors in Licensing Procedures and Requirements for Licensees Regulated by the Superintendent of Insurance"

S.P. 361 L.D. 1075

Presented by Senator **HARRIMAN** of Cumberland  
Cosponsored by Senator: **BALDACCI** of Penobscot,  
Representative: **JOSEPH** of Waterville  
Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Create a Student Seat on the Board of Trustees of the Maine Maritime Academy"  
S.P. 359 L.D. 1073

Presented by Senator **HANDY** of Androscoggin  
Cosponsored by Representative **BOWERS** of Washington and Senator: **PARADIS** of Aroostook,  
Representatives: **CLOUTIER** of South Portland, **FAIRCLOTH** of Bangor, **JOSEPH** of Waterville, **KILKELLY** of Wiscasset, **MORRISON** of Bangor, **POULIN** of Oakland

Which was referred to the Committee on **EDUCATION** and **ORDERED PRINTED.**

Sent down for concurrence.

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning Maine Wineries and Microbreweries" (Emergency)

H.P. 190 L.D. 253

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-69).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-69).**

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-69) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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The Committee on **TRANSPORTATION** on Bill "An Act to Regulate the Safety of Off-system Railroads"  
H.P. 445 L.D. 571

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-74)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-74) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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**Senate**

**Ought to Pass As Amended**

Senator **CAREY** for the Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Laws Related to Pawn Transactions"  
S.P. 65 L.D. 127

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (S-50)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-50) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Protect Reproductive Privacy in Maine" (Governor's Bill)  
S.P. 117 L.D. 318

Reported that the same **Ought to Pass**.

Signed:

Senator:  
CONLEY of Cumberland

Representatives:  
CATHCART of Orono  
CARON of Biddeford  
LIPMAN of Augusta  
OTT of York  
FARNSWORTH of Hallowell  
SAXL of Bangor  
KETTERER of Madison  
FAIRCLOTH of Bangor  
COTE of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senators:  
BERUBE of Androscoggin  
HANLEY of Oxford

Representative:  
PLOWMAN of Hampden

Which Reports were **READ**.

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

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**SECOND READERS**

The Committee on **Bills in the Second Reading** reported the following:

**House As Amended**

Bill "An Act Regarding Reimbursement for Sand and Salt Storage Facility Construction"  
H.P. 286 L.D. 373  
(C "A" H-67)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

**Senate**

Bill "An Act to Amend the Laws Concerning Transfers of Commercial Moorings" S.P. 166 L.D. 558

Which was **READ A SECOND TIME**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**.

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**ENACTORS**

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

An Act to Permit Retired Teachers to Rejoin the Teachers Health Insurance Plan after Serving in the Legislature

H.P. 26 L.D. 29  
(C "A" H-49)

An Act to Prohibit Greyhound Racing in Maine  
S.P. 46 L.D. 68  
(C "A" S-43)

An Act to Require the Use of Standardized Evidence Kits for Cases of Gross Sexual Assault  
H.P. 198 L.D. 260  
(C "A" H-50)

An Act to Make the Minimum Age for a Muzzle-loading License the Same as the Minimum Age for a Hunting License  
H.P. 294 L.D. 382  
(C "A" H-57)

An Act to Establish a Part of the Boundary Between Enfield and Lowell  
S.P. 132 L.D. 423  
(H "A" H-70)

An Act to Coordinate Public Sector Occupational Health and Safety Regulations  
H.P. 362 L.D. 465  
(C "A" H-54)

An Act Allowing the Bureau of Labor Standards to Enter into Reciprocal Agreements in the Area of Employment Standards with Other States  
H.P. 363 L.D. 466  
(C "A" H-58)

An Act to Facilitate the Payment and Collection of Safety Education and Training Fund Assessments  
H.P. 369 L.D. 472  
(C "A" H-53)

An Act Regarding the Selection of Arbitrators in Labor Disputes  
H.P. 394 L.D. 507

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

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**Resolve**

Resolve, To Authorize the Director of the Bureau of General Services to Transfer in the Name of the State a Certain State Built Water Pipeline in the Town of Boothbay Harbor

H.P. 308 L.D. 396  
(C "A" H-56)

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency**

An Act to Clarify the Procedures by Which Fees Are Collected under the Petroleum Market Share Act  
S.P. 94 L.D. 248  
(H "A" H-71 to C "A" S-41)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 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.

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**Emergency**

An Act to Amend the Laws Regarding Motor Vehicle Air Conditioning  
H.P. 346 L.D. 449  
(C "A" H-59)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 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.

**Emergency**

An Act to Extend the Commission to Study the Future of Maine's Courts

S.P. 303 L.D. 919  
(H "A" H-66)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with 1 Senator having voted in the negative, and 30 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.

**Emergency Resolve**

Resolve, Requiring All State Departments and Agencies to Analyze Unfunded Mandates

H.P. 418 L.D. 537  
(C "A" H-55)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** 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 Amend the Laws Concerning Transfers of Commercial Moorings"

S.P. 166 L.D. 558

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

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, March 30, 1993, **READ A SECOND TIME.**)

On motion by Senator **CAREY** of Kennebec, Senate Amendment "A" (S-51) **READ** and **ADOPTED.**

Which was **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

Off Record Remarks

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

Bill "An Act to Support the Natural Areas Program" (Emergency)

S.P. 319 L.D. 972

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

Pending - **FURTHER CONSIDERATION**

(Committee on **AUDIT & PROGRAM REVIEW** suggested and **ORDERED PRINTED**, pursuant to Joint Rule 20.)

(In Senate, March 22, 1993, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.)

(In House, March 25, 1993, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-73)** in **NON-CONCURRENCE.**)

On motion by Senator **ESTY** of Cumberland the Senate **RECEDED** and **CONCURRED.**

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

**Emergency**

An Act to Preserve the Public Advocate's Participation in Residual Market Deficit Proceedings at the Bureau of Insurance

H.P. 50 L.D. 66  
(C "A" H-31)

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

Pending - **ENACTMENT**

(In Senate, March 18, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-31)**, in concurrence.)

(In House, March 25, 1993, **PASSED TO BE ENACTED.**)

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I know we have debated this Bill before and I will be very brief, just to outline the main issues of this rather complex issue. This Bill corrects the amount of the

filing fee paid by Insurance carriers to the Public Advocate in Fresh Start cases. It restores the funding to the amount the Public Advocate has had available for past cases. Fresh Start proceedings determine how much money Maine's employers will have to pay in surcharges for deficits in the old Residual Market Pool. They are very important proceedings. These Fresh surcharges are in addition to the regular premiums that employers must pay for Workers' Compensation Insurance. This Bill is a pro-employer Bill, businesses came before our Committee and supported it. I have letters and I have passed them out to you from Maine Yankee, from Bath Iron Works, from the lawyers of Guilford Industries of Maine, all supporting this Bill. We had testimony from Central Maine Power and businesses all want the Public Advocate involved to the fullest extent possible. It is a fiscally responsible Bill. The bipartisan Committee Report that is before you contains language that the Committee adopted which says that all unused portions of this filing fee will be returned to the insurance carriers. It is also fiscally responsible because if you leave the law as is, the \$20,000 fee to the Public Advocate for this Fresh Start surcharge hearing that we are currently, even as we speak, in the middle of, that will be insufficient. They will be unable to pay their bills. It allows no staff time and they will not be able to hire an actuary the way they need to.

I submit to you that the language that we inserted in the Committee Amendment which allows unused portions of the increased filing fee to be returned to the insurance carrier takes care of any concern about over payment. It is a responsible Bill, lastly. It prevents cost shifting, that was the concern of Central Maine Power. It is widely held that if this \$20,000 filing fee remains on the books that there will be cost shifting to the utility rate payers, which the Public Advocate's Office also deals with as you know. This is an unwanted, shall we say, outcome by our utilities. For those three reasons I urge that you support L.D. 66 and I ask for the yeas and nays. Thank you.

Senator **MCCORMICK** of Kennebec requested a Roll Call.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When we debated this before it was brought out that this was a mistake on the part of the Blue Ribbon Commission in the reduction from \$65,000 to \$20,000. I believe that this was not a reduction by an omission on their part but a very deliberate, well thought out reduction which reflects their feeling towards the responsibility of the Public Advocate's Office in the determination of the Fresh Start surcharge. Their requirements under the new law that was provided by the Blue Ribbon Commission are substantially less than they were under the old act. If this had been an omission by the Blue Ribbon Commission they would have eliminated it entirely, why would they only reduce it to an amount of \$20,000. If we want to rationalize on that basis I would assume that we could say every change they made was a mistake, therefore it should be reversed and eventually we would be right back where we were before. I solicit your support in opposing the change in the funding, the continuation of the \$20,000, but support the change in the funding under this law. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will not belabor this point but I think that the point that the good Senator makes will come up again and again and it is one that we have to grapple with and that is what did the Blue Ribbon Commission do and what did we do when we passed that reform Bill in October? I want you to think of Workers' Compensation now as being divided into two halves with a brick wall constructed in October 1992, which is labeled the October 1992 Reform, because what they dealt with was prospective. They only dealt with what will happen and in so doing they did nothing about the residual market which, as I mentioned the last time we debated this, has almost doubled in one year by estimates from the insurance carriers. Maine employers need the help of the Public Advocate like never before. In so doing, in building this brick wall between the old system and the new, they had to deal with the Public Advocate's role and they dealt with it hurriedly, we have been told by the Chairs of the Banking and Insurance Committee during the 115th Session that they brought this to the attention of the Blue Ribbon Commission, but the Blue Ribbon Commission, for those of you who were here at that time, were flooded with requests for slight changes in the Bill and by that time they said no more. We'll deal with it later. We are going to have to grapple with this issue, the Public Advocate's role was limited severely by that reform and I submit to you that it was unintentionally limited. I disagree with the good Senator from Aroostook, Senator Kieffer, that the surcharge cases will be much smaller now than they were back before the reform. In fact, if you understand the surcharge system in this year they will be dealing with three, I think, years of surcharge, maybe four, and with each subsequent year they will be dealing with yet another year until they get to 1997 when they will be dealing with nine separate years of surcharge hearings, Fresh Start surcharge applications. It's not at all shrinking and I think we should all feel very good that we took care of, for the moment anyway, I'm certainly not worried about our prospective Workers' Compensation reform but I would like you all to join me in being very concerned with what has happened in the past, with the residual market, with how employers are represented on the Board, with how we are curtailing the Public Advocate's role to intervene on their behalf, with how we are going to assess whether the nearly doubling of the deficit in the last year, by the estimate of the Pool Board manager, NCCI, how are we going to assess if that's true. The Public Advocate is our only hope for doing that and once again I ask your support for this Bill. 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:** The pending question before the Senate is **ENACTMENT**.

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

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 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.

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Off Record Remarks

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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**.

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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 too 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 than 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.

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Off Record Remarks

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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.

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**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 than 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 than 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 Sergeant-at-Arms 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.