

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**January 5, 1977 to May 25, 1977**

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## SENATE

Tuesday, March 15, 1977

Senate called to order by the President.

Prayer by The Honorable Ralph M. Lovell of Sanford.

Mr. LOVELL: Oh great God in Heaven, Ruler of this Universe, please, today look down on this small planet in our solar system, and look down on the State of Maine, and continue and look down on the Maine State Senate as this is our 157th year of being a State.

We pray, Oh God, that you will give us all Thy assistance in this coming Session and the length of this Session in the 108th Legislature. We pray for the President of the Senate, we pray for the Majority Leaders, Assistant Majority Leaders and all Members of the Senate, we pray for the Secretary of the Senate and for the very fine people that work in helping us do our work. Give them good health, give them courage, give them wisdom, and give them the feeling of power so that we may carry on and be the best 108th Legislature in the 20th century.

Our Father, we need the help of Your Son, Jesus Christ, to be with us at the various hard times and on troublous Bills and for us to know what to do right and what is wrong. We call on You to send Him and give us our guidance. We realize that our sun or star, all suns or stars, is 90 million miles away and has been for 4 billion years, and will continue to burn for 4 billion years, and our lifetime is but a drop of water in the many oceans of the world, but we pray, Oh God, that in this time given us, in this lifetime that we may do good to help others, other people in the State of Maine and many others elsewhere, in the name of Jesus Christ, Oh Lord. Amen.

Reading of the Journal of yesterday.

Papers from the House  
Joint Order

An Expression of Legislative Sentiment recognizing: The Lewiston High School Hockey Team has won the Class A Hockey Championship for the Academic Year 1977 (H. P. 737)

Comes from the House, Read and Passed.  
Which was Read and Passed, in concurrence.

## House Papers

Bills, Resolves and Resolution received from the House requiring reference to Committee were acted upon in concurrence.

## Communications

Office of the Governor

March 11, 1977

To the Honorable Members of the House of Representatives and Senate of the 108th Maine Legislature:

I am this date returning without my signature and approval S. P. 4, L. D. 9, "An Act Repealing the Requirement for Wearing Motorcycle Helmets".

I would like to pay particular tribute to the method and manner with which the proponents in the Legislature, especially Representative Harland Goodwin, have cooperated with my office in a mutual effort to convey to each other the facts and reasoning supporting each side of this issue. I appreciate the points made with regard to the individual's freedom of choice and the inconclusive nature of some evidence relative to safety. However, for the following reasons I am compelled to return this bill to the Legislature for further consideration and action.

First, the most recent statistics unfortunately were received by this office and apparently did not become public until after the Legislature voted on the bill. In this regard, at the very least I want to give the Legislature an

opportunity to reconsider this bill in light of the statistics.

In the State of New Jersey, the **Motorcycle Safety Helmet Effectiveness Study** conducted by the Division of Motor Vehicles, Office of Highway Safety, reported that the statewide mortality rate for motorcycle accidents **decreased** from 9.3 fatalities per 10,000 licensed motorcycle drivers to 5.3 per 10,000 **after enactment of the law requiring motorcycle helmets.**

The New Jersey study also reports, and we have confirmed this with the Rhode Island Highway Safety Committee, that in 1976 there were 19 motorcycle fatalities in Rhode Island, with only **one** of these deaths occurring during the five month period when a motorcycle helmet law was in effect and the remaining 18 fatalities occurring during the seven month period **after the repeal of the helmet law.** Parenthetically, I am told there is presently a bill before the Rhode Island Legislature to reinstate the helmet law.

In California, which does not have a helmet law, the University of California at Davis School of Medicine in 1970 reviewed the reports of 626 motorcycle accidents and recorded these findings:

1. Non-helmeted drivers were injured twice as often as helmeted drivers.
2. Serious injury occurred nearly three times as often to non-helmeted drivers.
3. Statistically significant decreases in all head injury rates were detected when helmets were worn.

This study was cited in **A Review of Conflicting Reports Concerning the Safety of Motorcycle Helmets**, prepared for the 1977 Maryland General Assembly by the Office of Highway Safety Programs, Maryland Motor Vehicle Administration.

There is additional statistical evidence from the State of Maryland and from other states which indicates that helmets do save lives. I realize that statistical data can be constructed in a number of ways to support various arguments. However, in this instance, I believe the benefit of the doubt has to go to the safety of the motorcycle driver and to the protection of human life.

To cite Representative Bachrach's most appropriate reference to the opinion of the United States District Court of Massachusetts on this matter, "the risks do not involve only the motorcycle driver, since the public has an interest in minimizing resources directly involved, in that from moment of injury, society picks the person off the highway, delivers him to a municipal hospital and municipal doctors, provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and, if injury causes permanent disability, assumes responsibility for his and his family's continued subsistence". I would add to this that I would not want any individual who may be involved in an accident with a motorcycle burdened with the feeling of guilt that a life might have been saved or injury prevented had the motorcyclist been wearing a helmet.

As I stated, I recognize the Legislature's right to disagree and I respect their judgment in this matter as there are well reasoned arguments by proponents of the bill. If the Legislature should choose to enact L.D. 9 over my veto, I would plead with motorcyclists to ride with helmets and to provide themselves with the best possible protection in all motoring circumstances. I would also plead with them and with the industry to improve helmet design and capability, since I understand that there are arguments to be made with regard to hearing difficulties and vision problems. If L.D. 9 should become law, we in the Executive will closely monitor this situation and if there is any evidence of increase in serious injury due to the

lack of helmets we will propose legislation to reinstate the helmet requirement.

Very truly yours,  
JAMES B. LONGLEY  
Governor  
(S. P. 286)

Which was Read and Ordered Placed on File.  
Sent down for concurrence.

The accompanying Bill, An Act Repealing the Requirement for Wearing Motorcycle Helmets. (S. P. 4) (L. D. 9)

The PRESIDENT: The pending action before the Senate is whether this Bill should become a law notwithstanding the objections of the Governor.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate, I would like in all sincerity to thank Governor Longley for the considerations he extended to some who are interested in this piece of Legislation. I feel sure in my mind that the Governor only wanted us to reconsider the passage of this Bill. To lend credence to my belief, if you read the first sentence of the last paragraph, he says, and I quote: "As I stated, I recognize the Legislature's right to disagree and I respect their judgment in this matter."

I know this is a perennial Bill but I think perhaps it is the first time it has ever got as far as the Governor's desk. Therefore, I think perhaps I should give a little bit of information to you as to why it is on our books as a law and why I introduced this Bill.

Approximately 10 years ago the Department of Transportation in Washington, through its right to promulgate rules and regulations, required the various states to enact a helmet law or lose up to 10 percent of Federal money for highways. Most states did this. However, the State of California, under the direction of Governor Reagan, refused. They never lost the 10 percent either. When the State of Illinois was about to enact the helmet law, a long battle ensued in the courts and the law was found to be unconstitutional.

To those of you here in the Senate who were here in the last Session, you know how I feel about the Constitutional rights of the individual. When I read an article in the newspaper last summer about California, about Illinois and how after 10 long years the Congress of the United States had passed a law repealing the regulation imposed upon the states, requiring them to have a helmet law, I was upset and determined that I would try, only try, to do something about it.

On Wednesday, January 12th, I appeared as a sponsor of this Bill before the Committee on Transportation. I would like to read just a little of it here: "Motorcyclists are proud of their machines. They keep them highly polished, finely tuned, and mechanically perfect. You never see a motorcycle with inadequate brakes, or a motorcyclist operating his bike in a reckless manner. A motorcyclist is more aware, more cautious than any motorist of dangers that may be encountered by mechanical troubles or reckless use of his machine. And the ability of a motorcyclist to avoid an accident is far beyond that of an auto operator. His visibility is unhindered and his maneuverability is exceptional."

I would like to read what we have in our motor vehicle laws when you apply for a license to operate a motorcycle: on Page 81, second paragraph, the last sentence is: "you control a vehicle with unique maneuverability, visibility and performance in braking."

There were many, many more to appear in support of this Bill. I couldn't possibly give you all of the arguments or reasons that are given for the repeal of the helmet law. But I should note that there was only one opponent and that

was Sgt. Meservey of the Governor's Committee on Highway Safety. The only facts he had were that we had 455 highway accidents and 16 were fatal. His only feeling was that repeal of the helmet law would result in more deaths. He did say that he thought inattention was the reason for most of the accidents. I will submit to you here today that the inattention is caused by exhaustion, heat and weight of the helmet.

Testimony was heard by the Committee that a helmet that would meet specifications, we are talking about Federal Safety Specifications, would be 6 inches thick and weigh approximately 14 pounds. It was also pointed out that helmets worn by motorcyclists will only stand an impact of 4 miles per hour. One of these helmets, if X-rayed after being dropped from the height of your chest to the ground, will show numerous cracks.

There was also uncontested testimony that doctors have found that a motorcyclist, whose helmeted head struck an object solidly, and the helmet was not immediately removed, would die. The brain and skull would not be allowed to swell.

The Governor recognizes in his message to us that there is a loss of hearing and vision with helmets. And he is talking and we are all talking about peripheral vision, and if you hold your fingers up beside your eyes you will know exactly what I mean.

Let me cite to you one case. As you perhaps know, the Blue Knights Motorcycle Club is composed of men who are law enforcement officers, no one else. One member reported that his friend on a motorcycle swerved under a tractor trailer that was following him because his helmet caused distorted hearing. Fortunately, the friend only lost a leg.

One of the proponents of this Bill cited that doctors agree that the prevailing incidence of neck injury is caused by the helmet edge cutting between the 3rd and 4th vertebrae of the neck.

The Governor uses as an example from the State of California reviewed reports of 626 accidents and the findings. Now I want you to keep in mind that the year of this report is 1970. Now I would like to read one that should be much, much more accurate, and the date on this is August 23, 1973 and this is a printed article: New York and Florida: The Pensacola Journal stated on Wednesday, August 22, 1973, "Two New York motor vehicle department researchers compared the causes of motorcyclists' deaths in 1966, when helmets were not mandatory, with those of 1967 when they were. The report pointed out that while broken necks were the cause of death in just 5.8 percent in 1966, they account for nearly 38 percent of the cycle deaths the following year when there was a helmet law. And while the number of accidents was down overall 1967, there was a 75 percent increase in the proportion of serious neck injuries."

This is an increase of over 600 percent in broken necks in just one year. My point is, the helmet can and does kill.

Mr. President and Members of this Senate, I would submit to you that this report has more substance than that of the California report. California being a non-helmet state, makes me ask how many were wearing helmets versus those who were not. If there were 3 times as many not wearing helmets, then there would be no statistical relationship with their feelings or the findings.

Now take the State of New Jersey. — The motorcycle safety helmet effectiveness study conducted by the Division of Motor Vehicles, Office of Highway Safety, reported that the mortality rate for motorcycle accidents decreased from 9.3 fatalities per 10,000 to 5.3 per 10,000 after enactment of the helmet law. I cannot and will not try to explain the reason for this difference, but I thought I should point it

out to you. I have a report here from the American Motorcyclists Association — I am sorry I didn't have a copy for your information, but this is the way the statistics are: In Rhode Island, I submit to you, that there is a reason why there was a drastic change in the death rate. The first five months, which includes the dates from January 1, 1976 to May 31, 1976, not much traffic and very few motorcyclists on the highway at that time of the year. I think only a fool would ride in the snow. It would be interesting to know how many were killed from June 1st to Labor Day, but the report that you have from the Governor says there was 18 killed from June 1st until December 31st. I would like to know just how many were killed on motorcycles the year before. This isn't available to us and I am sorry I don't have the information, either.

I hope each and every one of you here today realize that I am not being critical of our Governor. I know he based his decision on the information that was provided to him. This is borne out by his statement and I quote: "There is additional statistical evidence from the State of Maryland and from other states which indicates that helmets do save lives." Now the Governor's report, of course, is based on information given to him, and I would cite where there is additional information from other states, and he names Maryland. Now this veto is the 11th.

Now this is a biker magazine and the date on this is March 9th: "Maryland's Senate repeals its State's helmet law by a 31 to 13 vote. Their repeal will be in the House of Representatives by the time you read this." This is right up to date.

I can only surmise that the statistical evidence weighed in favor of passage in Maryland. It must have, or they would not have passed it in the Maryland Senate.

I agree with the Governor that statistical data can be construed in a number of ways to support various arguments. I am not a statistician, and I do not want to attempt to deceive anyone. I want only to present the facts as I know them. With that in mind, I would like to give you a few facts and I will soon sit down.

This is a study in Kansas in 1973: "Kelly Wendheln received word from the Safety Department of the Kansas Highway Commission in Topeka that for the year 1973, when the helmet law had been in effect for the first full year, Kansas motorcycle fatalities rose to 40 from the previous year's 22. Almost twice as many fatalities with helmets as without. An interesting bit of information that should be brought to the attention of every legislative committee that is considering a proposed helmet law or the repeal of the law."

I have picked out a few more facts and these figures are for a period over the last 5 years. The fatality rates are based on each 10,000 registered motorcycles and I hope you keep in mind the national average is 8.16 each year.

I picked these states because of their geographical difference and those with the helmet law and those without: Georgia, 11.48 percent average per year; they have a helmet law. Utah, 5.03 average per year, no helmet law. Florida, 10.17, they have a helmet law. Illinois, 9.18, no helmet law. New York, 13.73, they have a helmet law. California, 7.78, no helmet law.

This is only a six-state figure, that is true. However, the most significant part of this is that New York and California, extreme ends of our country, and the two largest states when it comes to the number of registered motorcycles. New York with a helmet law has twice as many motorcycle deaths as California, who does not have. I think that is one of the most significant parts of the whole thing. Another significant fact is that the Blue Knights Motorcycle Club, which I have already told you is

comprised solely of law enforcement officers, are located in 38 states across this nation and they unanimously endorse repeal of the helmet law.

I would ask that you please vote with me, as much as it may seem unpleasant, to pass this Bill to be enacted. Thank you.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, I hesitate to speak on this Bill because Sunday morning there were some 40 cans on my lawn in Sanford, plus a couple of staves kicked out of my fence, probably due to my supporting the 20-year-old liquor bill. But nevertheless, I served 3 years on the Sanford Police Commission in the '30's and I can remember very vividly when we saw a motorcycle driver going by without a helmet, they say there is a man who is going to be dead one of these days. And when they had helmets on, in my opinion, and in the opinion of actual statistics, it has been shown that there has been less deaths.

Now when a motorcycle hits the back of a car or a car hits the back of a motorcycle, it throws that man in the air. The chances are, he is going to land on his head, and the protection of that helmet, in my opinion, is going to possibly save his life, maybe not always. I had a son who was in the US Navy in the submarine service. He had his motorcycle in California, and he didn't have to wear a helmet, but, on the other hand, he bought a helmet and he wore a helmet in California because he felt a lot safer because the motorcycle drivers in California drive pretty fast, as they do around here. Some of them weave in and out of traffic and could well cause more deaths, in my opinion — and I am not going to speak long on this — but in my opinion, I think I voted against this Bill in the other body, but in my opinion I definitely feel that we should go along with the Governor's veto. I have no great feeling one way or the other and you won't hurt my feelings no matter how you vote, I can assure you of that, but I do feel that we should go along with the Governor on this matter.

The PRESIDENT: The pending question before the Senate is shall this Bill become a law notwithstanding the objections of the Governor. According to the Constitution, the vote will be taken by the Yeas and Nays. A vote of Yes will be in favor of the Bill. A vote of No will be in favor of sustaining the veto of the Governor. The Secretary will call the role.

YEAS — Carpenter, Chapman, Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hichens, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Trotzky, Usher.

NAYS — Collins, D.; Hewes, Lovell, Morrell, Wyman.

ABSENT — Speers.

26 Senators having voted in the affirmative and 5 Senators in the negative, with 1 Senator being absent, 26 being more than two thirds of the membership present. It was the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor, and will be sent to the House for concurrence.

#### Senate Papers

Mr. PIERCE of Kennebec presented, "Resolve, to Establish an Experimental Coho Salmon Program." (S. P. 279)

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed. Sent down for concurrence.

Mr. PIERCE of Kennebec presented, Bill, "An Act Concerning the Power of Podiatrists." (S. P. 280)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.