

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

items were passed to be engrossed and sent up for concurrence.

(S. P. 68) (L. D. 105) Bill "An Act Relating to Supplemental Assessments under the Taxation Statutes" (C. "A" S-19)

On the objection of Mrs. Post of Owl's Head, was removed from the Consent Calendar. Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-19) was read by the Clerk.

Mrs. Post of Owl's Head offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-66) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was assigned for second reading tomorrow.

(H. P. 9) (L. D. 18) Bill "An Act Relating to Eating, Lodging and Recreational Places Licensing Law" (C. "A" H-51)

(H. P. 179) (L. D. 220) Bill "An Act to Authorize the Lease of Mental Health and Corrections' Facilities by other Agencies" (C. "A" H-50)

No objections having been noted, the above items were passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the following item of Unfinished Business:

Enactor — An Act Relating to the Small Grants Program for Municipal Conservation Commissions (H. P. 266) (L. D. 343)

Pending — Passage to be enacted.

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following item of Unfinished Business:

Bill, "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors" (H. P. 114) (L. D. 123)

— In House, Passed to be Engrossed as Amended by House Amendment "A" (H-40) on February 23, 1979.

— In Senate, Bill and Accompanying Papers Indefinitely Postponed in non-concurrence February 28, 1979.

Tabled — March 1, 1979 by Mr. Carroll of Limerick.

Pending — Further Consideration.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, I now move that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I really feel that this body should insist on its former action. I have great feeling for our young people of this state, especially the parents whose child could be visiting a neighbor and a motorcyclist drives up and the child jumps on and takes a ride without the helmet or any element of safety involved to try to protect this child should he fall off.

I feel that the legislation has great merit. We are not telling the operators that they have to wear the helmet; what we are telling him is that he must use diligence and cautionary measures to protect his passengers. That is the reason that I cannot go along with the gentleman who made the previous motion. I feel that this body is very wise and showed great wisdom and I still think the legislation has a great deal of merit, so I would hope that you would oppose the motion.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. McKEAN: Mr. President and Members of the Senate: I signed out of the committee "Ought Not to Pass" on this bill. I then had an amendment put on which I felt made the bill a little more palatable. I have, however, done a little research since then and now I find that doesn't even seem palatable to me. On this past Thursday during a debate here in this House, three of my good friends in this House made arguments on the 17 year old donating blood and the arguments were well stated. They came up with such remarks as "parental responsibility, the erosion of parental responsibility, the capabilities of our young people" and we had an hour of debate on the capabilities of our young people in that particular instance, which hits true to heart in this particular bill also.

I then went and looked up some old newspaper articles in Lewiston. This is a Lewiston Sun, November 16th, just this past year. There is evidence that one and possibly two people who were killed in motorcycle accidents this year would have lived had they been wearing helmets, but, he added, according to medical reports, these individuals would have most likely been paralyzed from the shoulders down. I would hope, the good Lord willing, I would never have to make a decision like that because I would never want to lie like a vegetable for the rest of my life; I would rather be dead. I can go to article upon article about helmets, what good they do and what good they don't do.

Here is something else that caught my eye. Back in 1977, they took a poll on the use of motorcycle helmets. They went state by state on statistics. Of course, you and I know that statistics in the hands of a juggler can be made to prove that anything can be safe, from an elevator to a rocketship, but these are pure statistics on fatalities. Seventy-one percent of a ratio increase in Georgia in motorcycle fatalities was recorded and 43 percent ratio increased in New York, both of which had mandatory helmet laws in effect during this study period. Conversely, California and Illinois, two states which did not have helmet laws during the study period, were the exception to the general rise and had decreasing fatality ratios. Believe it or not, in the state of Illinois, the helmet law in its entirety was found unconstitutional.

They made some tests on helmets and these tests came out during some of our committee hearings back when we had the helmet law in the 108th, and the tests proved that these helmets would stand an impact at four miles an hour. Well now, if that is the case, if you really want to do something right, why don't we go ahead and amend this bill to say that those under the age of 18 will wear a helmet when the motorcycle is in the process of starting or stopping, because, believe me, you are going to go more than four miles an hour after that.

I am sure that there was uncontested testimony that if there is a head injury from the impact and the helmet is not removed immediately after that injury, the expansion of the brain and skull will occur and the victim then will die from that expansion. That also was from a doctor's report.

I have heard such things as, gee, how would you feel if we say no to this bill and a year from now somebody gets killed because they didn't have a helmet on? Well, I have to turn it around and say to myself, what if I pass this bill and somebody gets killed because they did have a helmet on, so I can't buy that argument either.

I do what I think is right. I ride a motorcycle and I have ridden them for many years. I have a son that rides a motorcycle. My own personal preference, I won't get on a motorcycle or a snowmobile without a helmet, but that is my own personal preference. Therefore, I have to go along with the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I was not a member of the

last legislature which involved itself with debate concerning the helmet law. The issue, in my opinion, primarily seems to be one of personal freedom versus personal safety. Some people feel that we need to stop the state from controlling any more of our lives; others argue that it is the responsibility of government to ensure the safety of the public, especially in those cases where if no control is exercised good judgement might not prevail.

I have had experience as a full-time emergency medical technician for the Sanford Fire Department and I have seen first hand the personal injuries in depth resulting from operators and passengers on motorcycles who were not wearing helmets. At the same time, however, there are deficiencies which exist in some helmets which are presently on the market.

I am in favor of this proposed legislation inasmuch as it will protect, to some degree, individuals who may not be able to make and form a decision as to whether or not to wear a helmet. At the same time, helmet deficiencies and the right of personal choice for mature individuals are important considerations which should be addressed.

As to the social responsibility of the safety of the motorcycle driver, I would be in favor of a legislative mandate requiring a study of motorcycle helmets presently on the market, to rate all helmets in terms of their values for the information and guidance of the consumer and to establish minimum specifications for helmets to be sold in the state.

A few weeks ago, we debated whether or not to allow serving in the Senate until the age of 21. It seems rather contradictory to me to pass a judgment for age qualification in the legislature and to ignore it for the sake of human life.

I would hope that in the discussion of this matter personal freedom would not preclude personal safety and common sense. I think we can address all these elements without being unfair to the legitimate concerns of all, so I hope you will vote against this motion.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: Just a short message. This might be a good opportunity to promote the program that will be taking place, scheduled at 12:15, in which it says that it is a special presentation "As Others See Us" in the Hall of Flags. It is too bad probably that we can't defer the vote on this until after we see their program.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I didn't think I would have to speak too long on this. At the present time, California has no helmet law and they have 20 times more motorcycles than this state has. A lot of this is being done because they are being patrolled by their own people, meaning they are not police officers, they are people that report accidents or try to protect people who are riding motorcycles in clubs and all that.

Twenty states have removed the helmet law. There must have been something wrong with it or they wouldn't have done it.

There were two persons, as a matter of fact, who appeared in front of the committee stating that they wanted the helmet law. I see no reason why the helmet law should go back on. These children should be told by their parents that they have to wear a helmet if they want them to wear one, but why should we tell him that you have to wear a helmet and you have to have insurance now?

We have three motorcycles at home. I have been riding motorcycles since I was seven years old. As a matter of fact, I used to get on the side of the curb to get on the motorcycle because the bike was so high I couldn't get on it. We know all about motorcycles. We know what they can do and what they can hurt and, believe

me, if you ride a motorcycle in traffic, I don't mind on the highway, but in traffic, where you cannot hear and you cannot see, you have to turn your head completely around and I wouldn't be caught dead with a helmet in traffic.

We had people testify in committee hearing, two doctors two years ago, showing what damage helmets had caused to some people who had been in accidents with a helmet. That spinal cord was hit by the back of that helmet and cut that spinal cord and that man was crippled and paralyzed for the rest of his life. I would rather have a head injury than be paralyzed all my life. Which one do we take?

I hope you do go along with my motion to recede and concur with the other body, because this is the best thing this House could ever do to protect our small children.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: Experience, I guess, is a good teacher, although it is sometimes a hard teacher. As I sat here, I was thinking about back home, we have a battered helmet, and how lucky my son was to have had it on because he happens to be here today in the balcony with me.

I urge you to keep this bill alive. I think we need the helmets.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I don't think I am under any misapprehensions about what is going to happen to this bill in the end, but I am simply rising because one of my constituents mentioned to me the other day after the other body took their reaction on this bill, and this particular constituent is a staff nurse at the Eastern Maine General Hospital, and she told me that before anyone was qualified to vote on this, they should take a tour of Ward 5 up there and see the people who were in this type of accident without helmets and see the condition that they are in.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lewiston, Mr. Jacques, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Jacques of Lewiston requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Simon. If Mr. Simon was here, he would be voting no and I would be voting yes.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lewiston, Mr. Jacques, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Berry, Brown, D.; Brown, K.C.; Bunker, Call, Carter, D.; Carter, F.; Conary, Damren, Dudley, Dutremble, D., Elias, Garsoe, Gavett, Hanson, Howe, Hunter, Jacques, E., Jacques, P., Jalbert, Leighton, Leonard, Lewis, Lund, Mahany, Marshall, Masterman, Maxwell, McKean, McMahon, Michael, Norris, Paul, Payne, Peltier, Peterson, Rolde, Roope, Sewall, Silsby, Small, Sprowl, Stetson, Stover, Studley, Theriault, Torrey, Tozier, Twitchell, Whittemore.

NAY—Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Bordeaux, Boudreau, Brannigan, Brenerman, Brodeur, Brown, K. L., Carrier, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Drinkwater, Fenlason, Fillmore, Fowlie, Gould, Gowen, Gray, Gwadlosky, Hall, Hickey, Higgins, Hobbins, Huber, Immonen, Jackson, Joyce, Kane, Kany, Kelleher, Kiesman, Laffin, Lancaster, LaPlante, Lizotte, Locke, Lougee, Lowe, MacBride, Martin, A., Masterton, Matthews, McHenry, McPherson, McSweeney, Mitchell, Morton, Nadeau, Nelson, A., Nelson, M., Nelson, N., Paradis, Pearson, Post, Prescott, Reeves, J., Reeves, P., Rollins, Sherburne, Smith, Tarbell, Tierney, Tuttle, Vincent, Violette, Vose, Wentworth, Wood, The Speaker.

ABSENT—Austin, Brown, A.; Dow, Dutremble, L.; Gillis, Hughes, Hutchings, Soulas, Strout, Wyman.

PAIRED—MacEachern and Simon.

Yes, 50; No, 88; Absent, 11; Paired, 2.

The SPEAKER: Fifty having voted in the affirmative and eighty-eight in the negative, with eleven being absent and two paired, the motion does not prevail.

Thereupon, on motion of Mr. Carroll of Limerick, the House voted to insist.

The Chair laid before the House the following item of Unfinished Business:

Bill, "An Act to Repeal Mandatory Public Meetings by the State Liquor Commission" (S. P. 289) (L. D. 848)

—In Senate, Referred to Committee on State Government.

Tabled—March 2, 1979 by Mr. Violette of Van Buren.

Pending—Reference in concurrence.

On motion of Mr. Violette of Van Buren, the Bill was referred to the Committee on Legal Affairs in non-concurrence and was sent up for concurrence.

(Off Record Remarks)

By unanimous consent, the Chair laid before the House the following item of Unfinished Business:

Bill, "An Act to Include Independent Contractors within Deferred Compensation Plans" (H. P. 845)

(Committee on State Government suggested)

Tabled—March 5, 1979 (Till Later Today) by Mr. Howe of South Portland.

Pending—Motion of Mrs. Damren of Belgrade to Refer to Committee on Business Legislation.

Thereupon, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

By unanimous consent, the Chair laid before the House the following item of Unfinished Business:

Bill "An Act Relating to the Powers of Hospital and Medical Service Organizations" (H. P. 806)

—House Reconsidered Reference to Committee on Health and Institutional Services on March 5, 1979.

Tabled—March 5, 1979 (Till Later Today) by Mr. Howe of South Portland.

Pending—Reference.

On motion of Mr. Howe of South Portland, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

By unanimous consent, the Chair laid before the House the following item of Unfinished Business:

Bill, "An Act Relating to the Powers of Hospital and Medical Service Organizations" (H. P. 806)

—House Reconsidered Reference to Committee on Health and Institutional Services on March 5, 1979.

Tabled—March 5, 1979 (Till Later Today) by Mr. Howe of South Portland.

Pending—Reference.

On motion of Mr. Howe of South Portland, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

By unanimous consent, the Chair laid before the House the following item of Unfinished Business:

Bill "An Act to Restore the Power of Arrest to Private Investigators" (S. P. 275) (L. D. 845)

—In Senate, Referred to Committee on Legal Affairs.

Tabled—March 2, 1979 by Mr. Violette of Van Buren.

Pending—Reference in concurrence.

Thereupon, on motion of Mr. Violette of Van Buren, the Bill was referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

By unanimous consent, the Chair laid before the House the following item of Unfinished Business:

Bill "An Act to Authorize the Bureau of Public Lands to Lease Lands in the Intertidal Zone Adjacent to Permanent Structures" (H. P. 842) (Committee on State Government suggested)

Tabled—March 5, 1979 (Till Later Today) by Mr. Blodgett of Waldoboro.

Pending—Reference.

On motion of Mr. Blodgett of Waldoboro, the Bill was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

By unanimous consent, the Chair laid before the House the fourth tabled and today assigned matter:

Bill "An Act to Amend the Judicial Retirement System" (H. P. 811) (Committee on Judiciary suggested)

Tabled—March 5, 1979 by Mr. Hughes of Auburn.

Pending—Motion of Mrs. Nelson of Portland to Refer to Committee on Aging, Retirement & Veterans.

On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Aging, Retirement and Veterans, ordered printed and sent up for concurrence.

On motion of Mr. Pearson of Old Town, the House reconsidered its action whereby the Bill was referred to the Committee on Aging, Retirement and Veterans.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, we have been dealing with this particular topic in Appropriations, and we had a very lengthy and confusing discussion about this particular topic yesterday, so I would ask that somebody table this pending reference for one more day so we can discuss this.

Thereupon, on motion of Mrs. Nelson of Portland, tabled pending her motion to refer to the Committee on Aging, Retirement and Veterans and tomorrow assigned.

By unanimous consent, the Chair laid before the House the fifth tabled and today assigned matter.

Bill "An Act Relating to Funding and Support for Alcoholism Treatment and Rehabilitation Centers" (H. P. 723) (L. D. 910)

—In House, Referred to Committee on Appropriations and Financial Affairs on March 2, 1979.

Tabled—March 5, 1979 by Mr. Marshall of Millinocket.

Pending—Motion of the same gentleman to Reconsider Referring to Committee on Appropriations and Financial Affairs.

Thereupon, on motion of Mr. Marshall of Mil-