

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

when the First National Bank of Boston, then the city's financial advisor, withdrew an offer to help Saco bail itself out of its financial quagmire. The Boston bank withdrew financial assistance in helping the City of Saco sell a \$540,000 tax anticipation note, and also to refinance a \$1.5 million tax anticipation note which was due, after the Mayor of Saco, J. Haley Booth, refused to sign the authorization to sell the notes.

Since that date, the City of Saco has been shell-shocked with one crisis after another. The first thing that occurred was, the Merrill Trust, three days after the default on December 31, who was the principal holder of the \$2.1 million tax anticipation note, was successful in Superior Court in attaching Saco's \$1.6 million tax account. In essence, what occurred was, we had a freeze of all the money which is in the bank in the name of the City of Saco. Therefore, the City of Saco was unable to meet its financial obligations. Fortunately, the Merrill Trust, in working closely with the city and state officials, allowed for a \$200,000 tax anticipation note to be floated in order that the City of Saco could meet its payroll.

The City of Saco did something which many people probably have done in this state but which is something that is unheard of, and that is, we bounced a few checks, a few payroll checks of hard workers of the City of Saco.

A second lawsuit was brought by a construction company, alleging that over \$180,000 was owned and the Superior Court, in that particular case which is still pending, attached all of our real property in Saco, which, in essence, the buildings in the City of Saco now have an attachment on them and they cannot be sold or disposed of. Thus, the City of Saco found itself in this situation — our bankbooks were frozen, our assets in real property were frozen, and the people of Saco were looking around wondering what happened and who was to blame and what to do.

I am not here to ask you or to tell you why the City of Saco is in the position it is in, because I think history will find that the answer to that question will be asked many, many years ahead. What I do ask you today is that you will help the City of Saco by passing this particular bill which is required by the First National Bank of Boston in order for us to put together a financial package to bail the city out of its financial mess.

What this bill would do, in essence, would be to establish an escrow fund, a trust fund, which basically would allow the City of Saco, which does not exist in present law, allow them to basically set aside monies which are raised through the property tax which the city receives and place it in an escrow account in order to dedicate this money to pay off the tax anticipation notes which have been defaulted to the tune of \$2.1 million. It is imperative that this bill pass. The financial institutions have worked very closely and I commend them for it. However, they have stated, and probably rightfully so, that in order for us to get back on the financial track, a bill must be passed in the Maine Legislature which guarantees some stability in the mess we have in the City of Saco.

If you have any specific questions, all I can tell you is that the bill does not pledge any obligation of the State of Maine, no financial obligation. It is a special act, an act which is needed, specifically dealing with the City of Saco and the problems we have.

Thereupon, under suspension of the rules, the Bill was read twice and passed to be engrossed in concurrence without reference to any committee.

By unanimous consent, sent forthwith to Engrossing.

(Off Record Remarks)

Orders

The following Expressions of Legislative

Sentiment recognizing that:

(H. P. 1730) Florence Michaud has served for 23 years as Town Manager of Frenchville and through her loyal and devoted service has contributed immeasurably to that community.

Presented by Mr. Barry of Fort Kent. (Co-sponsors: Mr. Martin of Eagle Lake and Senator Martin of Aroostook)

(H. P. 1731) Mary G. Hayward, of Machias, born in Wesley will celebrate her 100th birthday on January 29, 1980.

Presented by Mr. Nelson of Roque Bluffs.

Were read and passed and sent up for concurrence.

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Merle Nelson of Portland be excused January 22 to 25 1980 for Legislative Business.

House Reports of Committees Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require that Children who are under 15 Years of Age Wear Helmets when they are Passengers on Motorcycles" (H. P. 1590) (L. D. 1700)

Report was signed by the following members:

Messrs. EMERSON of Penobscot
O'LEARY of Oxford

— of the Senate.

Mrs. HUTCHINGS of Lincolnville

Messrs. MCKEAN of Limestone

STROUT of Corinth

JACQUES of Lewiston

ELIAS of Madison

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Mr. USHER of Cumberland

— of the Senate.

Messrs. BROWN of Mexico

HUNTER of Benton

McPHERSON of Eliot

LOUGEE of Island Falls

CARROLL of Limerick

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, I move the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, moves that the Minority "Ought to Pass" Report be accepted.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to tell you why I joined with the majority group and signed the "ought not to pass" report.

When I first saw the bill, and I thought about this being an emergency session, I went to try to find some figures, figuring that perhaps there was a cornice on the highway that I couldn't find, I didn't see it. I thought perhaps that as a parent, and many of you who are parents, had gotten lax and I didn't have the common sense to tell my youngster if he was going to ride on the back of a motorcycle that they should wear a helmet. So I went and did a little research, and this is what I came up with.

In the age group below 15 years—this is the area that this bill points to, it targets—in hunting injuries and fatalities, you had 8 injuries and one fatality. In boating you had 2 injuries and 2 fatalities. In automobile accidents you had over 200 injuries and 26 fatalities. And I took a look at this bill and I said, boy, this must have it all in there because look at the number of injuries and fatalities—it has nothing whatsoever to do with this particular problem, and there is a problem—26 deaths and 200 injuries in automobiles alone—had nothing to do with

maybe you should wear a seatbelt in a car or maybe you should be under restraint in a car or maybe even wear a helmet in a car—it is not there.

Then I went to those areas where helmets would be a controversy—for instance, snowmobiles and motorcycles. In the snowmobile portion of it—injuries, zero; deaths, zero. In the motorcycles, which is what we are interested in in this particular bill, 15 years of age and younger—injuries, zero; deaths, one. Let me tell you how this death occurred. It was a youngster on a trail bike who rode across the road and got hit by a car. According to the police, whether or not he had a helmet on made no difference; he would have died.

Then I said to myself, if this addresses the problem with trail bikes, which is what most of our youngsters ride, by golly, I could support it, but it doesn't. It has nothing to do with the trail bike where you only have one person on it, and that is the guy that drives it, and this is where the majority of our youngsters are driving, they are driving the trail bikes.

Now, I went a little further, I went into the older age groups on the motorcycles. I said, well, perhaps since we repealed the law there have been a lot of deaths on motorcycles—there were four deaths; 2 of them because of excessive speeding, and again according to the police, it would have made no difference whether they had a helmet on or not. In fact, they did have a helmet on and they were still killed. The other two were driving under the influence of alcohol. That was four deaths and none were related to the fact that they did not have a helmet on.

A representative from an insurance company got up and testified before our committee and he said, yes, the number of accidents on motorcycles has increased—boom, nothing else. I got to thinking, well, perhaps there was a mistake there. Then I asked him a question: "Has the number of registrations also increased?" Well, my good friends, the number of people riding motorcycles this last year, which is the period I am speaking of, has more than increased than the percent of accidents they have had, so that was the reason for the increase in accidents, because there are many more bikes on the road, and that is only common sense.

I asked him a final thing, I said, "Well, if this bill is going to do so much good and it is so important, then perhaps the insurance industry will recognize this and they will lower some of our rates." I bet you can't guess what his answer was to that one—no way.

Therefore, ladies and gentlemen of the House, this bill is not an emergency, it has nothing to do with the number of accidents we have had on motorcycles, and I say as a parent, give me the good sense, I have got good sense, I will make sure my youngster wears a helmet, and if he doesn't, he'll wish he had.

Again, I am a parent; let me do it. Let you as a parent make that decision because most of you can do it, and those who don't have the common sense to go to their children and tell them what is wrong and what is right and what is safe and what is not safe, I don't care if you put 15 bills in, they are not going to do it anyway.

I would hope that you would accept the minority report.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: As is well known to those of you who have served with me over the last few years, the helmet issue is no stranger to me and, fortunately, it is one of those marvelous non-partisan issues that I can feel free to disagree with my good friend from Aroostook County.

Ladies and gentlemen, it appears we have got three questions we have to answer to ourselves before we vote on this bill, and I think the answers to all three of these questions re-

quire us, as decent citizens and leaders in our community, to vote for this piece of legislation. The first is, are helmets safer? The answer must be an unqualified "yes". We know it from common sense, we know it because two members of this House sit with us today only because they had the good judgment to have helmets on when they were in accidents; we know it because we talk to people on the street; we know it because of nationwide studies held in Kansas and Colorado, New Jersey, California, and every single report shows that you have a better chance of surviving a motorcycle accident if you have a helmet on and if you are in an accident, the chances of a severe injury are less.

Ladies and gentlemen, helmets are safer.

The second question, should we require in a free country that people protect themselves? Well, reasonable people can differ on that subject. But, ladies and gentlemen, in this bill we are talking about children, and we have said time and time again in this House that we do not trust a child's judgment to make a contract, to buy alcoholic beverages, we restrict their ability to drive cars until they are at least 15½ because we don't respect their own free judgment, they are children, and we stand as leaders of this state in *pariens patrizie*, in a sense, in place of their parents we make these types of decisions. I say to you, because we are dealing with children, the question of an individual's judgment is irrelevant.

Now the last point—is it an emergency, says Mr. McKean? Should it be before us today? Well, I ask that good gentleman and I ask each of you to ask yourselves, how many deaths does it take to make an emergency? How many people in wheelchairs for the rest of their lives before we can feel that it is an emergency—20, 10, 5? Ladies and gentlemen, we know the answer to that question. The answer to that question is one, one child, one life, one family in one community spared a very severe and emotional trauma. Ladies and gentlemen, the answer to all three of those questions come out in one way and one way only—this is a good bill and it is a good start.

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

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I can only concur with Mr. Tierney in his comments. The way I would like to start off is by saying that in the debate on the helmet law last year, it was mentioned that personal freedom should not preclude common sense in personal safety. Having been a motorcycle operator for many years, I know the excitement and freedom one gains from the sport. In debate on the helmet law, you hear that wearing a helmet creates a false sense of security to a rider, and I might agree with that to a certain extent.

Also, some medical sources feel that in wearing a helmet the rider is more likely to suffer a neck injury on impact.

It has been said, "A good law is best in its instruction of wisdom and virtue. Wisdom enables us to know what to do; virtue guides us in what we should not do."

I am in favor of this legislation inasmuch as it will protect, to some degree, individuals who may not be able to make a decision as to whether or not to wear a helmet.

Before I was elected to the legislature, as most of you know, I was a full-time emergency medical technician with the Sanford Fire Department, so this is a very emotional issue for me. I have seen first hand the personal injury and death resulting from operators and passengers on motorcycles who were not wearing helmets. If any of you have any doubts as to the effect of not wearing a helmet on a motorcycle, I would be glad to arrange some time for any of you to accompany me on an emergency run when we pick up what is left and when we confront the parents of the victim in the emergency room of the hospital and tell them the

reason why their son or daughter is dead, because they weren't wearing a helmet—this is a very important issue. So when you vote today, vote for the lives that will be saved when this bill is passed and pray for the lives of those who are dead because something hasn't been done already.

I hope you support the minority bill.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

102 having voted in the affirmative and 25 in the negative, the motion did prevail.

The Bill was read once and assigned for second reading tomorrow.

Consent Calendar

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day.

(H. P. 1640) (L. D. 1749) Bill "An Act to Increase the Amount which the District Court is Allowed to Deposit into the District Court Building Fund from \$3,000 per Month to \$120,000 Per Year"—Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-748)

No objections being noted, the above items were ordered to appear on the Consent Calendar of January 23, under listing of Second Day.

Consent Calendar

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 1616) (L. D. 1726) Bill "An Act Revising the Maine Capital Corporation"

On the objection of Mr. Rolde of York, was removed from Consent Calendar.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: In case anyone thinks I object to the bill, of which I am a sponsor, I am merely trying to put it in a position where it can be amended because something has come up and we may need to put a technical amendment on it.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

(H. P. 1629) (L. D. 1739) Bill "An Act to Amend the Law Regarding the Issuance of Registration Permits under the Motor Vehicle Laws"

No objection having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

(H. P. 1628) (L. D. 1738) Bill "An Act Relating to Enforcement of the Truck Weight Requirements Under the Motor Vehicle Laws"

On the objection of Mr. McHenry of Madawaska, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

(H. P. 1620) (L. D. 1730) Bill "An Act Pertaining to the Granting of Preference in the Letting of State Contracts to State of Maine Resident Bidders" (C. "A" H-746)

(H. P. 1597) (L. D. 1708) Bill "An Act to Make Corrections in the Law with Respect to Bridgton Academy, Gould Academy and North Yarmouth Academy" (C. "A" H-747)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for

concurrence.

Passed to Be Enacted

An Act to Dissolve Patten Academy (H. P. 1604) (L. D. 1715)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I think it is only fair to say just a few words about this little academy which, due to the development of the SAD's, has gone completely out of existence and all of the property that they have has been liquidated in one form or another, sold, so that actually they are back to where they started in 1847.

This little school was started in 1847, and I think it would be interesting if a person were to go through the history of this school to find some of the distinguished people who have come out of it. Many of them have made excellent reputations in all walks of life, some of them in the local area, but many of them have moved away and done very well in other places.

I think I would like to say just one thing. There are quite a few people who have served in the legislature from this school. In fact, a member of the body at the other end of the hall, who served here at one time, his father was principal of Patten Academy at the time that Senator Perkins was born; he was born in Patten.

I think the most outstanding event that ever happened to this school, on their 100th anniversary, they were selected as the Class B champions of the State of Maine to go to Boston and play in the Boston Gardens. They had about 125 students in Patten Academy that played Boston Lapham with an enrollment of 12,000. At the end of the game, the score was tied, they went into overtime and Patten scored five points and won the New England championship beating Boston Lapham. Anyone can read this — or if they remember the papers of the time — they certainly would be aware of the tremendous expressions of enjoyment that happened when the team came back to Patten.

They were an excellent school, they were similar to many academies that were in the State of Maine that educated the people who were the leaders in this state during the 19th Century and in the early part of the 20th Century. The SAD's caused them to go out of existence and the people up there asked me if I would put in this legislation to repeal the act that was passed in 1847.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following Enactor appearing on Supplement No. 2 was taken up out of order by unanimous consent:

Passed to Be Enacted Emergency Measure

An Act Concerning Tax Anticipation Notes and Tax Collections in the City of Saco (S. P. 703) (L. D. 1839)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I understand that this bill comes as a result of problems the City of Saco is having. I have no objection to their trying to solve these problems. As I understand it, it doesn't commit the state.

I do object very strongly to the fact that we didn't have a public hearing on it. I don't see it as an emergency and much time has passed since the problem, that a public hearing couldn't be had. I think we pride ourselves in having one and all the bills go through here. There are exceptions, agreed, but I don't think this had to be an exception.