

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**

Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carrier, Carter, F.; Churchill, Conary, Curtis, Damren, Davis, Dellert, Drinkwater, Dudley, Fenlason, Gavett, Gillis, Gowen, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Laffin, Lancaster, Leighton, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Prescott, Reeves, J.; Roope, Sherburne, Small, Smith, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT — Barry, Berry, Brannigan, Brennerman, Carroll, Garsoe, Hughes, Jalbert, Joyce, McSweeney, Nadeau, Silsby, Strout, Tierney.

Yes, 78; No, 59; Absent, 14.

The SPEAKER: Seventy-eight having voted in the affirmative and fifty-nine in the negative, with fourteen being absent, the bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill, "An Act to Permit Participating Local Districts of the Maine State Retirement System to Amend Retirement Benefits for Policemen and Fire Fighters Prospectively" (H. P. 1665) (L. D. 1774)

Tabled — February 6, 1980 by Mr. Jalbert of Lewiston.

Pending — Motion of Mr. Tuttle of Sanford to Indefinitely Postpone Bill and accompanying papers (Roll Call ordered)

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask that this be tabled two days awaiting the Attorney General's decision.

Thereupon, on motion of Mr. Kelleher of Bangor, tabled pending the motion of the gentleman from Sanford, Mr. Tuttle, to indefinitely postpone the bill and accompanying papers and specially assigned for Monday, February 11.

The Chair laid before the House the second tabled and today assigned matter:

Bill, "An Act to Establish the Boundary between Rockport and Rockland" (S. P. 658) (L. D. 1698) (S. "A" S-403)

Tabled — February 6, 1980 by Mr. LaPlante of Sabattus.

Pending — Passage to be Engrossed.

On motion of Mr. LaPlante of Sabattus, re-tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

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) which was tabled earlier in the day pending a ruling from the Chair regarding germaneness of the amendment.

The SPEAKER: The gentleman from Lewiston, Mr. Jacques, requested that the Chair rule on the germaneness of the amendment, and the Chair would advise the gentleman from Lewiston, Mr. Jacques, and members of the House, that during the legislative session last year, the first regular session, there were three L. D.'s which dealt with this question.

First, L. D. 969, Bill "An Act to Amend the Law Regarding Decibel Levels of Motorcycle Mufflers." L. D. 858, Bill "An Act to Provide for the Registration of Off-road Motorcycle Type Vehicles" and L. D. 123, Bill "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors" and the Chair would advise the gentleman that the legislation with which we are now dealing deals with persons under the age of 15. The bill that

was dealt with during the last session dealt with people under the age of 18; therefore, the Chair would rule that the amendment that was adopted by the Senate is, in fact, germane.

The motion to recede and concur is in order.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I had less problem with the bill when they put the amendment on about the helmets on the youngsters riding the trail bikes since the only death we had was in the particular area last year.

There is a portion of that which I would like to get somebody, perhaps from the Judiciary Committee, to answer since they would have more expertise than I. If they would take out that particular amendment, filing number S-410, it states: "No operator of a motorcycle or a motor driven cycle nor parent nor guardian may allow a passenger under the age of 15 years to ride in violation of this section."

To me, that particular paragraph is rather confusing. One, you have said that the operator of a motorcycle on the road—what you are saying, is liable, and then you turn around and say that parents and guardians are also liable in that particular case. I think what is trying to be said is that parents of a child riding an off-road motorcycle would be liable but in that particular case there is no passenger on an off-road motorcycle because they are not designed to carry passengers. So this is rather confusing to me, and I am wondering how the Judiciary would take a look at this—how would you go into court with this particular liability? I would like to have an answer on that before you pass that bill, because I do figure that we have a problem right in that area.

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

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: Contrary to popular belief, I am not a lawyer. However, I am a member of the Judiciary Committee and so I am pleased to rise to respond to the question of my friend from Limestone, Mr. McKean.

It is my opinion that if this language is ambiguous and if it is not repaired at some point in the legislative process, a court, in construing it, would rely on the exposition given to it by members of the Transportation Committee who supported this and who expounded it in the two bodies of the legislature.

Therefore, Mr. Speaker, I would in turn ask members of the committee who support the bill with the amendment to give us their interpretation of it with the understanding that a court may, at some point, rely on this in construing this statute.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

MR. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I voted for this bill the first time around, but when I look at the amendment, there is something that concerns me a great deal and that is in the first paragraph of the amended section which says that every person under the age of 15 years who rides as a passenger on a motorcycle or a motor driven cycle or in a sidecar attached to a motorcycle or motor driven cycle or who operates, and this is the important part, an off-road motorcycle or a motor driven cycle does that mean that if a family has a child, for example, who was riding an off-road vehicle, such as a dirt bike or something of that nature on their own property, is subject to the law? If so, I guess I am not in favor of the legislation as amended because I think that is really getting into people's personal freedoms and rights when we start coming onto their own property and telling them what to do.

I certainly support the concept of youngsters having to wear helmets, but when we have the state police or any other law enforcement agency coming onto private property and enforcing this legislation on private property,

that is where I have a real problem. If anybody would like to respond to that concern, I would certainly like to hear that response.

Thereupon, the House voted to recede and concur.

(Off Record Remarks)

On motion of Mr. Jacques of Waterville, Adjourned until nine o'clock tomorrow morning.