

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

ERRATA:

The header on pages 234-235

in the First Regular Session

should read

“SENATE, FEBRUARY 26, 1979”

instead of

“HOUSE, FEBRUARY 26, 1979”

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

February 26, 1979

Senate called to Order by the President.

Prayer by the Honorable Thomas R. Perkins of Blue Hill.

Senator PERKINS: Let us pray! Heavenly Father, as we start this week give us the strength and the wisdom to address the problems of our State, so that they may be made acceptable in your eyes, and meaningful to the people, that we represent. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Order**

An Expression of Legislative Sentiment recognizing that:

David Lackey of Boy Scout Troop #58, Cumberland Center, has attained the high honor and distinction of an Eagle Scout... (H. P. 579)

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

Joint Resolution

A Joint Resolution In Memoriam:

Whereas, the Legislature has learned with deep regret of the death of F. Parker Hoy, lifelong resident of Lewiston and former member of the Maine Legislature... (H. P. 580)

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

Senator Hichens of York, was granted unanimous consent to address the Senate, Off the Record.

House Papers

Bill, An Act to Provide Continued Educational Benefits for Veterans' Widows after Remarriage. (H. P. 553) (L. D. 700)

Comes from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, An Act to Abolish the Maine Milk Commission. (H. P. 554) (L. D. 701)

Comes from the House, referred to the Committee on Agriculture and Ordered Printed.

Which was referred to the Committee on Agriculture and Ordered Printed, in concurrence.

Bill, An Act Appropriating \$1,500 for the Pink Panthers of Millinocket to Represent Maine in the Cherry Blossom Festival. (Emergency) (H. P. 555) (L. D. 702)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, An Act to Increase the Handling Charge for Returnable Beverage Containers from 1¢ to 3¢ and to Provide for Prompt Reimbursement of this Charge to Dealers and Redemption Centers. (H. P. 454) (L. D. 699)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which was referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, An Act Relating to Nomination Petitions for Municipal Office. (H. P. 556) (L. D. 703)

Bill, An Act Concerning Designation of Non-party Candidates on Election Ballots. (H. P. 557) (L. D. 704)

Come from the House, referred to the Com-

mittee on Election Laws and Ordered Printed.
Which were referred to the Committee on Election Laws and Ordered Printed in concurrence.

Bill, An Act to Provide for the Consideration of Environmental and Economic Effects Associated with the Tidal Power Demonstration Project at Half Moon Cove. (H. P. 558) (L. D. 705)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

RESOLVE, to Repeal Certain Provisions Requiring the Construction of a Fishway on the Dam Obstructing the Kennebec River at Augusta. (H. P. 559) (L. D. 706)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, An Act to Permit Juveniles in the Custody of the Department of Mental Health and Corrections to Receive Services from the Department of Human Services. (H. P. 560) (L. D. 707)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

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

Bill, An Act to Incorporate the Common Law Doctrine on Charitable Immunity into Statute and to Study the Policy of that Immunity. (H. P. 561) (L. D. 708)

Bill, An Act to Prohibit Drinking in Public Under the Criminal Code. (H. P. 562) (L. D. 709)

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

Which were referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, An Act to Require the Public Utilities Commission to Investigate the Establishment of a Separate Customer Charge Classification for Electric Service to any Grange of the Patrons of Husbandry. (H. P. 564) (L. D. 710)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which was referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, An Act to Increase the Salaries and Certain Expense Reimbursements of State Legislators. (H. P. 565) (L. D. 711)

Committee on State Government suggested.
Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

RESOLVE, Authorizing and Directing the State Director of the Bureau of Public Lands to Convey the Interest of the State in Certain Islands in Muscongus Bay. (H. P. 566) (L. D. 712)

Committee on State Government suggested.
Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources, and Ordered Printed, in concurrence.

Senate Papers

Senator Shute of Waldo presented, Bill, An

Act Concerning the Definition of Criminal Mischief under the Maine Criminal Code. (S. P. 253)

Senator Carpenter of Aroostook presented, Bill, An Act to Make Private Organizations which Receive a State Subsidy Subject to the Maine Freedom of Access Law. (S. P. 257)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

**Committee Reports
House**

Leave to Withdraw

The Committee on Energy and Natural Resources on, RESOLVE, Directing the State to Assume the Cost of Clean-up Operation for a Gas Spill in Brooks, Maine Caused by Vandals. (H. P. 38) (L. D. 49)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass—As Amended

The Committee on Legal Affairs on, Bill, An Act to Revise the Statute Relating to the Removal of Dangerous Buildings. (H. P. 103) (L. D. 113)

Reported that the same "Ought to Pass as amended by Committee Amendment 'A'" (H. 36).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on, Bill, An Act to Require Sand, Gravel, Peat and Other Fill Transported by Truck to be Covered. (H. P. 87) (L. D. 98)

Reported that the same Ought Not to Pass. Signed:

Sensors:

EMERSON of Penobscot
O'LEARY of Oxford

Representatives:

ELIAS of Madison
JACQUES of Lewiston
HUTCHINGS of Lincolnville
McPHERSON of Eliot
HUNTER of Benton
CARROLL of Limerick
LOUGEE of Island Falls
STROUT of Corinth
McKEAN of Limestone
BROWN of Mexico

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Sensor:

USHER of Cumberland

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot Senator Emerson.

Senator EMERSON: I move that we Accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Penobscot Senator Emerson now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland Senator Usher.

Senator USHER: In a few weeks we will begin to enjoy the beautiful spring weather. Many people will emerge to the outdoors. Children will be walking along the roads and

riding their new bicycles, they received at Christmas time. The adults will be using other means of outdoor enjoyment and travel, such as riding Mopeds and Motorcycles, others just using their motor vehicles.

Many of these people do not realize all the dangers that they are pursuing. One of the dangers is falling debris from uncovered trucks, such as gravel, sand and peat. We are talking about possible damage to the eye, which could be permanent and cause an accident, also many dollars to the insurance companies.

The Motorists whos' Windshield was damaged by debris from an uncovered truck, is of particular concern to me. Very often, he has only his word to prove the damage, of an uncovered truck, and the identity of the truck. Even if he overcomes these burdens of proof, he may still lose to technical legal defence, such as an "Act of God Defence". Ladies and Gentlemen of the Senate the cost of this cover is minimal, compared to the extended hazards that it causes. Mr. President, I ask for a Division, and hope that everyone will oppose the pending motion.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot Senator Emerson.

Senator EMERSON: This Bill if passed would be a very expensive Bill, for the State. It is estimated that it would cost the State Highway Department a half million dollars, and the towns of course as much and the contractors even more, so it would be a very expensive Bill.

The PRESIDENT: The Chair recognizes the Senator from Kennebec Senator Katz.

Senator KATZ: Mr. President, if our Inflation Alert were already in high gear, this is exactly the kind of a Bill, we would be calling your attention to.

Aside from the implications for the Department of Transportation, there are tax implications. The implications on private haulers of gravel, is what we would call your attention to.

It is my understanding, that at the hearing there were concerns that the passage of this Bill, would have some specific implications for the cost of gravel in the State.

Now that may or may not be a reason to vote for or against the Bill, but this is the kind of information that we would hope to bring along with you shortly. In this particular case it is apparent that the Committee has weighed the cost on both sides and has come down in favor of saying that this Bill should not pass.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, I would like to pose a question through the Chair, to anyone who would care to answer. That is, would somebody explain to me, how this will cost so much, I cannot understand how buying covers, one time and putting them on trucks, will be so costly?

The PRESIDENT: The Senator from Cumberland Senator Najarian has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: These canvases are very expensive in the first place. They will not last, but may be three or four years, they cost they were telling us, \$200 odd dollars for canvas and the mechanism to cover these trucks. So that is where the cost is.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate, to follow up that last question. I would like to know if there is anybody in this Chamber, that could tell me what an eye would cost?

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion by the Senator from Penobscot, Senator Emerson, to Accept the Majority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

19 Senators having voted in the affirmative and 5 Senators in the negative, the Motion to Accept the Majority Ought Not to Pass Report does prevail.

Divided Report

The Majority of the Committee on Transportation, on, Bill, An Act to Require the Secretary of State to Give Notification when the Renewal of Motor Vehicle Registrations are Due. (H. P. 39) (L. D. 50)

Reported that the same Ought Not to Pass.
Signed:

Senators:

EMERSON of Penobscot
USHER of Cumberland

Representatives:

LOUGEE of Island Falls
ELIAS of Madison
HUTCHINGS of Lincolnville
McPHERSON of Eliot
HUNTER of Benton
STROUT of Corinth
JACQUES of Lewiston
BROWN of Mexico

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senator:

O'LEARY of Oxford

Representatives:

CARROLL of Limerick
McKEAN of Limestone

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: I move that we Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

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

Senator O'LEARY: I would ask for a Division, on the Motion. I know that with a Committee Report such as this, my chances of doing anything are negligible, however I shall make an attempt. This is no earth shaking Bill, but it is a Bill that a number of my constituents asked me to submit and I was happy to report to them that there was already one submitted. In accordance with their wishes my vote is on the Minority Ought to Pass Report. There should be a fiscal note on this Bill of approximately \$80,000. We have approximately 560,000 registered motor vehicles here in the State. The Secretary of State estimates that the cost to be about .165¢ for each notification.

It goes just a little bit further than that, a few years ago the State of Maine, started a stagger system, for numbering plates, and it was really a financial bonanza to the State of Maine. When we did this it helped us to level off, our employees within the Motor Vehicle Department and such. There were a number of other benefits that accrued to the State.

To the Motorist it was the opportunity to forget, his registration the date when it expires. Since the institution of the staggering system, there has been a 33% increase in the number of people who have been arrested for operating an unregistered motor vehicle. Now each one of these, then go to court, pay a fine of a minimum of \$35., so with a 33% increase it is really quite a sum of money. There is even more to it than that, according to some of the testimony, State Police, would give you a pass

so called or a Permit to allow you to leave your residence and go to the Motor Vehicle Department to register your vehicle.

If given an opportunity, I would amend this Bill because it does have some serious problems. One of them is were it says in it designee, "The Secretary of State or his Designee", now the designee could even be a Town Clerk. At the present time in some of the municipalities your Town Clerks are doing exactly what this Bill calls for. However we are not doing it on a State level, so there is certain cost to the towns at the present time.

There is also a time lag in here, that I do not exactly agree with, the 60 to 30 days before expiration is when you are able to be notified. Given the opportunity I would amend that down so that the time lag would be between 15 to 10 days. In addition I would put right into the Bill so that the Secretary of State had no other choice, he would require a 25¢ fee on top of your \$15. To cover the cost of these registrations or notifications and there would be perhaps a net gain of approximately \$30,000. to the State.

If you go to any service stations, like I was last weekend I had my truck inspected, and I inquired about this Bill, because I listened to some of the debate, it is common knowledge among the people who are doing these inspections, that some of the people who are in there for inspections are one month, two months, three months and some as much as four months, over due on their reregistrations.

There is no way that any State Policeman is going to give you a permit if he catches you on the highway to get to the nearest registration station, you are going to court.

Now there is a certain loss due to these registrations. If a constituent of yours has his expiration passed by four months, and he has not been caught and someone in the family notices, the best thing for him to do is to go down when he fills out his application for registration, where it says re-registration or new registration, he will put down new registration, because he already has had the benefit of 4 months. That is a loss to the State of approximately 1/3 of the revenue.

To give you an example; a local youth, in my town, who attends the University of Maine at Farmington, his father is a common laborer and the boy commutes between Mexico and Farmington. This boy is driving his dad's car never notices the expiration of the registration. He is stopped on the road, taken to court, fined \$35.; a loss of 3 points on his license, the Secretary of State notified the Insurance Company. The insurance company notified his parents that he would have to have financial responsibility, in other words another \$800., tacked on to his costs for operation of a Motor Vehicle, and he cannot operate.

I think that if we are given the opportunity to amend this Bill, we could save some of your constituents untold thousands of dollars in insurance costs alone, plus the fees and not having the notoriety of having the first offense being that of one of an unregistered Motor Vehicle. Thank you.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Emerson, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of Accepting the Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

14 Senators having voted in the affirmative and 10 Senators in the negative, the Motion to Accept the Majority Ought Not to Pass Report does prevail.

Divided Report

The Majority of the Committee on Transportation, on, 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)

Reported that the same Ought Not to Pass.

Signed:

Senators:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

HUTCHINGS of Lincolnville
STROUT of Corinth
HUNTER of Benton
McKEAN of Limestone
JACQUES of Lewiston
BROWN of Mexico
ELIAS of Madison

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

LOUGEE of Island Falls
McPHERSON of Eliot
CARROLL of Limerick

Comes from the House, the Minority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-40).

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot Senator Emerson.

Senator EMERSON: I move that we Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Penobscot Senator Emerson now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate. I would urge the Senate to oppose Accepting the Majority Ought Not to Pass Report.

Minors we do not trust to drink, to vote, to sign contracts, because basically we do not trust the judgment of the minor.

During the past session of the Legislature, I voted for a Bill to eliminate the requirement of helmets. I did that because I felt, I should not protect people against themselves. Since that time I have had misgivings, someone asked me to come into the hospital in the city to see some of the injuries that occur to Motorcyclists who do not wear helmets.

First of all, what happens is, that they get in many cases severe spinal and head injuries. Then the public, picks up the cost of maintaining these people for the rest of their lives. A study was handed to me this morning, it is put out by the US Department of Transportation National Highway Traffic Safety Administration, called the Effect of Motorcycle Helmet Usage on Head Injuries and the Effect of Usage Laws on Helmets wearing Rates. The conclusions of the study, say that "Motorcyclist who do not use safety helmets have twice as many total head injuries and 3 to 9 times as many fatal head injuries, as helmet wearers." Also in states with mandatory usage laws helmet wearing is high by 90 to 100 percent, but the usage rate falls off rapidly to less than 60% following repeal of such laws.

I feel that because the public does pick up the costs, and the costs involved hundreds and hundreds of thousands of dollars to maintain these people in hospitals and afterwards, who receive severe spinal and head injuries, this Bill deserves passage.

The PRESIDENT: The Chair recognizes the Senator from Aroostook Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate.

I also voted for a Bill, sponsored by the Senator from Oxford Senator O'Leary to eliminate the requirements that people wear helmets, riding motorcycles.

At that time, I discussed with him the possibility of amending that Bill, to require minors up to the age of 18 or whatever, to wear helmets. My reasoning was this, during the debate on that Bill we heard a great deal of testimony from bikers, adult bikers who said, "I am going to continue to wear my helmet, even if you repeal the law, I just do not want to be forced too". I think that you will see many bikers continue to wear their helmet even though the Law, requirement is no longer in the statutes.

My concern is, now we have gone from a period of no helmets, to helmets, back to no helmets and people who were forced to wear them, perhaps had a minor accident who saw how much benefit that the helmet could have been to them, are going to continue to wear their helmets, that is fine.

But our young people coming along, who will not have had the benefit, if you want to call it that of that law, they have never been forced to wear a helmet, and they certainly are probably not going to wear them, unless their parents or someone forces them to do so. I do not think that this is too much of a requirement to ask that a person starting out riding a motorcycle, as a driver at 16 or whatever age, as a passenger at perhaps a younger age, should be required to wear a helmet.

At the age 18 they can make a determination whether they take it off, or leave it on, and then we have pretty much put their own destiny in their own hands, as we do in the terms of alcohol, in terms of voting rights, marriage rights, contractual rights, and so I think that this Bill is a good one. It would just be another step toward being consistent with the rights of younger people.

I would certainly hope this morning when we vote on this Bill, that we would vote to accept the Minority Ought to Pass Report, Mr. President I would request a Roll Call on the vote.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate. If I understand the evaluation rendered to us by Senator Trotzky, of Penobscot, the only people who are driving motorcycles today are indigent or welfare cases. I would like to assure the good Senator that is not the case at all.

The first thing, that I found that would be objectionable with this particular Bill, and I think that it has been misconstrued by our second speaker Senator Carpenter, is that this only applies to the passenger who might be under age 18 on that Motorcycle.

More serious than that, this places another burden on our Maine Law Enforcement Agencies. To make a determination who is age 18 or under, if I should have a passenger on that particular motorcycle. If you Ladies and Gentlemen look at some of the youngsters today, who are 16 and 17 years of age, 6 foot 1 & 2 and 200 or more, you just can't make a rational determination at that particular, point if that person is under 18 or over 18.

—This places a very serious burden and responsibility upon the driver, according to that amendment. That if the driver of that motorcycle, is in collision with a vehicle, that possibly could mean, if he has picked up a passenger who he assumed was age 18 or over, and did not have an extra helmet on that motorcycle, that could mean possibly that he would lose his standing insurance, this would be very very bad. In fact when I look at the Bill a little more closely it has a connotation which is quite beneficial to the insurance industry.

Let us look back in 1977, we had 25 deaths in the State of Maine and in 1978 we had 27 deaths. I think that there was an increase in registration of motorcycles by about 3,000. Presently, registered motorcycles in the State of Maine total 47,487 motorcycles. It might be interesting to note at this particular point, that 920 of

these are registered to minors. Now not a single minor in the State of Maine under age 18 was killed in 1978, basically at this point, what is the problem?

States like California for example, have at least ½ the death rate of New York State. California does not have a helmet law. I think Mr. President and Members of the Senate, that we are infringing on a very delicate area, I am just as concerned with the welfare of our youth in the State of Maine, as well as the adults who ride on motorcycles, but you can get killed just as quickly in a car, possibly by not having a seat belt on. Are we going to mandate everything including common sense?

There is no argument on the point of anybody relevant to wearing a helmet, it should and should remain freedom of choice for that individual who is taking that particular chance. I would hope, Mr. President and Members of the Senate that you would Accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Cumberland Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I speak this morning in support of the thought expressed by the good Senator from Penobscot Senator Trotzky.

I would urge the Senate to vote against the pending Motion of Accepting the Ought Not to Pass Report.

The Bill before us is perhaps a little bit different than one that we have considered in the past. We passed Legislation years ago saying that one must wear a helmet, we repealed it in the last session, saying that they did not or no longer had to wear helmets. But I believe that when we get down to the real basics, we are talking about really Public Safety. We are talking about the safety of the individual.

A short time ago we had, a Bill before the Legislature, in fact this Bill was in 4 years ago, the good Senator from Androscoggin Senator Minkowsky, who was one of those who supported it to the top degree and that was dealing with transportation of school children. Certain buses and the requirements of what buses had to have, whether you were in a Transit District or whether you belonged to an SAD out in the rural part of the State.

The big issue was Public Safety, that we wanted to provide measurements and measures that made sure that children in high populated urban areas, were given the same protection of being taken to school, and taken home from school, as those who were riding in SAD buses.

Our Constitution provides for just about everything for the rights of individuals, but the States have always enacted laws, we felt were necessary to enact to provide more protection for individuals. I think that passing this Bill. Accepting the Minority Report shows just a little bit more concern, that we have the youngsters, who get on these motorcycles and scoot down our highways. We require under the motor vehicle law that automobiles must have certain things, they must have headlights, tail-lights, blinkerlights, exhaust system must be right, everything has got to be perfect in that vehicle, the tires etc. in order to insure safe passage of the individuals in that vehicle or people in other vehicles.

I look upon this particular measure as one to provide perhaps, just perhaps, to provide a little bit of additional safety, in the event that one of these things are turned over on one of our highways or wherever the vehicle may be driven. So I would urge the Senate to vote against the pending motion. In fact I would even like to have an amendment put on the Bill, that would reinstitute the entire act that we had a couple of years ago, requiring all motorcyclists to wear helmets.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York Senator Hichens.

Senator HICHENS: Mr. President, before I get into the content of the Bill, I think that the Transportation Committee ought to be congratulated for trying to save the State money. I may stand to be corrected, but I think that every Bill that has come out so far has been Ought Not to Pass, so they have saved all of those printing costs, and so forth, of having a Bill go along through the procedure.

On the Bill, itself I too voted to give the motorcyclists the choice of whether they wanted to wear helmets or not, two years ago. But I am very much concerned with the passengers that ride on these motorcycles. I feel that those driving the motorcycles have the help of the handlebars, to protect themselves or to keep their balance, and so forth. The passengers on the back do not have any protection at all, a sudden swerve they can be thrown off very easily. I have seen too many of these youngsters 13, 14 riding on the back of these motorcycles, without any helmets and it scares me everytime that I have seen them, I would be against the motion.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate. It was pointed out 2 years ago, very clearly that wearing a helmet, with the quality of the helmets that were sold here in the State of Maine, was false security.

False Security, the helmets that were before the Transportation Committee 2 years ago, could not stand an impact of 4 miles per hour, that is just dropping them. Some of the examples that were brought forth, from people with head injuries were more severe, because of wearing the helmets than not having it on at all.

The attitude, I think of people, is to look for safety. Senator Conley may be correct in certain aspects of his evaluation, but there was no valid statistics either, from the Federal Government at that time, or in the State of Maine, to make a clear determination, how many people actually died from head injuries. When this was researched to a degree to the tallest, we found that most of the injuries were internal injuries or severing an artery where a person died from bleeding, not from head injuries.

This is not to say Members of the Senate, that people have not died from head injuries, but if you want to go out and spend \$65, \$80 or more to buy a quality helmet, you still might hurt or you still might break your neck, predicted upon the impact of that motorcycle against whatever it strikes.

But again, this certainly appears to me, a degree of discrimination, against people who are under age 18 who some people believe do not have enough common sense, which is not true, they have a great deal of common sense, versus people over age 18 who are supposed to be endowed with all the wisdom in this world, this also is not the case. So from the viewpoint of discrimination and from the viewpoint of safety with or without helmets, this is still a personal choice and I think that we should either repeal the entire law on that particular basis, but not just pick it apart piece by piece.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec Senator Pierce.

Senator PIERCE: Mr. President, I would ask permission to Pair my vote with the Senator from Kennebec Senator Katz. If he were

here I would be voting yes and he would be voting no.

The PRESIDENT: The Senator from Kennebec Senator Pierce requests Leave of the Senate to Pair his vote with the Senator from Kennebec Senator Katz, who if he were here would be voting Nay and the Senator from Kennebec Senator Pierce would be voting Yea. Is it the pleasure of the Senate to grant this leave? It is a vote.

The pending question before the Senate is the Motion by the Senator from Penobscot Senator Emerson, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Ought Not to Pass Report.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Chapman, Cote, Devoe, Emerson, Huber, McBreairey, Minkowsky, O'Leary, Sutton, Usher.

NAY—Carpenter, Conley, Hichens, Lovell, Martin, Najarian, Perkins, Pray, Redmond, Shute, Silverman, Trafton, Trotzky.

ABSENT—Clark, Collins, Danton, Farley, Gill, Teague

PAIRED—Katz-Pierce.

A Roll Call was had.

11 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators Pairing their Votes and 6 Senators being Absent, the Motion to Accept the Majority Ought Not to Pass does not prevail.

The Minority Report Accepted.

The Bill Read Once.

House Amendment "A" Read and Adopted in concurrence.

The PRESIDENT: The Chair recognizes the Senator from Cumberland Senator Conley.

Senator CONLEY: Mr. President, I move that under Suspension of the Rules, the Bill be given its Second Reading at this time.

The PRESIDENT: The Senator from Cumberland Senator Conley, now moves that the Rules be Suspended, in order that this Bill be given its Second Reading by Title Only at this time.

The Chair recognizes the Senator from Oxford Senator O'Leary.

Senator O'LEARY: Mr. President, so that we may have an opportunity to amend this Bill, I would oppose the motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of Suspending the Rules, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

5 Senators having voted in the affirmative and 18 Senators in the negative the Motion to Suspend the Rules, does not prevail.

The Bill, as amended, tomorrow assigned for Second Reading.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Permit Waiver of Facilities for the Handicapped in Certain Buildings." (S. P. 135) (L. D. 312)

Leave to Withdraw

Senator Collins for the Committee on Judiciary on, Bill, "An Act Authorizing the Use of Nondeadly Disabling Chemicals for Self-defense and for Property Protection in Certain Circumstances." (S. P. 83) (L. D. 169)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Senator Ault for the Committee on State Government on, Bill, "An Act Relating to Compensa-

tion of the Public Utilities Commission. (S. P. 106) (L. D. 205)

Reported that the same be granted Leave to Withdraw.

Which Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot Senator Devoe.

Senator DEVOE: Mr. President and Members of the Senate. I will be brief, because I am not opposing the Leave to Withdraw Report of this Bill. But I do want to bring to your attention, what the topic is that the Bill addressed; that this body and this Legislature will have to face up to, I think in the near future. Virtually all of the department heads, now have their salary ranges established by statute. The wording of the statute provides that the adjustment in salaries may be made at the time of the appointment of the official and subsequently as provided by law. That means that when the Commissioner of Transportation, Conservation, Commerce and Industry, Finance and Administration and about 7, 8 or 9 others are appointed, their salary may be adjusted and also subsequently during their term the salary may be adjusted.

However, there happens to be one department head, namely the Chairman of the Public Utilities Commission and the Members of the Public Utilities Commission, whose salary statute is in Title II, Section 6A, and the wording of the statute is a little bit different in that instance. It simply says "that the salaries of the following State Officials, within the salary ranges indicated herein may be adjusted only at the time of the appointment of the individual."

Now as we all know the terms of the Public Utilities Commissioners are 7 years in duration. This statute as it presently is worded, means that once a person is appointed to the Public Utilities Commission, their salary is frozen for a term of 7 years.

Now I was not in the Legislature when this Statute was enacted, a few years ago, that carved out the members of the Public Utilities Commission from all the other departments, but it is something that if this term does not face it, then the next session of the Legislature will probably have to face, because at present we are locking in members of the Public Utilities Commission to a salary schedule that is fixed by the Governor at the time of the appointment. From that time on for the duration of their terms their salaries may not be increased. Thank you very much Mr. President.

The Report Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Senator Cote for the Committee on Legal Affairs on Bill, "An Act to Permit Hotel or Motel Managers to Eject Disruptive or Destructive Persons from their Premises and to Require these Persons to Assume Responsibility for Any Damages Caused." (S. P. 33) (L. D. 21)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-18)

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act to Dissolve the Proprietors of the Centre Meeting-House in Farmington." (H. P. 329) (L. D. 366)

Bill, "An Act Relating to the Transfer of the Planning and Development Functions of the Urban Renewal Authority of the City of Bangor." (H. P. 160) (L. D. 188)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

House — As Amended

Bill, "An Act Amending the Sardine Tax Law." (H. P. 128) (L. D. 133)

Which was Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: "An Act Relating to Avoidance of Contracts Made on the Lord's Day" (H. P. 136) (L. D. 146)

"An Act Relating to the Liability of Parents or Legal Guardians for Damage by Children." (H. P. 4) (L. D. 10)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Exclude Certain Academies from the Category of "Public School." (S. P. 66) (L. D. 110)

On Motion by Senator Pierce of Kennebec, Tabled for 1 Legislative Day, pending Enactment.

Orders of the Day

The President laid before the Senate the First Tabled and specially assigned matter.

Bill, "An Act to Strengthen and Streamline the Habitual Offender Law." (S. P. 9) (L. D. 16)

Tabled—February 23, 1979 by Senator Katz of Kennebec

Pending—Enactment

This being an emergency measure and having received the affirmative votes of 24 Members of the Senate, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the Second Tabled and specially assigned matter.

Bill, "An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons other than Arborists to Remove Trees within Municipal Boundaries." (S. P. 219)

Tabled—February 23, 1979 by Senator Redmond of Somerset

Pending—Motion of Senator Redmond of Somerset to Refer to Committee on Local and County Government

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, there has been considerable interest in this Bill going to Agriculture, as it is suggested.

I am not sure whether the Senator from Somerset Senator Redmond, is going to Withdraw his Motion to send it to Local and County Government, if he chooses not to, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion by Senator Redmond of Somerset, that this Bill be referred to the Committee on Local and County Government, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

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

Senator HICHENS: Mr. President I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. The Senator has the floor.

Senator HICHENS: Mr. President and Members of the Senate. Two years ago, the Committee on Agriculture heard 3 Arborists Bills, already one has been assigned to that committee. The Arborists Association, comes under the jurisdiction of the Department of Agriculture and I see no reason why it should be going to Local and County Government. So I will ask

for a Roll Call on the Motion.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I spent 7 months in the last session trying to kill this Bill and there is nothing that I would like better then to see it get locked up between committees.

The PRESIDENT: Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, the only reason that I wanted this to go to Local and County Government is because there is no problem with the statutes as they are now. They are very well defined what a Woodcutter is, and what the substance of an arborist job is and so forth.

It is just a matter of Local Control, the town in which I use to live, they would like to have the opportunity to decide for themselves, if they want a lumberjack to cut a tree down. Instead of, as it is now, they don't have the opportunity to make any decision. They have to hire someone that the Department of Conservation has licensed.

It would simply take it away from the Department of Conservation and give it to the municipalities. That is why I thought Local and County Government would be more apropos.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President; we have tried very hard to refer Bills in an orderly fashion. In this respect the reason that we are recommending that the Bill go to Agriculture is that the Bills for Arborists go to Agriculture. This is the committee with the expertise on it, this is the committee that is presently considering other Bills pertaining to Agriculture.

I think that the reference of Bills is a serious factor if you believe in the Committee structure and I certainly do, let's try to send the Bills to the Committees that are already discussing the issue.

The PRESIDENT: The Chair recognizes the Senator from York Senator Hichens.

Senator HICHENS: Mr. President, and Members of the Senate. Just to refresh your memories, this other Bill which has already been referred to the Committee on Agriculture, states that no one can cut a tree, without the supervision of a Licensed Arborist.

The Bill, which we are now debating, as to what Committee it should go to gives the local officials the right to have a tree cut by anyone. This other Bill will contradict it, so I think that we should hear them both at the same time, they are both related to each other.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from Somerset Senator Redmond, that this Bill S P 219 be referred to the Committee on Local and County Government

A Yes vote will be in favor of Referring S P 219 to the Committee on Local and County Government.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Cote, Emerson, Minkowsky, O'Leary, Pray, Redmond, Sutton, Trotzky, Usher.

NAY—Ault, Carpenter, Chapman, Conley, Devoe, Hichens, Huber, Katz, Lovell, Martin, McBreaity, Najarian, Perkins, Pierce, Shute,

Silverman, Trafton.

ABSENT—Clark, Collins, Danton, Farley, Gill, Teague.

A Roll Call was had.

9 Senators having voted in the affirmative and 17 Senators in the negative, with 6 Senators being Absent, the Motion to Refer this Bill to the Committee on Local and County Government does not prevail.

Which was Referred to the Committee on Agriculture and Ordered Printed.

Sent down for concurrence.

Senator Minkowsky of Androscoggin was granted unanimous consent to address the Senate, On the Record.

Senator MINKOWSKY: Mr. President and Members of the Senate, last Friday and Saturday, the Special Task Force on Economic Affairs under the Council of State Government in Pennsylvania to discuss issues relevant to all of our regions, in particular the State of Maine.

I would just like to give you a brief overview of exactly what transpired. We discussed four areas, which I thought were very relevant to our situation in the State of Maine. I am going to give you follow-up material as it is completed by the staff.

The first area Unemployment Compensation, and I think that most of us are aware that Maine is in debt to the Federal Government to the tune of about \$42, to \$74 million dollars.

The second area Urban Job Creation Incentive-CETA

Thirdly the Department of Defense issues and this will entail the situation at Loring Air Force Base.

Finally the most prevalent problem that we are presently facing Energy, in the State of Maine.

We also had as our guest, Congressman Robert W. Edgar, who is the Chairman of Northeast-Midwest Congressional Coalition. Who discussed those four topics, in addition to the actions of the Congress that will be taking place this year, on the above matters as I mentioned, to you.

But in addition to that Mr. President and Members of the Senate the Congressmen passed out a Booklet THE STATE OF THE REGION, which I found very very interesting and very informative and it covers such areas, which I think we are concerned with in the State of Maine, I will just list a couple of areas: What states are likely to show the Largest Population Growth through the Year 2000? What State lost more than 327,000 non-agricultural jobs between 1970 and 77? Which US cities are projected to have the highest Employment Growth of 1985? Which States Pay the Lowest and Highest Prices for Energy? Along these lines, I thought possibly, if any member of the Senate would be interested in a copy of this Booklet, I would be very glad to provide them for them. Thank you Mr. President.

The Senator from Kennebec Senator Katz, was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec. Adjourned until 10 o'clock tomorrow morning.