

much debate about this particular bill and method by which it was placed into the statute books. There was a threat by the Department of Transportation that if the state did not adopt a motorcycle helmet law, certain highway development funds would be cut off. California and Illinois which are two states with powerful, political clout chose not to adopt such a law and by so doing they freed the rest of the states and left it a matter of choice. The heavy hand of the federal government has been stayed. There was not going to be any withholding of funds from California or Illinois. As a result of that no state has had funds withheld. In addition to those observations, I handed out to you the other day a copy of an order handed down in Lancaster District Court, whereby an injunction was issued prohibiting the enforcement of the statute which was adopted by the Legislature. It was ruled unconstitutional vague and uncertain in violation to the fifth amendment to the US Constitution and the fourteenth amendment Section one. Also Article 1, Section 3 of the Constitution of Nebraska. The law which is currently on the books has been ruled to violate the US Constitution and the State Constitution. Such being the case, I feel that it is dead language and should be stricken from the books. It will not be there to allow the possible harassment of anybody who might chose to ride a motorcycle without a helmet. Currently the law is not being enforced. There is a judges order preventing it from being enforced. Never-the-less while it is on the books, a law officer could take advantage of its presence and do things which I am sure that none of us are in favor of having done. So, to avoid all of these difficulties and to put the statute in the form that it should be put in, I'm asking that LB314 be returned to Select File for the purpose of adding this specific amendment. The amendment would strike the requirement which has been ruled unconstitutional that a person must wear a helmet when riding a motorcycle, or be subject to certain fines.

PRESIDENT: Senator Kremer.

SENATOR KREMER: Mr. Chairman, I don't know if this is a question or a comment. Senator Chambers I would like to ask you a question if you would yield please. Actually you have answered the question.

SENATOR CHAMBERS: Should I sit down?

SENATOR KREMER: No you stay right up there. I trusted you up to this point and I think that I will from now on too. You are telling me that the section that you are dealing with has to do only with the helmet?

SENATOR CHAMBERS: Yes, and that is why I stated in here specifically that I checked the statutes back here to make sure that that is the only portion that I am dealing with. I'll get you a copy of the statute and show you...

SENATOR KREMER: The law as it is now on the books has been declared unconstitutional.

SENATOR CHAMBERS: Yes, and I handed a copy of the order around, there might be...Senator Barnett might be aware of it having been ruled because it was in Lancaster County District Court. It has not been overturned. The injunction is still in effect.