

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD  
OF THE  
Ninety-first Legislature  
OF THE  
STATE OF MAINE



1943

KENNEBEC JOURNAL COMPANY  
AUGUSTA, MAINE

necessary, but if you look at Legislative Document 810 you will find the statutes are amended to read, "Interests in municipal contracts prohibited. No municipal officer shall be interested, directly or indirectly, in any contract entered into by such municipality while he is an officer thereof; and contracts made in violation hereof are void." In explanation, I will say I made inquiries about this and found when the original bill went to the committee it had other matters in it and the title of it would have been appropriate, but when the bill was reported out the other matters were not favorably acted upon. In other words, it was sent out as a new draft and the title was not changed, and it didn't seem to me this bill should go through under the title of "An Act Relating to the Sale of Tax Acquired Land."

Thereupon, Senate Amendment "A" was adopted, and the bill as so amended was tomorrow assigned for second reading.

On motion by Mr. McGlauffin of Cumberland, the Senate voted to take from the table, Majority Report "Ought to Pass," Minority Report "Ought Not to Pass" of the Committee on Ways and Bridges on "Resolve Proposing an Amendment to the Constitution to Limit to Highway Purposes the use of Revenues Derived from the Taxation of Vehicles Used on the Public Highways and Fuels Used for Propulsion of such Vehicles" (S. P. 233) (L. D. 339) tabled by that Senator earlier in today's session pending acceptance of either report.

Mr. McGLAUFFIN of Cumberland: Mr. President, I move the acceptance of the minority report "ought not to pass." I am definitely and decidedly against this measure. I have given the matter very careful consideration, not only at this session, but when the same proposition was presented to the legislature two years ago and failed of passage. I am going to tell you why I am opposed to it. I propose to give you reasons that should appeal to the judgment of any sane man. First, I want to call your attention to the fact that the Constitution is something that is supposed to lay down fundamental principles and as I have stated previously on other occasions in the House, the Constitution is like

the steel framework of a building. It is put there to stay. The floors and the ceilings, and the walls can be readily changed and that is the legislature's part. I say to you that the spending of money is not a fundamental principle. It is a matter of sound judgment. A matter of this kind has no place in the Constitution. Whether you are spending your own money or spending the money of the state, it is always a question of good judgment as to how that money is spent. There is nothing fundamentally wrong in spending money for schools or for hospitals or for highways or for numerous other things for which money is expended, and every last one of you have got to agree with me that that is sound, common sense; that the expenditure of money is a question of good, sound common sense. So I say to you that this is a matter that should never be in the Constitution at all.

The second point I want to call to your attention is this,—what is the provision in the Constitution, itself, as to the making of an amendment? If you will read, you will find that when two-thirds of both branches of this legislature deem it necessary, they shall submit such a measure to the people. That means, gentlemen of this Senate, that you, yourself, must be convinced that such a measure is necessary before you pass it on to the people. Now you have doubtless heard time and again this statement put up to you by way of argument, "Let the people vote on the question." Gentlemen, that is ducking the question and it is passing the buck. That isn't an argument; it is merely an excuse, to say to you "Let somebody else do it." How under God's heaven can they convince you it is a reason for doing it? They should present to you sound and logical reasons why this measure is necessary, and that is something they cannot do. Why? Because the law right this minute is that their funds cannot be diverted. I have no objection to that law. I have no idea whatsoever of diverting those funds, but I certainly don't want this legislature or any future legislature to have their hands tied so that when they are facing a problem that requires them to change their position, they will not be able to use plain, ordinary, common sense because of their hands

being tied; and this is exactly what the proponents of this bill are trying to do.

I say to you gentlemen that not one of you can deny the statement that I have made that there isn't any present necessity for such change and there isn't any prospect in the wind anywhere that anybody has the remotest thought of trying to change the law as it exists today. Therefore, I say to you that my second point is sound and you ought to have the good judgment and good common sense to see it in spite of what the lobbyists have been doing in the House and Senate to convince you otherwise.

The third point I want to call to your attention is this, that in the general public there isn't the slightest demand for this measure. I meet in the course of a year a great many men and in the past year, outside of this legislature, I have never heard a single man say that he wanted or needed such legislation. Now, that doesn't mean that there won't be a demand. I will tell you how this demand will come about. This measure is supported by one or two organizations that have the selfish motive of hogging this money for their own advantage. Now, the Good Roads Association will tell you that this is automobile money and ought to go on the highways, but they don't tell you that we spend thousands and thousands of dollars, and always have, of money that comes from the taxation of real estate. If you want to put in the Constitution that this money shall be applied to highways and that not one dollar shall be taken from real estate taxation to pay for highways, then there is an argument. But I have not seen a man anywhere that wants to cut out the money that is raised from real estate taxation, and can't you see that that kills the logic of their argument that this must go only on highways when they are also demanding that they get money from real estate?

Now, I have said that I will tell you how this demand will come about. They come to this legislature and they say to you, "Gentlemen, let the people vote on it. Let the people vote on it." How often I have heard that repeated. If you have been lobbied, as I presume every last one of you have, you have

heard it too. "Give it to the people"—and then there is a chance for an argument. They go up in Somerset County and they say, "Senator Friend voted for this measure. He heard the arguments. It was discussed in the committee and it was discussed in the Senate." The voter doesn't know a thing about it and doesn't care a thing about it, but when they put up the argument that Senator Friend is for it and endorses it, that gets votes and creates a demand, an artificial demand to be sure, but a demand. Then they go to Washington County and they say, "Senator Washburn voted for this measure. Senator Washburn deemed that it was necessary. Senator Washburn deemed that it was wise." Senator Washburn is a man of high standing in Washington County. When you put that argument up, it has effect. That is the way they get this artificial demand. Don't you think that it is difficult? In the House two years ago petitions came in by the thousand, thousands of petitions not to pass the cigarette tax bill, and there probably wasn't one in ten who signed those petitions who could give a sound reason why he did so. One would say he signed because he was asked to do it and wanted to be accommodating. You can get petitions for almost everything. I have seen several hundred petitions to have a man sent up to this legislature and every last man who signed knew that the man was totally unqualified to sit here, but they didn't want to hurt his feelings so they signed the petitions. It is easy to get an artificial demand, but I say there isn't any demand today.

My next point is this. Two years ago no living man could foresee the events that have taken place in this country and in the world since December 7, 1941. I am telling you there isn't any man here, I care not how wise he may be, that can foretell the problems that will confront the legislature five years from today. So I say to you that it isn't wise for this legislature to say that we know so much more than the members of the legislature who will sit here five or ten years hence will know about how to solve their own problems, that we must solve the problem now by tying their hands so they can not use their own good judgment. Now, gentlemen, you

cannot get away from that argument. It is sound. I was talking with one of the members of the Senate, a man for whom I have the highest respect, a very lovable fellow, and he was honest enough to say frankly that the reason he was for the bill was because he was afraid that some legislator of the future would not know as much as he knows. Now, I admire his honesty but I question his judgment when in the face of arguments which he has got to admit are sound, he still goes along with such a measure.

I have tried in my weak way to present to you a sound argument why you should not pass this measure, and I want to close by saying this: Every word that I say here today goes into the public record. The public at large is going to have an opportunity to decide whether the words I speak here this morning are words of wisdom or whether they are foolish; but don't you forget that that same public is going to decide whether your vote is wise or foolish when it is considered in the light of the argument that I have presented to you.

**THE PRESIDENT:** The question is on the motion of the Senator from Cumberland, Senator McGlauffin, on the acceptance of the "Ought Not to Pass" report.

**MR. DORR of Oxford:** Mr. President, my brief remarks are not for the purpose of getting on the record. When this bill was advertised and a public hearing was held, my good friend, Senator McGlauffin did not appear in opposition to this measure. In fact, as I recall it, there was no opposition. Now, it has been the custom in the past and is at present, to allow the members of this legislature to appear before the committee in executive session and state their views for or in opposition to the bill, which in my judgment is poor practice. Senator McGlauffin requested he be allowed to appear before the committee in opposition to the bill and that request was granted. He presented his argument in opposition with his characteristic vim and vigor and he finally steamed himself up to the point that he wanted to wager the committee ten dollars that if they would pick ten men at random, he could change the minds of fifty percent of those men in fifteen minutes. I had wondered just what

the Senator meant because prior to his appearance I was suspicious there would be more than two names on the minority report.

If I were as disturbed as Senator McGlauffin apparently is, regarding the fundamentals of our Constitution if this bill receives passage, I would be vigorously opposed to it as Senator McGlauffin is. During his remarks I had wondered whether the people in my county, when they elected me to the legislature, thought they were electing a subman whose judgment was infallible. I wondered whether they had in the back of their minds the thought that they would like to vote on some measure that came before this legislature.

Now, the people of the State of Maine are paying taxes for registration of motor vehicles, and are paying tax on gasoline with the understanding that the money shall be used on our highways, and from the volume of letters and telegrams I have received—all in favor, not one in opposition—urging the passage of this measure, I have become convinced that the people of the state of Maine would like to vote on it. I feel it is their privilege and certainly I have no objection.

I think that this measure, if passed, would not be in any way disturbing to any emergency that might arise. Our state finances are in fine shape and I cannot anticipate unless we have an invasion by the enemy, why there should be any call for a tremendous amount of money. Our state is in such a position that in an acute emergency, money could be raised by notes. It has been done in the past and could be done if this measure passed,—borrow from the highway funds, and I can not agree with the Senator from Cumberland, Senator McGlauffin. I hope when the vote is taken the motion to accept the minority report will fail of passage.

**MR. MCGLAUFFIN:** Mr. President, I want to say one word in reply to the statement that Senator Dorr made regarding my appearance before the committee. I did say that I would bet ten dollars to a doughnut that I could take ten men and convince half of them that this bill should not pass, but I had no thought in my mind whatever of that committee, and I was not making my bet regarding their vote, for I didn't have any idea that

I could convince any of them when I went in. I tried to get the bill referred to another committee, as you may remember. I want to say that I made that remark advisedly because I, myself, have gathered together several different groups of men, placed my argument before them, and it was not fifty percent but it was one hundred percent that agreed with me.

Mr. BROWN of Aroostook: Mr. President, as a signer of the Minority Report "Ought Not to pass," I think it is incumbent upon me to express some of the reasons that determined me in that course. The Senator from Cumberland, Senator McGlaulin has well covered the ground, and as the time is short, I hope I am not going to bore you to any great extent.

I want to say I was not swayed by the position or the argument of the Senator from Cumberland, Senator McGlaulin, although I admitted it. I think our minds run along the same direction—great minds do that sometimes, they say. I am opposed to putting this into the Constitution for some of the same reasons. One time I thought I was cut out to be a lawyer and I had several years experience in the office of one of the ablest attorneys the State of Maine has ever produced, Honorable Charles F. Johnson of Waterville, who afterwards had the honor to be elected Democratic senator from Maine. If he had not been an able man he would not have received that honor. One thing he attempted to impress upon me, and I was not entirely able to grasp it then as I was young and my mind was immature and perhaps was not taken up as it should have been in the study and intricacies of the law,—was the difference between constitutional and statutory law, that constitutional law was the base law upon which statutory law was based, and nothing of a transitory nature, nothing regulated by statutory law should be in there. In other words, it was the framework of government.

I have understood ever since I came to the legislature that it was the duty and prerogative of the legislature to assess taxes and spend money. There is no place in the Constitution for an amendment of this sort. In fact, we have already put in our constitutions, both state and national, things that never

should be there. As I have said, it is a prerogative and duty of the legislature to raise, assess, and levy taxes and spend the money. It is the main proposition for which we are here, and from what the people outside say, I think they believe our main purpose is to spend money.

This, to me is entirely a matter of statutory law. We already have a law upon our statute books which is a law initiated by the people. They didn't ask for a constitutional amendment. They wanted a law placed upon the statute books and it is there at the present time.

There has gone out a great propaganda to the people, emanating from certain associations in the state of Maine that, as Brother McGlaulin says, are selfish in their desire that it can never be touched no matter what the circumstances are, no matter how the state of Maine may need it and no matter how the legislature in its wisdom may decide. I am not one who believes wisdom will die with us. I believe future legislators will be just as able, just as free minded and just as sensible and good legislators as we are. If we place this in the Constitution we bind the hands of all future legislatures so that no matter what the circumstances may be, that legislature can not even borrow, as I understand this statute, because when you borrow, no matter how good the security—and no department has any security against the state—there is always the possibility it cannot be paid back.

There has been a great propaganda gone out among the people that the legislature has stolen the highway money. I have heard it said time and again, but so far as I know and am able to find out, it is absolutely false. There are only two cases where the state, the legislature has taken money from the highway fund. One of those was during the time the state finances were in very deplorable condition. There piles up in the highway department during the winter months a vast amount of money from registrations, etc. The state needed money as we were in a depression, practically broke, and they borrowed \$400,000 from the highway fund in anticipation of taxes which were not then coming in from the counties and towns. That money, I understand, was afterwards paid back. The second time was under

circumstances four years ago, when we had thousands of people on old age assistance who were entitled to money, entitled to assistance, and we were still in this Roosevelt depression and there was no money to pay them, the legislature saw fit to put 25% of the care of old age back onto the towns but they were not able to bear it, and in lieu of it they granted the towns the same amount of money out of highway funds to be used for highway purposes. There is a question whether that was actually a diversion because every tax dollar raised went on to the roads.

Now, I don't believe there is any such thing as a sacred tax dollar, that the taxes raised by the people of the state of Maine, in case of dire emergency cannot be used or shouldn't be used for any purpose that the legislature deems wise. If we are going to segregate funds for certain purposes and put a provision in the constitution that they can't be used otherwise, why not have a constitutional amendment for the cigarette tax? That was passed to pay for old age pensions and it would be just as desirable to pass a constitutional amendment that the money derived from the cigarette tax should be used for that purpose only so that future legislators could not possibly steal it or use it for any other purpose.

One of these associations which is so very anxious to safeguard the highways sent out a lot of literature and propaganda and agents throughout the state in opposition to the one-half cent gas tax which was raised two years ago for the purpose of relieving our country towns of some of the burden of highway maintenance. But these people didn't want that because it was taking tax money and putting it into rural sections where they weren't going to ride. It wasn't going to the state highways. And therefore, they sent out men to get petitions and in a referendum finally defeated it. One of the gentlemen in the "Triple A" came to me and asked me to sign a petition and I said, "Why do you want me to sign this?" He said, "We are paying too much tax anyway and it isn't going to do any good anyway because it is going to be used for cutting bushes and snow removal on the country roads." I said, "Whom do you represent?" He said he represented the Automobile

Association of America, of which I am a member, or was at that time, and paid my ten dollars annually for the privilege of belonging. I said, "Do you represent the members?" And he said, "Yes." I said, "How do you know you represent them, have you taken a poll?" And he said no, but the executive committee had talked with members and everyone was in favor of it. And I said, "If every one you have seen has been in favor of it, take a good look at me because I am not in favor of it and I was one of the men who helped put that law on the statute books and now you are taking my ten dollars and pretending to represent me in trying to defeat a law which I helped to pass." And I said, "You have got the last ten dollars that you will ever get from me."

Now, those things happen over and over again and while I haven't the ability of Senator McGlauffin, I have talked over the state of Maine in favor of a certain bill in which I was interested and I never yet saw anyone but who, out of politeness perhaps, would say they were in favor of it. But I haven't been able to convince the ten men I wanted to convince that I was right. It is so easy, when you only present one side of the argument and not the other, to convince people and I suspect that a great deal of the Senator's argument has been before a jury who from the very requirements are supposed to know nothing about the subject and in fact, they almost have to qualify as nitwits before they can sit on a jury, and it is easy to convince that sort of people.

We are at the present time working under an emergency and at the last session of the legislature they deemed it wise to pass into the hands of the Governor and Council and the Highway Department extraordinary powers. We are working under that emergency now and the Governor and Council can take any money they want from this highway fund and use it for any purpose that they may deem necessary, in case of emergency. If we had had a constitutional amendment we couldn't have passed that measure because the legislature couldn't repeal the constitutional amendment.

Now I am not so optimistic as the chairman of the committee, Senator Dorr. I suspect that some

time in the future we are going to be in dire emergencies again. We have a great amount of money flowing into the state today because of the war effort and we have a great amount of money in the treasury except for highways and for fish and game. It will not always continue. But we are going to face lean years ahead and the time is coming when the state is going to be desperately in need of any money they can lay their hands on and I submit to you that we do not want to tie the hands of future legislatures. I do not think that people, especially those who have not had experience in the legislature, know much about the difference between constitutional law and statutory law. They think their rights are safeguarded by the present laws, and they are safeguarded. It is only the people who for selfish reasons come in here and want this changed and urge it.

Mr. McGlauffin touched on a point that I want to emphasize. Some people want all the money they can get from real estate taxes, and every town and city has to raise money from real estate to put on those same roads. Why not have a constitutional amendment that all road repairs must come from gas tax money and not from real estate? But no, they wouldn't favor that for an amendment.

I simply want to sum up by saying, first, there is no place in the constitution for a law of this sort that will bind the hands of future legislators so that they cannot, in their wisdom, if it is deemed necessary, use any of this money in an emergency. I was home over the week-end and I talked with various groups of people and I explained this, and some of them had sent me a petition and after I had talked with them every one of them said, "I believe you are right; go ahead and use your own judgment." And I am willing to stand before anyone in the state of Maine and give my reasons for opposing the passage of this measure. I thank you.

At this point, the Senator from Knox, Senator Elliot was escorted to the Chair and handed the gavel by the President who retired amidst the applause of the Senate.

Mr. FRIEND of Somerset: Mr President, I wish to oppose the Minority Report "Ought Not to Pass". The only way you can create a certain assurance that all these high-

way funds shall not be diverted is by the passage of this bill, a constitutional amendment which requires a two-thirds vote of the legislature and a majority vote of the people. The only way, should the bill pass, that the law could be changed then is by vote of the people, by amendment to that law or by its repeal.

Now, in 1936 the people of the state or Maine initiated a bill, an anti-diversion bill, which is now a law on our statutes. The people voted on that bill in 1938 and they voted three and a half to one, an overwhelmingly majority in favor of non-diversion of highway funds and I think they meant what they said. I don't believe that any small group of people could influence 75% of the people of the state of Maine to vote that way if they didn't believe that way.

It is my understanding that the people cannot initiate a constitutional amendment. I may be wrong on that but that is my understanding. I believe that had they been able to they would have done that. In the last few sessions of the legislature there have been many very serious attempts to divert highway money and spend it for other purposes. There has been no attempt in this session because there is a surplus of money in the treasury, but in the last few legislatures the big problem before the legislators was the raising of new money in order to take care of social security, old age assistance, pauper accounts, and so forth, and it seemed almost impossible to do it. In the last legislature at the last minute they passed a cigarette tax which took care of that situation but in the legislatures preceding that it was almost impossible to get together and find new money sufficient to take care of the services of the state which the people demanded. Because of that there were many very serious attempts through those years to divert highway money although in no case were those attempts successful. But they may be successful in the future.

This bill would forestall any such attempts and would make it impossible to divert any of these highway funds.

Now, I wish to mention to you the organizations in the State of Maine now who are in favor of this pending bill. The Commercial Motor Vehicle Association of Maine, Maine Automobile Association, Maine Com-



mercial Travelers Association, Maine Dairymen's Association, Maine Farm Bureau Federation, Maine Federation of Agricultural Associations, Maine Good Roads Association, Maine Hotel Association, Maine Lumber Dealers Association, Maine Municipal Association, Maine Petroleum Industries Commission, Maine State Retail Grocers Association, Maine Rural Letter Carriers Association, Maine State Federation of Labor, Maine State Grange and several other large organizations are in favor of the passage of this bill.

Now to my mind there is very little question that the people of the state of Maine are in favor of the passage of this bill. Not only all of these organizations are in favor of it but the people are in favor of it. They voted three and a half to one in 1938 in favor of a bill very similar to this one which does the same thing only it doesn't tie up the funds so much.

Now, what do other states think of this measure? There are fifteen other states which have this same constitutional law. They are Oregon, California, Nevada, Idaho, North Dakota, South Dakota, Minnesota, Iowa, Missouri, Michigan, West Virginia, New Hampshire, Kansas and Washington. The state of Washington has just passed a constitutional amendment this winter by a vote of six to one in one branch of the Legislature and approximately eight to one in the other branch.

There is a federal law, the Hayden-Cartwright Act. The state of Maine receives in normal times a million and a half of federal aid for highway construction. Now this Hayden-Cartwright Act provides a penalty in case a state diverts highway money. They can withhold one-third of this money if the state diverts highway funds. And some states have lost millions of dollars because of that federal money being withheld.

This bill is very important to the farmers of Maine, to labor and to business. It is particularly important to business in connection with tourist industry, the income from which is estimated as being around a hundred and eight million dollars a year. We have wonderful natural advantages in this state and we want to get the full advantage of the tourist business which must have good roads.

If there is a diversion of highway money, our road program of course

would be seriously impaired and the tourist business would also.

Now in connection with the argument of the Senator from Cumberland, Senator McGlauffin, that this bill should have no business becoming a part of the constitution of Maine. This bill has to do in normal times with about ten million dollars a year. If this bill receives a passage, over a period of 25 or 30 years it would have to do with two hundred and fifty or three hundred million dollars. I believe that amount of money is a serious proposition and I believe that probably if this bill became a part of the constitution it would be as important or more important than a lot of other matters that are now included in the constitution.

I have listed the other states which have this law and the organizations in Maine which are in favor of it and I am also sure that the people of the state of Maine are in favor of it. They showed that in 1938 when 80% of them voted in favor of anti-diversion. When the gas tax and the registration and license taxes were imposed upon the people the fundamental and basic idea was that these monies would be spent on the highways and any law that we can pass that will create a certain insurance that those monies are spent solely for those purposes, the reconstruction and maintenance of highways and bridges, particularly when it seems so certain to me that the people are for this bill, I am in favor of such a law, and I hope the motion of the Senator from Cumberland, Senator McGlauffin will not prevail.

Mr. McGLAUFFIN: Mr. President, it has been called to my attention that the funeral of the Hon. J. Blaine Morrison is taking place this morning and several of the members of the Senate have found that it was necessary for them to leave. Out of respect to Mr. Morrison, and as I am sure there is further debate that we want to hear on this matter, I move that the Senate now adjourn until ten o'clock tomorrow morning.

The PRESIDENT pro tem: The Senator from Cumberland, Senator McGlauffin moves that the Senate do now adjourn until ten o'clock tomorrow morning. Is this the pleasure of the Senate?

The motion prevailed and the Senate adjourned until tomorrow morning at ten o'clock.