

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Fifth Legislature

OF THE

STATE OF MAINE

VOLUME II

1951

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

Mr. LEAVITT of Cumberland: Mr. President, as a member of the Appropriations Committee, I agree with everything that Senator Reid said except for the fact that I believe that this is a high priority item, in fact, much higher than one or two other measures that we have passed and I, too, hope that this bill will be kept alive at this stage.

The PRESIDENT pro tem: The question before the Senate is on the motion of the Senator from Aroostook, Senator Collins that the resolve be substituted for the report.

A viva voce vote being had, the resolve was substituted for the report and under suspension of the rules, was given its two several readings and passed to be engrossed.

On motion by Mr. Leavitt of Cumberland, the Senate voted to take from the table Resolve Proposing an Amendment to the Constitution to Clarify the Provisions that Relate to the State's Borrowing Power (H. P. 1782) (L. D. 1320) (New Draft of H. P. 1297 L. D. 855) tabled by that Senator on May 4 pending motion by Senator Haskell to adopt Senate Amendment A to House Amendment A.

Mr. HASKELL of Penobscot: Mr. President, I will vote for the motion to indefinitely postpone the amendment. The amendment sought to reduce from ten million dollars down to the present two million dollars, the limitations on state debt. I will vote for it, knowing that the Senator will introduce another amendment dropping the ten million down to five million.

The motion to indefinitely postpone Senate Amendment A to House Amendment A prevailed.

Thereupon, Senator Leavitt of Cumberland presented Senate Amendment B to House Amendment A.

The Secretary read the amendment.

"Amend said amendment by striking out the second paragraph thereof and inserting in place thereof the following paragraph: 'Resolve Proposing an Amendment to the Constitution to Clarify the Provision relating to the Borrowing

Power of the State, and to Increase from Two Million Dollars to five Million Dollars the Limitation on the Right of the Legislature to Borrow.'

Further amend said amendment by striking out the figure ten million in the next to the last line thereof and inserting in place thereof the figure five million.

Further amend said amendment by adding at the end thereof the following: 'Further amend said resolve by striking out the underlined words 'ten million' in the 6th line of that part designated Section 14 thereof and inserting in place thereof the underlined words 'five million.'"

At this point, President Cross resumed the Chair, Senator Ela of Somerset retiring amidst the applause of the Senate.

Mr. LEAVITT of Cumberland: Mr. President, since the housing authority bill was passed in 1931, there has been a great deal of agitation that we need a new office building here in Augusta. A bill was introduced by me earlier in the session to provide the funds for the construction and that was declared unconstitutional by the answer from the Supreme Court to questions asked by Senator Ela. We then went over the Constitution to find out how the building could be built, and we found that we had to amend the constitution itself as there were one or two places that were not clear as to just how to go at the issuing of bonds for building.

The bill which I produced here a short while ago asked for an amendment to the Constitution went through nearly every branch of our government. The Court passed on it, the Executive passed on it, the Revisor of Statutes passed on it, the Attorney General passed on it and they all felt that the bill is a great improvement on the wording of the present constitution, and in that, my friend Senator Haskell agrees.

We then, to clarify the situation, to try to get the building built, had to increase the borrowing power of the State of Maine. There were other ways to do it and prob-

ably Senator Haskell will tell you how it can be done, but I still believe that when the public receives two bills, one to amend the constitution and eliminate paragraph 14, or chapter 14 or whatever it is, and another bill asking for the borrowing of three or four million dollars under chapter 14 which they are voting at the same time to repeal, I think they will be confused. Of course I know there is no confusion in the mind of Senator Haskell because of the fact that he just doesn't get confused, but the people and I myself who have been here quite a while, once in a while do get confused over such an issue.

I therefore believe that if we are to accomplish our results, that this is the best way to do it and the simplest way to do it. It may not be spelled out in quite so many words, but the title clearly says that we are clarifying the constitution and at the same time asking for the power to borrow not two million but five million dollars. The only thing left out of the title because some people think it is pretty long already, is the fact that three million dollars will be used to build a state office building.

I think that could be explained to the people more easily than to do it the other way. I hope that my motion will prevail.

Mr. HASKELL of Penobscot: Mr. President and members of the Senate, I am not sure that we should not amend the joint rules to provide that we members not learned in the law should be prohibited from debating constitutional problems.

I would vote for that one, the change in the joint rules, because certainly I don't want to pose as understanding this document too well but I have a few simple impressions.

When Judge Murchie codified this document, he did a pretty good job with what he had to work on and he made up Section 14 of Article 9 and put into it everything the old document had. I agree that had we a provision in our constitution that would have given him the right to clarify, he could have done a better job. And with

respect to clarification of that section, this bill that is before us, I think, does a splendid job. I agree with it thoroughly.

I think a simple question going to the people that asks whether or not that section should be clarified would be a perfectly clear question. I have no argument against that. Whatever the ultimate end of this resolve is, I hope that will be salvaged.

Now with respect to the figure two million or the figure five million or the figure ten million. For many years, the constitution has provided that we in the legislature can't put the state into debt. We have put the state into debt on innumerable occasions by amendments to the constitution for building ports, for bangs disease, for defense expenditures, for roads, bridges, highways, and so forth, and that has been a simple procedure.

Now to me, admittedly not learned in the law, it would seem to be simplicity itself, to have a constitutional resolve that clarifies this Section 14 and that is in the bill. I can't see that there would be any confusion in anybody's mind if another question on that ballot asked the question, "Shall that amount of two million, three million or four million be created by the sale of bonds, the purpose of which would be to build a new state office building". To do anything else, as I see it, is simply checking up with that two million dollar deal and I pose this question. We blanket it up from two to five at this session. We use the proceeds for some purpose unnamed in this resolve, so far as I know, and I certainly apologize if I am wrong in making the statement that the bill has no mention of state office building in it.

Then we come to the next phase and we find something else that seems desirable. So we solve that by blank checking it up another five million. It seems to me that that procedure is disorderly and frankly I would like to see this resolve go through clarifying it.

And if a resolve is before this legislature proposing an amendment to the constitution, it is the simplest thing in the world to

write, that creates both authority and an amount sufficient to build a state office building. I will vote for it but I don't subscribe to the theory of clarifying this thing, boosting the debt from two to five million without reference to what you are going to do with the money, and so far as I know, there is no companion resolve that directs the governor and council to use the money for that purpose. I don't think it is right.

That is a confusing piece of debate. It could be better presented by a lawyer, I am sure. But I feel just as firm against boosting this from two to five as I do from two to ten. As a matter of fact, I might vote for the ten if there were specific expenditure estimates for which that additional \$8,000,000.00 was required. But I think this reaches very nearly the top in confusion as far as putting the question to the people, not any reference as to what you are going to use the money for.

Now, if the Senator's debate was at all confusing, I have probably made the confusion more complete. But I think your action in accepting this amendment will in all frankness—and I don't think I have used this word previously in Senate debate—result in a monstrosity of a bill and knowing no other way than to express it that way, I assume that I shall vote against the adoption of the amendment and get the bill back into its original state and then with the assistance of the good legal minds clear the bill out of the frills and leave it a clarified amendment, still being willing to vote for the state office amendment. And the constitution can be amended to do anything you want it to do. There is nothing in there that says the people can't amend that document. We can write two or three or four state office building amendments and do it in five minutes and I will vote for it but I don't believe that little gem belongs in this document.

Mr. LEAVITT of Cumberland: Mr. President, my colleague has stated one thing, I think, quite clearly, and that is that people who do not know anything about the

law shouldn't try to argue the constitution. I don't know from whom he is getting his opinions but I have had my opinions from people who are supposed to know something about the constitution and they are not classing this as a monstrosity. In fact, they are the ones who drew it. So that I have to differ, naturally, with the conclusions of the Senator from Penobscot. But it seems to me a little bit confusing to say to the public that Section 14 of Article 9 of the constitution is amended which hereby repeals it and follow it with another bill on which they would vote to amend Section 14 which you are repealing.

It doesn't quite make sense to me and it doesn't make sense to a lot of other people. I am perfectly frank that this little monstrosity so-called does cut a corner. It takes two steps instead of one which if we ever want to build the state office building has got to be taken. It can be slowed down so that this building will be built four years from now instead of two. There is no provision here for the building of a state office building. There is no way in this bond issue that we can build a state office building. That is dependent upon the basis of this bill and two years from now, I hope that either myself or some other living proponent of the State of Maine will come in here for a bill to build a state office building. But that is when it has got to come. It can't come into this legislature. But before we can have a state office building, we have got to have the right to borrow money for the building of a state office building and this will give the right, at least, to borrow the money and the next bill two years from now may say that the legislature wants to build an office building. Maybe they want to build a telegraph office. I don't know. They can build anything and I am not afraid of the action of subsequent legislatures. This idea that by this legislature refusing to increase borrowing power, we can stop another legislature from borrowing, I don't hold with that.

Of course, ten years from now or fifteen years from now, some legislature may come in here and ask for the borrowing power of fifteen

million. That is not my concern nor your concern nor the concern of anybody else. That is the concern of that legislature. But I think now that a constructive measure for this Legislature is to put the borrowing power up to five million and then let the next legislature decide how they are going to spend it if they decide to spend it at all.

Mr. HASKELL of Penobscot: Mr. President, this Section 14 of Article 9 is the general limitation of debt and in simple layman's language says that the legislature shall not create debt in excess of \$2,000,000.00 except for certain stated purposes. Now, the Senator from Cumberland, Senator Leavitt, takes the position that the people just can't authorize debt for building the state office building until they amend that section.

I don't think it is right, Senator. Section 17 of that same article provides a \$36,000,000.00 debt. Section 18 provides a half million dollar debt and I can't believe that we couldn't add to that Section 18A or 17A or 19A by two-thirds vote of both branches and affirmative vote of the people to create a debt to build a state office building.

In other words, this construction in no section infers that a properly presented amendment can't be voted upon by the people. If we want to amend that document to provide for four and a half million state office building, we can do it and I still insist that is the way to do it. Do all of the clarifying you want under Section 14. Build all of the buildings you want. Eradicate all of the Bangs disease. Build all of the roads you want under another section. It is perfectly simple to me.

I can't believe, still acknowledging that I know nothing of the law that you have got to put these two things together. It makes them confusing and admits that you are not telling the people what you want this money for. You are simply asking them for a blank check should another legislature decide to get onto the gravy train. Let's do our clarifying on Section 14. Then let's have a law which states what we want the dollars for and you will keep honesty, clarity

and sincerity. It is as clear as that to me.

Mr. LEAVITT of Cumberland: Mr. President, in the last election, we had an amendment to the constitution which gave the legislature power to borrow by two-thirds of the legislature sending it to referendum to the people but it doesn't become a part of the constitution of the state. And in this bill, 1320, we go along with that thought and eliminate all of these sections 17 and 18 and all of those sections which are obsolete bond issues which have been already authorized and spent.

Now the Senator from Penobscot wants to put in still another amendment which we have already voted in the last election that we would not have in the future. In other words, he wants to compound confusion in this particular item. I think that the method suggested in this bill is simple and direct. There is no subterfuge in any way, shape or manner. We know that we need a higher borrowing capacity in order that we can build buildings because except by this amendment which has been proposed here you can't build buildings. That is excluded from the money that we can borrow for the State of Maine. This clarifies that and then adds the we have, instead of the right to borrow two million, we have the right to borrow five.

Originally, the constitution called for the right to borrow three hundred thousand and as the years have gone on, they have increased that to two million and at the time that the State of Maine was able to borrow \$2,000,000.00 you could have built a state office building for a million and a half, perhaps for \$800,000.00. I think everybody will concede that a building that could have been built in 1925 or 1926 for eight hundred thousand would now cost three million.

This bill simply clarifies the constitution and says the State of Maine can build buildings if they deem it wise and then increases the bonding power to five million which gets us fairly near in line with the spending or the value of the dollar in comparison to the two million back in 1926. Because of the ruling of the Supreme Court, I still claim

and the people here who, I believe, are good lawyers—at least we pay them good money because we think they are good lawyers — and that this is the way to do it and I hope that you will go along with this amendment to the constitution.

Mr. ELA of Somerset: Mr. President and members of the Senate, there are a few reasons why I do not like Senate Amendment B and, briefly, they are these: Regardless of our present thoughts there are drawbacks to debt and the people of the State of Maine have always recognized that and in their Constitution prohibited debt beyond a reasonable point. Up to 1919 \$300,000 was the limit. That was increased in 1934, not 1925, to \$800,000. So the \$2,000,000 talk is of recent origin. If you pass Senate Amendment A it would permit probably the building of an office building or any other building but when that was finished and it was paid off the door would then be open to do anything else you wished under the Constitution up to five million. Whereas, if you leave it at two million and then specifically ask for the constitutional amendment to do some particular job, when the job was done the blank check would be torn up and you would revert to what now seems to be your proper standing. For that reason I shall oppose Senate Amendment B.

Mr. HASKELL of Penobscot: Mr. President and members of the Senate, I rise only to have the record show what I think is a more accurate statement than that given by the Senator from Cumberland, Senator Leavitt, in regard to his saying that Judge Murchie's revision left in the Constitution a dead duck, I can state with some authority that I discussed that particular problem on some occasions with the Judge and every word left in that section of the Constitution is left in there because those are still live issues and those taken out of the Constitution are those types of bond issues which Senator Ela refers to where, the purpose having been accomplished, it is taken from the Constitution. Those left in there are in there because the issues are still alive. I do not believe the record ought to show that there is left

in there any deadwood that should have been taken out of the Constitution. And, Mr. President, when the vote on this matter is taken I ask that it be taken by division.

Mr. BARNES of Aroostook: Mr. President, during my course in the legislature I have noticed that it is, generally speaking, laymen who get up and defend or try to change the Constitution, and I have been reminded at least a dozen times during this session that the Constitution was written by laymen, and I believe that is probably true. Lawyers are supposed to construe it, and the Senator from Penobscot is absolutely right when he says this particular section of the Constitution creates a limit on debt and shows in what causes it may be created as exceptions to the general rule.

I was interested in Senator Ela's remarks regarding the changes in the debt limit. As I understand, it was \$300,000 until 1919, then \$800,000 in 1934, and then jumped to two million. And here we find ourselves in 1951 with a proposition to jump it to ten million and with the present amendment it is now five million. Whether the exception was wise or not, I don't know. I don't know why the original \$300,000 was put in there. I shall stand with the Senator from Penobscot in opposition to this Senate Amendment A. I don't believe the dollar has jumped that much in value. I might possibly go along with an amendment to raise it to three million and I am not too sure I would do that. We had an awful boost in 1934 when we jumped it from \$800,000 to two million, and probably that is enough.

The PRESIDENT: Is the Senate ready for the question? The question before the Senate is on the motion of the Senator from Cumberland, Senator Leavitt, that the Senate adopt Senate Amendment B.

A division of the Senate was had. Five having voted in the affirmative and twenty-two opposed.

Senate Amendment B was not adopted.

Mr. HASKELL: Mr. President, hopeful that with the assistance of the Senator from Cumberland, we may make this into the clean docu-

ment I am sure he wants it to be, I will now move that the bill be laid upon the table.

Thereupon the bill was laid upon the table pending first reading.

Mr. WIGHT of Penobscot: Mr. President, I move we take from the table Item 28, H. P. 1752, L. D. 1296, An Act Relating to Open Season on Muskrats.

The PRESIDENT: Will the Senator approach the Chair?

Subsequently the motion to take L. D. 1296 from the table was withdrawn.

On motion by Mr. Crosby of Franklin

Recessed until this afternoon at 2:30 o'clock Daylight Saving time.

After Recess

The Senate was called to order by the President.

Mr. ELA of Somerset: Mr. President, I would like to inquire if L. D. 880 is in the possession of the Senate.

The PRESIDENT: The Chair will inform the Senator that the bill is in the possession of the Senate.

Mr. ELA: In order that I may introduce an amendment, I move, Mr. President, that we reconsider our action whereby we passed this bill to be engrossed.

The motion prevailed and the same Senator presented Senate Amendment A and moved its adoption.

The Secretary read Senate Amendment A to bill, An Act Relating to Education in Unorganized Territory (L. D. 880): "Amend said bill by striking out the figures 1½% where they appear in the sixth and tenth lines of that part of the bill designated 148C and inserting in place thereof the figures 1%.

Which amendment was adopted and the bill as amended was passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Crosby of Franklin, the Senate voted to take from the table Resolve Appropriating Moneys for Compilation of Certain Decisions of Supreme

Judicial Court (H. P. 1510) (L. D. 1104) tabled by that Senator on April 13 pending final passage and on further motion by the same Senator, the resolve was finally passed.

On motion by Mr. Reid of Kennebec, the Senate voted to take from the table Resolve in favor of State Military Defense Commission (H. P. 871) (L. D. 519) tabled by the Senator from Aroostook, Senator Brewer on March 29 pending final passage; and on further motion by the same Senator, the resolve was finally passed.

On motion by Mr. Dennett of York, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Judiciary on Resolve Granting a Pension for Alice B. Grant of Kittery (S. P. 216) (L. D. 469) tabled by that Senator on April 26 pending acceptance of the report.

Mr. DENNETT of York: Mr. President and members of the Senate, I hesitate to make the motion on this resolve which I shall subsequently make, that will be a motion to substitute the resolve for the report. I have discussed this with the members of the Judiciary Committee as I felt that all the facts concerning this case had not truly been presented to them. I would like at this time to submit for your consideration what I believe to be the facts of this case and I hope that when I conclude, you will go along with me in the substitution of the resolve, once you know these facts.

This woman taught school in Kittery for 26 years. She is asking for a pension on a 25 year basis. Six years of this teaching was spent at the Portsmouth Navy Yard, we call it the Kittery Navy Yard. The Navy Yard is for all purposes, part of the town of Kittery. The law reads that children on the Navy Yard must be schooled and of course schooled in the schools of the Town of Kittery. At that time, and it seems as though it is ever thus, the schooling of these children and bringing them into the public schools of Kittery would have been a terrific impact on the Town. As you know, they pay no

taxes but yet we are bound to educate the children.

As a result of a compromise, it was agreed that a teacher would be provided by the superintending school committee of the Town of Kittery, all books and materials be furnished by the Town of Kittery, the naval base would furnish the building and would pay the teacher's salary. As a result, this lady taught there for six years under the supervision and immediate direction of the superintending school committee of the Town of Kittery and with books and materials furnished by the Town and as a result of the town not paying her wages, and based on that technicality, she has been refused a pension.

Now, it is further my understanding, and I have talked with the committee, and the committee says their only objection was that according to the advice of the actuary, this over the long run would cost the state \$6,000.00. Undoubtedly that is true. But there is one thing that I would like to speak of at this time and that is the actuary's advice. Of course, we know that an actuary treats with the science of powers and properties of large numbers. They can tell you pretty well what the basis of average is going to be over 100,000 people or over a long period of years. But I doubt very much that they are able to say how long any individual person is going to live and how much it is going to cost them. If they were treating with 5,000, 10,000 or 100,000 people, I know that the law of averages would in that case be pretty accurate. But in the case of an individual, it is an unknown quantity and for them to say this woman is going to live and cost the State of Maine \$6,000.00 or six cents is really beyond anybody's imagination.

But I wish you would bear in mind the true facts in this case and see that some element of justice would be done. This lady taught twenty-six years. She is asking for a pension on a twenty-five-year basis and I truly think that it should honestly be granted and I hope that you can find yourselves able to go along with this

and I now move that we substitute the resolve for the report.

Mr. WARD of Penobscot: Mr. President and members of the Senate, this is one of the several resolves which the committee had before it for consideration and as the Senator has told you, the actuary gave the committee a figure that he estimated this resolve would cost, if passed, over a period of years of \$6,000.00.

It was on that basis that the committee reported the resolve Ought Not to Pass. The facts which the Senator has recited to you in respect to this woman teaching at the navy yard under the supervision of the school committee of the Town of Kittery, I do not believe was called to the committee's attention. At least, if it were, I didn't happen to be there that day.

The PRESIDENT: The question is on the motion of Senator Bennett that the resolve be substituted for the ought not to pass report.

The motion prevailed, the resolve was substituted for the report and under suspension of the rules was given its two several readings and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Reid of Kennebec, the Senate voted to take from the table House Report Ought to pass from the Committee on Appropriations and Financial Affairs on Resolve Appropriating Moneys for State Military Defense Commission (H. P. 872) (L. D. 520) tabled by that Senator on April 25 pending acceptance of the report; and on further motion by the same Senator, the ought not to pass report was accepted in concurrence.

On motion by Mr. Haskell of Penobscot, the Senate voted to take from the table Resolve, Proposing an Amendment to the Constitution to Clarify the Provisions that Relate to the State's Borrowing Power (H. P. 1782) (L. D. 1320) tabled by that Senator earlier in today's session.

Mr. HASKELL of Penobscot: Mr. President, may I ask the status of House Amendment A.

The PRESIDENT: Senate Amendment A to House Amendment A has been indefinitely postponed; Senate

Amendment B to House Amendment A failed of adoption; House Amendment A has not been adopted.

Mr. HASKELL: Mr. President, House Amendment A not having been adopted, we have not adopted and amendment that sought to clarify the question with reference to the figure of ten million dollars. The amendment which I shall offer, changes only one other word in the resolve and that is the word "ten", with reference to the million figure, to two, also referring to millions, leaving the two million dollar limitation still in the constitution.

I think that was the general sense of the Senate vote this morning. With reference to a second motion after the adoption of Senate Amendment A, the bill should have its first and second readings, its passage to be engrossed, and not a forthwith motion. I would again repeat that this is an excellent clarification of the constitutional section. Not only does it make section 9 much clearer but also does that which the Chief Justice would have liked to have done in the codification of the constitution, in that it strikes out some following sections that refer to existing bond issues still alive and strikes them out in a manner that will protect the validity of those bonds. That, he would have preferred as a procedure in the codification. In every respect, I think this is objective. It is clean and it does the things that ought to be done to the constitution without increasing above \$2,000,000.00 the debt limit now written in.

So, Mr. President and members of the Senate, I submit Senate Amendment A and move its adoption and under the gavel move the indefinite postponement of House Amendment A.

Mr. LEAVITT of Cumberland: Mr. President, may I ask the good Senator from Penobscot what next step he intends to take to be able to make it possible to build a house office building and how he is going to hook it into this one.

Mr. HASKELL of Penobscot: Mr. President, as I indicated in debate this morning, recognizing the

modest contribution I can make to the effort, I would be pleased to contribute my time in putting together a constitutional resolve that would do exactly what the Senator from Cumberland, Senator Leavitt, wants to do with reference to a state office building bond issue and I will speak for it and I will urge its acceptance under unanimous consent if the Committee on Appropriations doesn't find it possible to submit it through that means.

I am not in any way objecting to the introduction of an amendment to the constitution and I think on good grounds I can assure him that the adoption of this constitutional resolve will in no way, shape or manner preclude him from going ahead with whatever are his wishes with respect to a state office building or with respect to any other capital construction which will have the support of two-thirds of the members of the legislature and I will be one supporting a state office building resolve.

Mr. LEAVITT of Cumberland: Mr. President, I would like to ask the good Senator one other question. Can he guarantee unanimous consent?

Mr. HASKELL of Penobscot: The Senator does not choose to answer. The Secretary read Senate Amendment A. "Amend said resolve by striking out the underlined word ten in the 6th line of that part designated Section 14, and inserting in place thereof the underlined word two."

Thereupon, on motion by Mr. Barnes of Aroostook, the resolve was laid upon the table pending motion by Senator Haskell of Penobscot to adopt Senate Amendment A.

The PRESIDENT: The Chair will state at this time, for the information of the Senate that there will be a certain amount of interchange of papers between the two branches, and of necessity, the rules will be suspended frequently, so I will suggest that if the Senators have any papers that they have any particular feeling for that they find an opportunity to talk with the floor leader regarding them, if possible, but of necessity the rules will have