

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Fifth

Legislature

OF THE

STATE OF MAINE

1971

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Thursday, January 14, 1971

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Elmer Bentley of Augusta.

The journal of yesterday was read and approved.

The **SPEAKER**: The Chair at this time would like to appoint subordinate officers that were not appointed at the beginning of the session. The Chair does appoint Gordon W. Gamage as Page of the House retroactive to January 11; for Doorkeeper, Elwood L. Overlock, retroactive to January 11.

Papers from the Senate

From the Senate: The following Communication: (S. P. 73)

STATE OF MAINE
BUREAU OF PUBLIC
IMPROVEMENTS
AUGUSTA, MAINE

January 12, 1971

To the Senate and House of Representatives of the One-Hundred and Fifth Legislature

In accordance with the provisions of Title 5, Section 1742, Maine Revised Statutes Annotated, we are submitting herewith the Status of Capital Improvement Projects including cash expenditures through June 30, 1970.

Respectfully

(Signed)

NIRAN C. BATES
Director

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

From the Senate: The following Communication: (S. P. 74)

STATE OF MAINE
DEPARTMENT OF THE
ATTORNEY GENERAL
AUGUSTA

January 8, 1971

To the Honorable Senate and House of Representatives of the 105th Legislature:

Pursuant to Article V, Part 4, Section 2, of the Constitution, I am transmitting herewith two bonds of the Honorable Norman K. Ferguson, Treasurer of State, each in the amount of \$250,000, one written by Seaboard Surety Company of Portland, Maine, bearing date of January 7, 1971; and the other written by Maine Bonding and Casualty Company of Portland, Maine, bearing date of January 7, 1971, each being payable to the State of Maine.

Respectfully,

(Signed)

JAMES S. ERWIN
Attorney General

Came from the Senate read and with accompanying bonds ordered placed on file with the State Auditor.

In the House, the Communication was read and with accompanying bonds ordered placed on file with the State Auditor in concurrence.

From the Senate: The following Order:

ORDERED, the House concurring, that the two bonds of the Honorable Norman K. Ferguson, Treasurer of State, totalling \$500,000, one written by the Seaboard Surety Company of Portland, Maine in the amount of \$250,000, and one written by the Maine Bonding and Casualty Company of Portland, Maine in the amount of \$250,000 payable to the State of Maine and each bearing the certificate of approval of the Attorney General, be and hereby are approved (S. P. 75)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

Bills and Resolve from the Senate requiring reference were disposed of in concurrence.

**Senate Report of Committee
Ought Not to Pass**

Report of the Committee on Election Laws reporting "Ought not to pass" on Bill "An Act relating to Checking of Nomination Petitions" (S. P. 31) (L. D. 64)

Came from the Senate read and accepted.

In the House, the Report was read and accepted in concurrence.

Papers from the Senate

From the Senate: The following Order:

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, January 19, at 10 o'clock in the morning. (S. P. 78)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

Non-Concurrent Matter

House Joint Order re Payment of Advances on Account of Compensation to Officers of the Senate and House of Representatives (H. P. 107) which was passed in the House on January 12.

Came from the Senate indefinitely postponed in non-concurrence.

In the House: On motion of Mr. Bragdon of Perham, the House voted to insist and ask for a Committee of Conference.

The Speaker appointed the following Conferees on the part of the House:

Messrs. KENNEDY of Milbridge
BRAGDON of Perham
JALBERT of Lewiston

By unanimous consent, ordered sent forthwith.

The following Bill on its passage to be enacted was taken up out of order by unanimous consent:

Emergency Measure Tabled and Assigned

An Act Defining Secondary Schools (H. P. 48) (L. D. 81)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker, may I pose a question?

The SPEAKER: The gentleman may pose his question.

Mr. MARSTALLER: Mr. Speaker, is debate permissible at this point?

The SPEAKER: The gentleman may proceed in his debate.

Mr. MARSTALLER: Mr. Speaker and Ladies and Gentlemen of the House: I believe we should be aware of what we are doing in this bill. It has been pushed at every session that we have met so far this year. And some of us are very much interested in school construction aid. The towns that now receive construction aid are those that are in SAD's, and those that have more than 500 in their secondary schools. Several times before this legislature bills have come in to include all schools in construction aid.

Now the voters passed a bond issue last November to have the State pay its share of construction aid in a lump sum, and come out of this bond issue. And we are all interested that this bond issue be used fairly over the whole state. And I think we need to know what has happened in this particular bill which, as I understand it, expands the use of this bond issue to cover these vocational-technical schools.

The last Legislature passed a moratorium on building more of these schools until it was determined that they were serving wider communities than just the communities where they were located. And I believe this measure as amended now includes these schools again. And I would like some more explanation as to what this is going to do in terms of the bond issue, and how much this is going to take out of this bond issue.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am glad that you mentioned that the measure was debatable, because I would have asked that it would be debated. And I think the gentleman from Freeport's points are very well taken.

This \$50 million bond issue was not a program that was presented by the Department of Education two years ago. It was presented by me with the mere thought in mind of money saving. And the method of lump sum payments, which means half when you start and half when you are finished,

will not be in effect in accordance with this \$50 million bond issue programming. It, incidentally, is one of the only bond issues that I know of that will wind up saving money. Actually, it will save \$51 million of interest alone, up against the \$50 million that was floated.

Now the questions in someone's mind — and I took it up with all those that I could this morning — and I didn't meet with the gentleman from Freeport, Mr. Marstaller — is, would this reopen the door to the moratorium as set forth by order? The answer to that is no. Furthermore, I certainly do not enjoy the thinking of using old construction money up against the \$50 million bond issue.

I go one step further, and I will see to it that, as far as I am concerned, my voice will be heard long and loud that that is not done. Because the \$50 million bond issue was to hold us for about seven or eight years. Should we embrace another type of programming now, it would mean the wearing out of this bond issue within two years, possibly three years at the most.

So I am certainly in sympathy with the gentleman from Freeport, Mr. Marstaller, and anyone else here who thinks this opens the door to the moratorium that we put on. The answer is no, emphatically no. And the answer further is what I explained.

The only reason that I am asking that this be enacted now — and I shall ask that it be sent forthwith — is because we have a problem at home. This merely is a technicality, because in the bond issue it included the secondary schools. There are another one or two paragraphs in the public school laws that do not spell out that this would include the secondary schools. And that is mainly to go along and keep faith with the electorate in what the intent of this measure was. It is merely a clarification, and nothing else.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, I would ask through the Chair what the so-called problem at home is that other folks don't have? This

seemed to be rushed through without adequate explanation.

The SPEAKER: The gentleman from Lubec, Mr. Donaghy, poses a question through the Chair to any member who may answer if they choose, and the Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Ladies and Gentlemen of the House: We have been in the process at home for the last four years of a comprehensive high school program. And we are now in the process of moving in the direction of okaying our bonds.

There are 16 other schools in the state that should take heed to this thing, because every day that you wait construction costs go up, labor costs go up. And that is the problem. It is more economy than anything else. And I am positive that the gentleman from Lubec would join me in that philosophy.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I have not had an opportunity to go into this matter very thoroughly. However, I am somewhat concerned with the method that we are using to dispose of it. It is very early in the session. Questions have been raised with regard to the \$50 million bond issue which we voted in the last session of the Legislature, and the people approved. And we were told that this would be enough school construction money to last us for five or six years.

Word was circulating around yesterday that if we continued the course that we appear to now be following we may well look for this bond issue to be used up in two years. Now certainly this is a disturbing matter to me. I cannot believe that the urgency is such in any municipality in the State of Maine that we cannot afford to take one or two or three days more. We are going to be back here next week. I don't believe that any municipality is going to be hurt to the extent that it doesn't warrant us to understand what we are doing as we go along.

I hope you will choose a moderate course in the handling of this matter.

Mr. Jalbert of Lewiston was granted permission to speak a third time.

Mr. JALBERT: Mr. Speaker and Members of the House: Apparently I cannot seem to be able to explain myself. This program has absolutely nothing to do with what we heard yesterday. What we heard yesterday, I object to now, and I will continue to object to in the future.

This \$50 million bond issue is not the dream of the Department of Education. The gentleman from Perham, Mr. Bragdon knows this. He was the House Chairman of the Appropriations Committee when it was heard two years ago. It was done as an economy move to stop us from paying double interest. This \$50 million bond issue was mine. It means the saving of over \$50 million when we get through meeting our obligations. It has nothing at all to do with what we heard yesterday. It is merely for the first time in 26 years that I present an amendment that concerns my people. I have voted for more emergency bills, and if you want to recess for fifteen minutes I will go down into the library and show you on the record that I have voted for more emergency bills to please the Garden Spot of Maine than I have got hair on my head.

Now Monday or Tuesday or Wednesday will come just the same if this bill is not enacted now. But I am not going to sit here and have somebody who either doesn't want to understand, or doesn't understand, just figure that I am trying to pull some chestnut out of an already warm fire. This has absolutely nothing to do with what we heard yesterday. This is merely a clarification of a public law that is on the books which was not put into the intent of the \$50 million bond issue. The \$50 million bond issue said that area and regional vocational schools should be under the umbrella of the \$50 million bond issue. One or two areas in the bill in the public school laws indicate differently. We are merely

putting this under one roof, in it's proper perspective.

And I reiterate what I said in my answers to the gentleman from Lubec, and to the gentleman from Freeport, Mr. Marstaller, that I shall fight from the beginning of the session to the end of the session to keep away from us wearing out this \$50 million bond issue by using old construction money, as was placed into it. I shall also continuously fight against any thought of reopening the moratorium for the very simple reason that I think the regional vocational high school programs have got somewhere along the line to be cleaned up before we go into other programs.

For those members who have not been here before, it would be noted that I have fought for vocational bills, vocational schools to a fair-thee-well. I also have voted to deed back to the state on an emergency measure a little bauble in Fort Fairfield to the tune of a million dollars. I note that the gentleman from Bath is turning, because he knows that I have fought him on that.

So it is just a little request, little favor to help us along at home so we can continue with our programming of a comprehensive high school and regional high school program, as was voted by the people of Maine.

The SPEAKER: The Chairman recognizes the gentleman from Ellsworth, Mr. McNally.

Mr. McNALLY: Mr. Speaker and Members of the House: I hope the gentleman who just spoke won't feel too badly against what I shall do. But I can tell you that my desk has been piled high with the reports. And I have hardly looked at any bills outside of the ones that I am sponsoring. And at this time I have not had a chance to study the bill. I can see no reason why it should be rushed through as of today, and I most certainly shall vote against it, because I have tried to get through what I thought was the most important reports, and thinking that was the thing to look at first. And I shall vote against the bill.

The SPEAKER: The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Ladies and Gentlemen of the House: We are hearing a rather lengthy and heated debate this morning with good reason, due to the newness of the session, and the failure of all members to have a good idea of what this bill does.

I don't want to try to influence people's minds, but in order to clear up what I see as the purpose of this legislation, I would like to go back — and I have missed part of what Mr. Jalbert had said, but it seems to me there are three questions being raised here.

Some of you are questioning the intent of the legislation, others questioning the urgency of the legislation. And thirdly, a question has been raised on the credibility of the use of the bond issue for this particular purpose.

I would like to go back to the 104th Session, and just remind all of you who were here that we have in the past been funding construction subsidies out of bond issues sent to the public in referendum. These are obligations of the State through prior legislation to fund on a biennial basis all eligible construction units.

Now the words eligible construction units are the key. Eligible has in the past related to all elementary and secondary facilities within a school administrative district, all secondary facilities with pupil enrollments of over 500 pupils, and all regional vocational-technical school centers which have been approved by the State board. So we are not broadening the definition of eligible school construction units whatsoever.

Now to further compound the problem, the 104th Session took action to limit the use of State construction aid to regional vocational-technical centers in the future by the use of a moratorium enacted in the 104th, originating out of this body as a Legislative Order, which merely put a ceiling, or really put a stop to all further approvals by the State board beyond a given date.

Now I would remind the ladies and gentlemen here this morning that the Lewiston application had been submitted, had been acted upon by the State board at that time. So the moratorium which some of you may recall really does not have any effect on the project which Mr. Jalbert is primarily concerned with.

Now the use of the \$50 million bond issue has been grossly misunderstood, I think, by many people. The seven-year figure which we were led to believe to be the length of time it would cover biennial construction of an eligible nature did not envision the use of monies to fund past projects, or projects of the type that we are seeing recommended by the Governor's message yesterday.

I might just point out — and many of you picked this up probably — the Governor recommended that we fund the full \$15 million, as a round estimate he mentions, of eligible school construction projects which we ordinarily would put out to separate referendum from the \$50 million bond issue. He further recommended the use of this bond issue for a supplemental \$2.5 million to fund the biennial obligations for regional vocational-technical centers. Both the projects which may be constructed, as Mr. Jalbert is interested in, and existing projects which are still being subsidized.

Now I don't see any real intent here to deceive people. I have talked with people in the department. I have been told that the Attorney General recommended that, because of the definition of a secondary school facility which is in our present law, limiting it to a K to 12, or elementary and secondary spanning the gamut from K to 12, whereas the regional vocational technical centers are authorized to offer programs at grades 13 and 14, as well as adult evening school programs.

Now the truth of the matter is that none of the, I think, 16 regional vocational-technical

centers do this. So the Attorney General felt that in order to clarify whether or not the existing regional vocational-technical centers should be called secondary, recommended the change in language which you see here in front of you.

Now with that thought in mind, I have no hesitation to go along with the validity and the credibility of this legislation. The only question in my mind, and a question which really none of us are in a position to act very intelligently on, is the urgency. This project, from what I have been told, has been approved by the Lewiston City Council. Any urgency that exists at the local level would be known only at the local level, other than what we might have been told here this morning.

Now since many of you feel that you have not had a chance to study it, the decision you make this morning will be on your own personal reaction to urgency. But as far as intent, as far as credibility, I really don't feel there is any intent here to deceive. I think we have got to wrestle with the question sooner or later this session of just what we will use the \$50 million for. And I don't believe any of you want to see it whittled away too rapidly. But the intent of the legislation I think is sound. The only thing I am questioning — and I will make no motion — is whether or not the urgency exists that we should enact this here today, without some of you giving it true deliberation.

Whereupon, on motion of Mr. Jalbert of Lewiston, the Bill was tabled pending passage to be enacted and specially assigned for Tuesday, January 19.

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Resolve Providing for Purchase of Copies of History of Clinton (H.

P. 126) (Presented by Mr. Lee of Albion)

Resolve to Provide Funds for Purchase of Aerial Ladder Fire Truck for State Buildings (H. P. 127) (Presented by Mr. Lewin of Augusta)

(Ordered Printed)

Sent up for concurrence.

County Government

Bill "An Act Increasing Payments to Franklin County Law Library" (H. P. 128) (Presented by Mr. Scott of Wilton)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill "An Act relating to Weekly Closed Season on Taking Alewives in Town of Orland" (H. P. 129) (Presented by Mr. Churchill of Orland)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Providing for Immunity to Licensed Ambulance Service Personnel in Emergency Cases" (H. P. 130) (Presented by same gentleman)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act Repealing the Law Prohibiting Hitchhiking" (H. P. 131) (Presented by Mr. Murray of Bangor)

Resolve to Reimburse Ray C. and Athene M. Towne of Hinckley for Well Damage by Highway Construction (H. P. 132) (Presented by Mr. Lee of Albion)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Exempting Certain Ferries from Pilot Fees for the Port of Portland" (H. P. 133) (Presented by Mr. Gill of South Portland)

Bill "An Act Providing Clerical Assistance to Legislators" (H. P. 134) (Presented by Mr. Jutras of Sanford)

Bill "An Act Authorizing the City of Augusta to Lease Area Within Proposed Civic Center" (H. P. 135)

(Presented by Mr. Lewin of Augusta)

Bill "An Act relating to Violations of Parking Regulations at the State House" (H. P. 136) (Presented by same gentleman)

Bill "An Act relating to Acquisition of Land for National Forests" (H. P. 137) (Presented by Mrs. Lincoln of Bethel)

Bill "An Act relating to Determining Salary of the Administrative Assistant to the Chief Justice" (H. P. 138) (Presented by Mr. Orestis of Lewiston)

Bill "An Act to Create the Office of Ombudsman" (H. P. 139) (Presented by Mr. Rollins of Dixfield)

Joint Resolution Proposing Abolition of Futures Trading of Potatoes on the New York Mercantile Exchange by the Congress of the United States (H. P. 140) (Presented by Mr. Collins of Caribou) (Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Eliminate Moose River from the Maine Forestry District" (H. P. 141) (Presented by Mr. Faucher of Solon)

(Ordered Printed)

Sent up for concurrence.

Veterans and Retirement

Bill "An Act relating to Out-of-State Service under Retirement Law" (H. P. 142) (Presented by Mrs. Lincoln of Bethel)

Bill "An Act relating to Creditable Service under State Retirement Law for Certain Teachers" (H. P. 143) (Presented by same member)

Bill "An Act relating to Disability Retirement under Maine Retirement System" (H. P. 144) (Presented by same member)

(Ordered Printed)

Sent up for concurrence.

House Reports of Committees Ought to Pass Printed Bills

Mr. Shaw from the Committee on Appropriations and Financial Affairs reported "Ought to pass" on Bill "An Act relating to Non-lapsing Funds for Armory Construction" (H. P. 26) (L. D. 35)

Mr. Cote from the Committee on Legal Affairs reported same on Bill "An Act Validating Certain Proceedings at Town Meeting of Winslow" (H. P. 37) (L. D. 69)

Reports were read and accepted, the Bills read twice and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act relating to Political Advertisements on State Property" (H. P. 18) (L. D. 27)

Bill "An Act to Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 72" (H. P. 25) (L. D. 34)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

On motion of Mr. Susi of Pittsfield,

Adjourned until Tuesday, January 19, at ten o'clock in the morning.