

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

STATE OF MAINE.

1866.



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1866.

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# FORTY-FIFTH LEGISLATURE.

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HOUSE.

No. 74.

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## REPORT.

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The Committee on the Judiciary to which was referred the bill entitled "an act for the assumption by the State of the municipal war debts," has had the same under consideration and ask leave to report legislation inexpedient, and their reasons therefor :

The Legislature is prohibited from such legislation as the bill contemplates by the sixth article of the amendments to the Constitution of this State, which is as follows, to wit :

ARTICLE VI.—The credit of the State shall not be directly or indirectly loaned in any case. The Legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed three hundred thousand dollars, except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been, or may be deposited with this State by the government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

It is the assumption of a debt incurred by parties, without legal authority, for their own special convenience and benefit, expended without any supervision or control of the State, and much of it in excess of and in contravention of the authority thereof. The Legislature, under the authority of the Constitution, created loans *for war purposes*, judging upon each occasion of the necessity and limiting its use of the power thereto. It was the judge thereof at the time, and its enactments are in the nature of judicial determinations. This power was given to the Legislature to provide for threatening emergencies where its ordinary means would be insufficient, and is very essential to the existence of the State.

Having in such emergency settled the limits of the necessity, the power was exhausted, and it is not competent for a subsequent Legislature, the emergency having passed away, to extend those limits. The constitutional provision is prospective and the debts are in the past. And moreover they are not legitimate debts "for war purposes," no more than are the donations to the Sanitary and Christian Commissions, or the money paid by an individual for a substitute.

There is no claim in equity upon the State, for it did not invite the expenditure on the part of the municipalities, but made adequate provisions for its own wants. The fears of individuals drove the towns into the most reckless and extravagant appropriations. Now to call upon the provident and patriotic to contribute to make good the waste of the improvident or unpatriotic is sheer injustice. Each town decided for itself how much it would pay, and it laid off the measure of its burden and accepted it with open eyes. It was laid for the special benefit of its own citizens, either to enable them to escape military service or to reward them if they chose to enter therein.

The State was called upon by the United States for troops. The quota of each municipality was assigned in conformity with an equal rule of distribution. The number of enrolled men able to do military duty and within military ages in such case furnished the basis of apportionment. The number of men due from each city and town upon every call was equally distributed. The number called for they were severally bound, each for itself, to furnish.

If a town, being more patriotic than another filled its quota without expense, to call upon such a town so discharging its obligations to the country to pay taxes for the purpose of refunding money to another town, which either through imprudence or lack of patriotism made expenditures for the purpose of facilitating the performance of its duty, and after so expending had done only what its neighbor had accomplished solely through the patriotism of its inhabitants, would be a bounty upon extravagance and disloyalty, and a bad precedent.

The bill provides for the assumption of all municipal expenditures made in raising men; and if any assumption is to be adopted it certainly cannot be one founded upon such glaring irregularities as notoriously exist, but which this bill disregards. If the State is to take any part of this burden it should only be upon the basis

of an entire equality, allowing each town alike for the men actually furnished.

The effect on the credit of the State would be perfectly ruinous. That credit now stands high. Should an emergency arise demanding its further use it would still, we trust, be maintained. Pass this bill or anything like it, and the bonds already sold by the State, many of them for a large premium, and none less than *par*, and the value of these would be stricken down to the great injury of those who have trusted the good faith and relied upon the wise management of our public affairs. The issue of bonds such as this bill contemplates would reduce their value not less than thirty-three per cent.; and towns receiving them, instead of getting the amount of their liabilities would still find themselves burdened with one-third of their present debt, with the State tax largely increased to pay the interest on the bonds issued for their relief, and ultimately to pay the principal.

If this bill is adopted, the State, should a new war emergency arise, will find itself bankrupt in credit, for with such a mountain of debt upon its shoulders, it would be impossible to loan a dollar, and the slow process of taxation would be inadequate to supply its necessities. Its power to borrow *for war purposes* would be as effectually annihilated as if prohibited by the Constitution itself.

Is it wise or prudent thus to oppress ourselves and exhaust our credit? Does not a dispassionate and prudent regard for the future demand a different policy than that which is involved in this bill? The State has disbursed largely and liberally in aid of soldiers' families, it has paid generous bounties, and it will doubtless make due provision for the disabled soldier and his family. The enactment of this bill will require additional State taxation this year to the amount of nearly, if not quite, a half million dollars.

It will so far burden the treasury that it will be impracticable to provide, as we should, for those who in the service of the country have perished and left families requiring our aid, as well as those who have been disabled.

The Committee feel that there are many towns in our State staggering under serious pressure from liabilities assumed during the war, and it would be glad to recommend some measure which should lead to their relief, but until the measures which are now pending in the National Congress shall bring assistance to our Commonwealth, it can see no means in the hands of the State, even

if it had the constitutional right, to lift these burdens, without plunging our treasury into inevitable ruin.

And it earnestly and strongly believes that at this time no legislation is either expedient or authorized by the fundamental law.

Per order.

JAMES F. MILLER.

# STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX.

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AN ACT for the assumption by the state of the municipal war debts.

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WHEREAS, the several cities, towns and plantations  
2 of this state have incurred debts more or less onerous  
3 in putting down the rebellion ;

4 AND WHEREAS, it is just and right that these ex-  
5 penses should be borne by the whole country ;

6 AND WHEREAS, to that end it is first requisite for  
7 the state to adjust and pay the said debts of the sev-  
8 eral municipalities in the state ; therefore,

*Be it enacted by the Senate and House of Representatives  
in Legislature assembled, as follows :*

SECTION 1. It shall be the duty of the state treas-  
2 urer as soon as may be after the passage of this act  
3 to forward to the treasurers of the several municipal-  
4 ities in this state suitable blank returns for expenses  
5 incurred for war purposes, and notify said treasurers

6 to make immediate returns of such indebtedness to his  
7 office to be laid before three commissioners who shall  
8 be appointed by the governor and council and sworn  
9 to the faithful and impartial discharge of the duties  
10 imposed by this act and who shall commence their  
11 sitting at the state capitol on the second Tuesday of  
12 April next and after electing one of their number as  
13 chairman shall proceed to examine the returns and  
14 accounts of the several cities, towns and plantations  
15 and determine what amount is due to each for ex-  
16 penses incurred by them pursuant to the now existing  
17 laws of this state and of congress for the suppression  
18 of the recent rebellion and upon such determination  
19 shall furnish the state treasurer with a list of said  
20 cities, towns and plantations together with the amount  
21 found to be due to each including interest and there-  
22 upon the treasurer and chairman aforesaid shall forth-  
23 with issue to said cities, towns and plantations certifi-  
24 cates of indebtedness as set forth in the following  
25 section.

SECT. 2. Upon such adjustment of their indebted-  
2 ness the state shall reimburse the several municipal-  
3 ities in this state for such indebtedness by issuing to  
4 them severally certificates of indebtedness of a denom-  
5 ination of not less than one hundred dollars each, but



6 amounting in the aggregate to the whole of such in-  
7 debtedness of said city, town or plantation, and signed  
8 by the treasurer of the state and by the chairman  
9 aforesaid, purporting that the State of Maine owe to  
10 such city, town or plantation or their assigns the sum  
11 expressed therein, bearing an interest of seven and  
12 three-tenths per centum per annum, payable semi-  
13 annually, and such certificates may be made transfer-  
14 able on being endorsed by the municipal treasurer and  
15 clerk in their official capacity, and shall be redeemed  
16 by the state in ten years or at an earlier period if  
17 practicable.

SECT. 3. Said commissioners shall be allowed six  
2 dollars per diem for their services and one travel to  
3 and from the place of sitting.

SECT. 4. This act shall take effect from and after  
2 its approval by the governor.

# STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 20, 1866. }

Reported by Mr. MILLER, from the Judiciary Committee, and  
500 copies ordered to be printed.

F. M. DREW, *Clerk.*