

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

temporarily at least announce the suspension of the law and give notice of the time when the measure is to be voted on.

Respectfully yours,

RAYMOND FELLOWS,
Attorney General.

October 3, 1927.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

MY DEAR GOVERNOR: The Eighty-second legislature, by Chapter 191 of the Public Laws of 1925, repealed Chapter 217 of the Public Laws for the year 1919, which law provided for upkeep and extensions of the several normal schools "for which purpose there shall be appropriated the sum of sixty thousand dollars beginning with the year 1921, and the same amount annually thereafter to be expended under the direction of the Board of State Normal School Trustees for extensions in buildings, repairs and equipment."

This general law of 1919 thus provided that each succeeding legislature after 1921 should appropriate sixty thousand dollars annually for the extensions in buildings at the normal schools. The legislature of 1925 repealed this general law.

The Eighty-third legislature in 1927, by "an act to appropriate money for the expenditures of the Government and for other purposes" appropriated "For normal school upkeep and extensions sixty thousand dollars, 60,000."

The question is (1) whether or not a provision in an appropriation bill has the effect of law, and (2) whether under this appropriation bill the Governor and Council are authorized to give authority to the Trustees of the State Normal Schools to make a contract for an extension at Castine to be used in connection with the State Normal School conducted there.

In answer to the first proposition, it is universally understood that unless there is a constitutional prohibition, as in some states, an appropriation bill may contain any form of legislation. 36 Cyc. 967; *Mathews v. People*, 202 Ill. 389, 63 L. R. A. 73. See also Vol. 4, *Hinds Precedents*, 382-463, Par. 3578-3916, where the history, authorities and rules of the National House

in relation thereto are fully discussed. Congress has from its earliest history included in appropriation bills various "riders" and occasionally does now in spite of House rules to contrary. See Hinds Precedents cited above. There is no such limitation, constitutional or otherwise, in this State. The provision relating to normal schools as passed in the Appropriation Bill by the last legislature is valid without a special or additional act of legislation specifically authorizing it. No legislature can bind another legislature, nor can any legislature bind itself. 4 Hinds 388. Sawyer v. Gilmore, 109 Me. 180. Opinions of Justices, 103 Me. 508. Sutherland on Statutory Construction, Par. 136. The repeal in 1925 of the general law of 1919 which attempted to make it obligatory on every legislature to pass an annual appropriation for upkeep and extensions could not *prevent* the same or succeeding legislature from making an appropriation. "Special provisions in an appropriation act are presumed to be of temporary effect." Sutherland on Statutory Construction, Par. 136, 218, and cases there cited.

As to the second question; it is fundamental that the intention of the legislature is to govern in the construction of all acts passed. The intention as contained in the "Act to appropriate moneys for the expenditures of the Government and for other purposes" is clearly expressed: "the governor with the advice of the Council is hereby authorized at any time prior to the thirty-first day of December nineteen hundred and twenty-eight to draw his warrant on the state treasurer * * * * * for normal school upkeep and extensions sixty thousand dollars."

This department can see no reason therefore why the Governor and Council under this law may not in their discretion authorize the Trustees of State Normal Schools to make a contract for upkeep or extensions at Castine Normal, the form and purpose of contract of necessity to be satisfactory to the Executive as he only has the authority "to draw his warrant" for payment.

Respectfully yours,

RAYMOND FELLOWS,
Attorney General.