

MAINE STATE LEGISLATURE

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RESOLVE

Proposing an Amendment

to the

Constitution

Prohibiting the Use of Public Funds
for Sectarian Schools and for
Certain Other Purposes

Together with Notes
and Comments

State Department of Education
Augusta, Maine
December, 1925

Introductory Statement

The people of Maine are familiar with the events which led to the enactment by the last legislature of the Resolve to amend the state constitution to prohibit the use of public funds for other than public institutions and public purposes. This proposed amendment will come before the voters in referendum at the next general election, which will occur the second Monday in September—the 13th—1926.

This bulletin contains the proposed amendment in full and the sections of the law which would govern any transfers necessary in case the amendment carries. The chief value of this bulletin is to furnish the text which each voter may read and form his own opinion of the results and be governed accordingly.

It should be known, however, that at present there is no bar or inhibition in our laws to religious instruction in public schools or to appropriation of public funds to schools whose program of studies includes sectarian teaching.

This measure is the direct sequence of the Massachusetts amendment which uses almost identical language and the action of a majority of the states who now have similar provisions. The fact that the measure is referred to the people relieves it of its political aspect.

It becomes non-political as it is non-sectarian. It will be supported and approved by persons of all parties and of all creeds. So many calls have come for the text of the bill and for procedure in case it became a law this bulletin seems advisable.

Resolve Proposing an Amendment to the Constitution Prohibiting the Use of Public Funds for Other than Public Institutions and Public Purposes

The Text of the Proposed Amendment

Chap. 58, Public Laws, 1925. **“Proposing constitutional amendment prohibiting use of public funds except for public institutions or uses. Resolved:** Two-thirds of the legislature concurring, that the following amendment to the constitution of this state be proposed for the action of the legal voters, to wit, by adding thereto the following article:

‘Sec. 1. On and after January first, nineteen hundred and thirty-one, all moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the state or any political division thereof for the purpose of founding, maintaining or aiding any school, or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the state or federal authority or both, except that appropriations may be made for the maintenance and support of the University of Maine and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

‘Sec. 2. Nothing herein contained shall be construed to prevent the state, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

‘Sec. 3. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.’

Form of question; date fixed when proposed amendment is to be voted upon. Resolved: That the aldermen of cities, the selectmen of towns, and the assessors of the several plantations in this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations in the manner prescribed by law, to give in their votes at the next regular biennial election in the month of September upon the amendment proposed in the foregoing resolution, and the question shall be: 'Shall the constitution be amended as proposed by a resolution of the legislature prohibiting the use of public funds for other than public institutions and public purposes?'

And the inhabitants of said cities, towns and plantations shall vote by ballot on said question, those in favor of the amendment expressing it by the word 'Yes' upon their ballots and those opposed to the amendment by the word 'No' upon their ballots, and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and returns made to the office of the Secretary of State in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the amendment, it shall thereupon become a part of the constitution and the governor shall forthwith make known the fact by his proclamation.

Ballots to be prepared by Secretary of State. Resolved: That the secretary of state shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolves accompanied by a copy thereof."

Some Observations

1. It will be observed that if the enactment carries, it does not become effective until January 1, 1931, which provides a five-year period for any needed adjustment.

2. It will be observed that in Section 1 down to the word "expended", there are two special conditions set up. The first refers to moneys raised by **taxation in the towns and cities** for the support of **public schools**; the second refers to all moneys **appropriated by the state** for the support of **common schools**.

Note: It is observed in this connection that the term, **public schools**, includes both elementary and high schools while the term, **common schools**, according to the use in the laws of the state and general practice, refers specifically to the elementary schools.

3. Following the semi-colon after the word "expended", it is provided that no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the state or any political subdivision thereof for the purpose of **founding, maintaining or aiding** any school or institution of learning, whether under public control or otherwise, **wherein any denominational doctrine is inculcated** or any other school or college, infirmary, hospital, institution or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control and superintendence of public officers or public agents authorized by the state or federal authorities or both but it is to be observed that Section 2 very carefully and explicitly permits the continuance of charitable aid to the various private hospitals, infirmaries and institutions for the deaf, dumb and blind under exactly the same conditions that they receive aid at this time. That means that the state or any municipality may continue to pay reasonable compensation for services rendered.

4. It will be observed that there are two prohibitions in Section 1: (a) relating to religious instruction in either public or private schools, (b) any school not under public control.

5. If this proposed amendment should become a law, the present free high school attendance act would continue effective for the free high schools. It must be remembered that the present system of state aid for secondary education operates very inequitably as some communities receive very much larger grants per capita per pupil than other communities no richer in this world's goods. To illustrate, in one instance, there is a town supporting a high school which through teaching positions and aggregate daily attendance receives on account of the high school \$370 a year from state funds, while an academy with the same number of pupils in a town similarly situated receives \$750 under the regular state aid for academies and \$1,000 special appropriation. This is not an isolated case but may be duplicated many times in all sections of Maine.

6. In case of the passage of this proposed amendment, several possibilities are open to the various academies in the state:

(a) If the law is interpreted by the Court so that the state is authorized to make payment of tuition, then laws to that end enacted by the legislature would be in order.

(b) It would be possible for the present academy corporation to continue the ownership of its property, to hold its endowments for the purpose of upkeep of property and permit the town to operate a free public high school within such property. This would simply require a joint arrangement, the trustees of the academy keeping the building in repair and holding the title thereto, as well as the control of vested funds, while the superintending school committee, under the authority of the town, would operate the school therein, and receive such aid in employing teachers from the trustees as they found practicable and expedient.

(c) It would be possible for the institution to run as a private institution and entirely upon private funds. They would then be authorized to continue their work and to teach such subjects as they saw fit, including religious instruction, and to carry on otherwise as they are at present.

(d) A surrender of the property containing certain of the assets of the corporation to the town, the institution to be operated by the town as a free public high school. This has already been done by some of the old academies and is expressly authorized and provided for in existing statutes. Dormitories or gymnasiums and other such structures could still be entirely handled by the academy trustees if it were so desired. The law provides that even though the "grant" is entailed, such transfer may be made under Sections 94, 95 and 96 of Chapter 16 of the Revised Statutes of the State. For the benefit of those who desire the full information, these sections are appended.

(e) There are several of the stronger, better endowed academies which could with ease and profit become junior colleges. If our young people in increasing numbers

continue to apply at the colleges we shall be unable to provide for them. Such a movement might offer a solution for the problem.

Mode of Transfer

“Sec. 94. Trustees of academies, etc., may surrender property to establish free high schools. R. S. c. 15, sec. 72. The trustees of any academy or other corporation formed for educational purposes may be a majority vote of such of said trustees as reside in the state, surrender the whole, or any part of the property belonging thereto, to the municipal officers of any town, or the trustees of any school fund in any town in which said academy or corporation is situated, for turning the same into a free high school as hereinafter provided, and said municipal officers or trustees, for the time being, shall be a board of trustees to take and hold said property for maintaining a free high school; and upon receiving said property, they shall use proper diligence to make the same produce income for the support of said free high school.

“Sec. 95. Property, how conveyed. R. S. c. 15, sec. 73. When such vote is so passed, the treasurer of said trustees shall convey, assign and deliver to the municipal officers of said town, or the trustees of such fund, all property belonging to said academy or corporation for the purposes indicated by the preceding section.

“Sec. 96. Income of property, how applied; qualifications of pupils, how determined. R. S. c. 15, sec. 74. 1913, c. 70, sec. 1. The municipality accepting the property in trust, as named in section ninety-four, shall apply the income thereof towards the support of a free high school to be kept within said municipality, within the requirements of the laws relating to the establishment and maintenance of free high schools, and provide suitable accommodations for the same; the superintending school committee in said municipality shall determine the qualifications necessary to entitle any applicant to enter or attend said free high school, and no one shall attend it without certificate of said officers to that effect.”

Many of the academies in the state are operating under very nearly this arrangement at the present time as they are under the control of a joint board composed of an equal number of trustees and members of the local school committee and the superintendent of schools has a large voice. The curriculum and the teachers must also at present meet with the approval of the Commissioner of Education.