

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Acts and Resolves

As Passed by the

Seventy-Ninth Legislature

OF THE

STATE OF MAINE

1919

Published by the Secretary of State, in accordance with the Resolves of the Legislature
approved June 28, 1820, March 18, 1840, and March 16, 1842.

KENNEBEC JOURNAL CO.
AUGUSTA, MAINE
1919

6939

VETO MESSAGES

UNIVERSITY OF MAINE ARMORY

STATE OF MAINE

To the Honorable Senate:

I respectfully return herewith without my approval resolve of the Seventy-eighth Legislature entitled "Resolve to Provide for the Building of an Armory at the University of Maine."

This resolve was presented to me just before the adjournment of the Seventy-eighth Legislature. It was well understood that sufficient funds could not be relied upon for the purpose indicated in the resolve unless the amount could properly be taken from the million-dollar appropriation for war purposes. After careful consideration and with the advice of the Attorney General, I was convinced that the construction of an armory at the University of Maine could not be accomplished with funds derived from the sale of war bonds on account of the constitutional limitations upon those funds. In these circumstances the straightforward course on my part seemed to be to withhold approval of the resolve rather than by signing it to arouse expectations which could not be realized.

It is true that such an armory during the fall of 1918 would have served a useful purpose in connection with the students' army corps at the University of Maine. But that opportunity could not be foreseen in April, 1917, and has now passed. While the armory should sometime be provided I concur heartily with the view recently expressed to me by the President of the University, namely, that the University needs a substantial increase to its appropriation for maintenance more urgently than it needs an armory, or, indeed, any other building.

(Signed) CARL E. MILLIKEN,

Governor.

Dated at the Executive Chambers,

January 1, 1919.

LOBSTER LICENSES**STATE OF MAINE**

To the Honorable Senate:

I respectfully return herewith without my approval Senate Document No. 22 of the Seventy-eighth Legislature, entitled "An Act to Amend Section Eighteen of Chapter Forty-five of the Revised Statutes relating to Lobster Licenses."

This bill was presented to me for approval just before the adjournment of the Seventy-eighth Legislature. The purpose of the act is to exempt the residents of a certain island in Casco bay from the general requirements of the State law relating to lobster licenses.

It is manifest that exemption of any particular locality from the provisions of the general law would lead to numerous requests for similar consideration to other localities. I am strongly of the opinion, therefore, that it would be unwise to begin granting such exemption.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chambers,
January 1, 1919.

FRED R. SMITH OF PITTSFIELD**STATE OF MAINE**

To the Honorable House of Representatives:

I respectfully return herewith without my approval House Document No. 610 of the Seventy-eighth Legislature entitled "A Resolve in favor of Fred R. Smith of Pittsfield, for expenses incurred as a member of the Hospital Trustees in investigating conditions at the Augusta State Hospital in 1913." This resolve was presented to me for approval just before the adjournment of the Seventy-eighth Legislature when the time at my disposal did not allow sufficient opportunity for satisfying myself as to its merits. Subsequently the Governor and Council, after careful investigation, paid to Fred R. Smith out of the contingent fund the full amount named in the resolve.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
January 1, 1919.

CONSTRUCTION OF THIRD-CLASS HIGHWAYS

To the Honorable House of Representatives:

I respectfully return herewith without my approval House Document No. 309, "An Act to Amend Section Thirty-six of the Revised Statutes as Enacted in Chapter Two Hundred and Fifty-eight of the Public Laws of Nineteen Hundred and Seventeen, and to Provide for the Construction of Third-Class Highways."

The title and first line of the bill are evidently inaccurate and incomplete. It purports to withdraw from funds available for State and State aid road construction under existing laws an annual amount of a little less than one hundred thousand dollars to be applied in "appropriate resolves" passed by the Legislature, and to limit the resolves which a Legislature may pass to that amount in each year. The latter feature of the bill would of course be nugatory as it is not within the power of any Legislature thus to limit its own acts or those of any succeeding Legislature. It remains, therefore, only to consider the proposed withdrawal of funds already devoted to specific purposes under our existing highway laws for the purpose of satisfying the terms of such special resolves as the Legislature may pass. This feature of the bill identifies it as the first item of the program of the committee on ways and bridges by which they expect to pass a certain selected list of road resolves over an executive veto.

Aside from its inaccuracies of language the bill is objectionable on three grounds:

First, it proposes an unwise method of distributing funds for highway work, a method inconsistent with the rest of our highway law.

Second, it would seriously interfere with the cooperative road work between the State and the Federal Government in the year 1919.

Third, the ostensible purpose of this bill, the appropriation of more money for country roads, can be accomplished better by adopting the principle of the so-called Granville bill, and, beginning in 1920 after the money from bonds shall have become available, to distribute part of the mill tax for third-class highways on a basis that is fair to all the towns of the State.

In answer to the first objection, it is said that to continue the present method of distributing highway money would be to surrender some of the prerogatives of the Legislature. If this is true, it is only one of many instances in which the Legislature has restricted its own field of action in making appropriations by authorizing some commission or department to administer funds within certain general limits prescribed by statute. As late as 1911 the argument was made in the Legislature that if bonds were to be issued and large sums of money expended for the construction of State highways the Legislature itself should designate where the trunk

lines should go and how much money should be spent in each locality. The attempt was even made to mark out by legislative act the main trunk lines across the State. The unwisdom of this course was perceived, however, and the authority was delegated to a State Highway Commission within certain general restrictions. In the same way a general bridge law was enacted to supersede the former practice of making special appropriations to aid cities and towns in the construction of large bridges. Following the same policy the Legislature of 1917 added \$200,000 to the amount available for State aid roads and provided that the Highway Commission might use \$50,000 of this amount as an equalization fund to provide for the sort of cases that formerly had been handled by special resolves. This arrangement took effect in 1918 in accordance with what I supposed was a thorough understanding with the committee on ways and bridges in the Legislature of 1917 that the old arrangement should prevail for the year 1917 and an agreed amount spent for special resolves with the understanding that the equalization fund should be expected to take care of such cases beginning with 1918. It may be that such a law unduly restricts the function of the Legislature, but it was adopted in accordance with the theory which now prevails in some other departments and in the rest of our highway work, namely, that a commission devoting its entire time to the problem can apportion the supplementary aid beyond the general law more accurately than a committee of the Legislature in the brief time available to them with only the information introduced at ex-parte hearings and without opportunity to examine the actual roads which are under discussion.

A still more important reason for continuing the policy which was established in 1917 is the unfavorable effect upon the general legislative program which is almost certain to result from the consideration of a large number of special appropriations by the Legislature. If further evidence on this point were needed it has been forthcoming in the past eleven weeks. This controversy about special road resolves has been smouldering and rumbling throughout the entire session and the tendency has been to delay if not finally to destroy much important legislation. Now, at the beginning of the twelfth week of the session, there have been presented to me for signature only about one-quarter of the bills and resolves that are passed at the average session and that will undoubtedly be passed at this session. Among those still pending in committees or on the House and Senate calendars are most of the really important measures that have been presented for your consideration. At the best it is doubtful if you will be patient to stay here long enough for careful and mature consideration of all these measures and if there is to be a scramble about special appropriations between now and the end of the session these public measures have about the same chance for careful consideration on their merits

that a symphony orchestra would have of rendering a successful program in a boiler shop.

But if the first objection to this bill be regarded as somewhat theoretical, the second is intensely practical. It is proposed to withdraw \$100,000 from the \$377,000 which constitutes our only available fund with which to match the Federal road-building appropriations during the building season of 1919.

The amounts available from the Federal Government are as follows:

Balance remaining from the fund provided under	
the old law before June 30, 1919,	\$187,554 98
Amount available July 1, 1919,	192,492 62

The sum of these two amounts, or the total which we have agreed to match under the old law for 1919 is \$380,047.60, about \$3,000 more than the total amount now available for the purpose.

In addition there is available from the Federal Government under the new act before June 30, 1919, \$481,231.35 and on July 1, 1919, there will be available from the new act, \$721,847.33, a total of \$1,203,078.68 available from the new act this year. In order to get this money the State must not only appropriate and spend a dollar for every dollar of Federal money, but must actually expend upon the roads the total amount represented by both the Federal and State appropriations and receive the Federal money only in the form of reimbursement for actual expenditures. Theoretically these reimbursements can come at intervals as the construction progresses, but actually the processes of the Government departments in Washington are so slow and tedious that nearly the whole road building season will elapse before any reimbursement from the Federal Government will come in.

That is, we have available this year a joint Federal and State fund amounting to \$3,166,252.56 for highway construction. The Federal Government is urging us to spend as much of this money as possible this year in order to provide work for returning soldiers and it is for our own interest that the work be rushed as fast as possible. The practical limit of this program for 1919 is the amount that we can carry financially, for, as I have shown you, practically the whole of the joint fund will have to be actually expended before money will begin to come from the Federal Government.

It is proposed to finance this road-building project by the issuance of new bonds, but this requires a constitutional amendment which cannot be acted upon before the second Monday in September and the money from the sale of bonds will not, therefore, be available until November, practically the end of the road-building season. Between now and that time there is no way of getting money into the treasury of the State of Maine except through a temporary loan to the amount of \$300,000 and the receipt

of such part of the indirect tax revenue as is due in the early part of the year.

It has been airily suggested that any additional funds required for road purposes can be supplied out of this temporary loan and the contingent fund which is the unexpended balance from last year, amounting to slightly over \$300,000. This suggestion fails to take into account the general financial program of the State which will require us to provide for all State expenditures on a considerably larger scale than heretofore with little corresponding increase in indirect taxation revenue and with no hope of relief from revenue obtained by direct taxation until that money is paid in during the month of December, 1919. I have sketched this situation briefly in order to make plain to you, first, that no money can be relied on either from the contingent fund or the temporary loan for highway purposes this year and, second, that revenue from bonds will not help the situation in 1919 because the building season will be practically over before that revenue comes in.

My third objection to the bill is that the object can be accomplished in a better way by adopting the principle of the Granville bill which sets aside a liberal amount beginning in 1920 for country roads and suggests a method of distribution that is fair to all the towns. I yield to no one in my eagerness to do full justice to the small towns and to the country roads. It is proper that after the bond money becomes available for Federal aid roads a much larger proportion of our mill tax should be set aside for third-class highways, but I hope it will not be done in such a way as to embarrass the road construction program during 1919.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 17, 1919.

AUTHORIZING MICHAEL BURNS TO BRING SUIT AGAINST STATE

To the Honorable House of Representatives:

I respectfully return herewith without my approval House Document No. 322, "Resolve, Authorizing Michael Burns to Bring a Suit at Law against the State of Maine."

This resolve was apparently introduced, referred to a committee, reported in new draft, printed and finally passed without at any time being accompanied by the written statement of facts required by House Rule No. 51.

So far as I understand the facts, the resolve proposes to confer upon

a seller of intoxicating liquors special authority to bring suit against the State of Maine to recover expenses alleged to have been incurred by him in 1887 in attempting to evade the Maine law against the sale of intoxicating liquor.

The State's immunity from being sued by an individual is an attribute of sovereignty and should be waived only upon rare occasions when there is urgent and conclusive evidence that only by such extraordinary means can the ends of justice be served.

The Legislature in considering such a request is performing a function analogous to that of a court sitting in equity, and the well known maxim of equity jurisprudence "He who comes into equity must come with clean hands" or "He that hath committed iniquity shall not have equity" applies to this case with compelling force. This maxim, according to one learned writer, means "that whenever a party, who, as actor, seeks to set the judicial machinery in motion and obtain some remedy, has violated conscience, or good faith, or other equitable principle, in his prior conduct, then the doors of the court will be shut against him in limine; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any remedy."

Applying this doctrine to the case in hand, this petitioner, a confessed violator of the laws of the State, claims to have suffered financial damage in the course of his transgression. He violated the law at his peril; let him suffer the consequences. He is entitled to no remedy at the hands of the State.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 20, 1919.

CONSTRUCTION OF FISH WEIR AT JONESPORT

To the Honorable Senate:

I have carefully examined Senate Document No. 125, "An Act to Authorize the Construction of a Weir in the Tide Waters of Roque Harbor in the Town of Jonesport," and respectfully return the same herewith without my approval.

In Section 121 of Chapter 4 of the Revised Statutes provision is made for application to the municipal officers by any person intending to build or extend any wharf or fish weir or traps in tide waters within the limits of any city or town. Upon receiving such application, the municipal officers are required to give at least three days' public notice and, after hearing of all parties interested, if they decide that such erection or extension

would not be an obstruction to navigation or any injury to the rights of others they are authorized to allow the same and require a bond in the sum of \$100.

The act under consideration provides for no bond. The fact was brought out at the hearing before the committee that no application had been made to the municipal officers of the town of Jonesport. Furthermore the chairman of the board of selectmen of the town of Jonesport has informed me by telephone that it is the unanimous opinion of the selectmen that the proposed weir would be an obstruction to navigation and would be an injury to the rights of others.

This opinion is confirmed by a careful examination of the official chart of Roque Harbor and by such other information as I am able to secure. The site of the proposed weir is in the middle of the entrance to a bowl-shaped harbor. The harbor frontage is now occupied by weir privileges whose value must be adversely affected by the establishment of a new weir at the proposed location.

These circumstances do not seem to me to justify a special act by the Legislature setting aside in this instance the provision of the general law.

(Signed) CARL E. MILLIKEN,

Governor.

Dated at the Executive Chamber,
March 20, 1919.

SAGADAHOC AGRICULTURAL AND HORTICULTURAL SOCIETY

To the Honorable Senate:

I have carefully examined Senate Document No. 135, "Resolve in favor of the Sagadahoc Agricultural and Horticultural Society" and respectfully return the same without my approval.

This is a special appropriation to this society growing out of the fact that the fair was not held in 1918 and therefore the State stipend did not become available.

The request for this appropriation was not filed with the State Auditor last November in accordance with the law and the appropriation is not provided for in the budget.

The general law makes the stipend proportionate to premiums actually paid out for agricultural exhibits. I am aware of the valuable service which this important fair renders to agriculture but I cannot overlook the fact that many other fairs in Maine were cancelled in 1918 and to some extent this occurs every year. So long as the general rule established by statute makes the payment of the stipend conditional upon the premiums

actually paid by the fair this rule should be adhered to and all the agricultural fairs of the State should be treated alike.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 21, 1919.

JOHN G. FLEMING FOR ROAD CONSTRUCTION

To the Honorable House of Representatives:

I have carefully examined House Document No. 346, "Resolve in favor of John G. Fleming for building a highway in the town of Wiscasset," and am satisfied that the sum of two thousand and ninety-three dollars and ninety cents named therein is nearly three times the amount fairly and reasonably due. I therefore respectfully return the resolve herewith without my approval.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 21, 1919.

HARTLAND ACADEMY

To the Honorable House of Representatives:

I have carefully examined House Document No. 324, "Resolve, in favor of the trustees of Hartland Academy for State aid for agricultural instruction for the years nineteen hundred and seventeen and nineteen hundred and eighteen," and respectfully return the same herewith without my approval.

This resolve appropriates for this academy the sum of \$500 as reimbursement for the amount which the academy failed to receive in the years 1917 and 1918 because the attendance in its course in agriculture fell below the standard required by law.

The amount of this particular resolve is not large, but its consideration involves the whole method of extending State aid to secondary schools.

The law requires the maintenance of a certain minimum attendance in an agricultural course in order to entitle the academy to special State aid for that course. To make an appropriation in one special instance where this aid was not earned in the last two years would be evidently unfair to a dozen or more secondary schools which lost their appropriations through failure to meet the requirements and which made no claim for reimbursement.

I find, moreover, that Hartland Academy was granted a special appropriation of \$1000 for each of the years 1917 and 1918 over and above all the amounts provided by law, and that in filing their requests with the State Auditor before November 15, 1918, the trustees asked only for the continuance of this appropriation through 1919 and 1920. The blanket resolve for aid in maintenance of academies carries an appropriation of \$1250 for each of the years 1919 and 1920 for Hartland Academy, or \$250 a year beyond the amount asked for. Now this special appropriation of \$500 is asked in addition.

Theoretically the State furnished aid to high schools and academies in proportion to the contribution which each of them is making to the educational program of the State, and while the amount of aid per capita on the basis of average attendance is not the only basis for comparison it is one of the important factors to be considered. With the amounts provided in the blanket resolve above referred to, the State aid from all sources for 1919 for each of the academies named in the resolve will be approximately as follows for each pupil in attendance:

Hartland Academy	\$74 00
Freedom Academy	65 00
Leavitt Institute	63 00
Anson Academy	62 00
East Corinth Academy	61 00
Litchfield Academy	58 00
Oak Grove Seminary	58 00
Greely Institute	56 00
Limerick Academy	55 00
North Yarmouth Academy	54 00
Eastern Maine Institute	53 00
Lee Academy	46 00
Higgins Classical Institute	43 00
Westbrook Seminary	42 00
Bridgewater Classical Academy	38 00
Limington Academy	36 00
St. Joseph's Academy	34 00
Monmouth Academy	33 00
Somerset Academy	30 00
Gould's Academy	26 00
Aroostook Central Institute	23 00
Maine Central Institute	19 00

The average State aid for all high schools in the State is about \$12.60 annually per pupil in attendance and the average annual total cost of maintenance for all the high schools in the State is \$53.13 per pupil in attendance.

Therefore, in view of the fact that without this special resolve Hartland Academy will still receive more State aid per capita than any other academy or high school, an amount, in fact, actually greater by nearly 50 per cent. than the average total cost of maintenance of high schools, it would seem as if the friends of this excellent institution should be satisfied with the liberal provisions already made for them without expecting the State to make a special exception in their favor in the matter of State aid for agricultural courses.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 24, 1919.

MAINE TITLE AND UTILITY COMPANY

To the Honorable House of Representatives:

I have carefully examined House Document No. 401, "An Act to Grant Additional Corporate Power to Maine Title and Utility Company," and respectfully return the same herewith without my approval.

This act grants to the above-named corporation the right to build, construct and equip railroad lines, the right to operate such lines, and the right to invest its property in trustees for any purposes and in any manner that will further the objects of its incorporation.

The right to construct railroad lines is vested in railroad companies under our statutes and surrounded by certain safeguards intended to protect the public against over-capitalization.

I believe it is contrary to sound public policy to grant to any general corporation the broad powers proposed in this act. The proposal is rendered still more objectionable in this instance by the fact that the corporation has included in its corporate name the name of the State.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 28, 1919.

INCREASE IN PAY OF STEAMBOAT INSPECTORS

To the Honorable Senate:

I have carefully examined Senate Document No. 214, "An Act to Amend Section Sixteen of Chapter Fifty-nine of the Revised Statutes Relating

to Compensation of Inspectors," and respectfully return the same herewith without my approval.

This act proposes to increase the per diem of steamboat inspectors from four dollars to five dollars. The State now spends in inspecting steamboats and motorboats about seven dollars for every dollar received in fees. This is due partly to the low fee charged and partly to the absurd and ridiculous requirement that two men be sent for each inspection, one to inspect the hull and one the boiler. I have tried in vain to secure a reasonable increase in fees for inspection and an amendment to the Statutes so that one competent inspector could be allowed to inspect both the hull and the engine. In the circumstances I cannot approve the proposed increase to a total cost of ten dollars a day and the traveling expenses of two men.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
March 28, 1919.

TOWN OF PORTER FOR SCHOOL PURPOSES

To the Honorable Senate:

I have carefully examined Senate Document No. 226, "Resolve in Favor of the Town of Porter for School Purposes," as amended by Senate Amendments A and B, and respectfully return the same herewith without my approval.

This resolve appropriates ten thousand dollars toward the construction of a high school building in the town of Porter. The town has an endowment amounting to about fifty thousand dollars, the income of which is to be available for the maintenance of this school on the condition that the pupils from the village of Kezar Falls in the town of Parsonsfield be admitted without the payment of tuition.

I realize that the construction of a suitable building will be a considerable burden to the town of Porter, but it has not been the custom of the State to make appropriations for the construction of town school buildings and I believe there are serious objections to establishing this precedent, particularly in a case where the town enjoys the unusual advantage of an endowment for the maintenance of the school.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chamber,
April 4, 1919.

SUCCESSION TAXES

To the Honorable House of Representatives:

I have carefully examined House Document No. 140, "An Act to Re-enact Section Twenty-four of Chapter Sixty-nine of the Revised Statutes Relating to When No Succession Tax Shall be Assessed on the Stock, Bonds and Evidences of Debt of Maine Corporations," and respectfully return the same herewith without my approval.

This bill would cause an annual loss in revenue from inheritance taxes amounting to from seventy-five thousand to one hundred thousand dollars. I am aware that this loss would be partially offset by a prospective increase in the number of out-of-the-State corporations which might incorporate under the Maine law. I cannot believe, however, that we are justified in modifying a taxation policy otherwise fair and reasonable for the sake of inducing the organization under the Maine laws of corporations which have no intention of doing business in Maine.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chambers,
April 4, 1919.

NON-PAR CORPORATIONS

To the Honorable House of Representatives:

I have carefully examined House Document No. 448, "An Act to Amend Chapter Fifty-one of the Revised Statutes as Amended by Chapter One Hundred Forty-four of the Laws of 1917 Relating to the Formation of Corporations Having Stock without Par Value," and respectfully return the same herewith without my approval.

At the time of the enactment by the last Legislature of the law permitting the organization of corporations with stock having no stated par value, it was felt to be important for the protection of investors to require that capital must be fully paid in before the commencement of business or the incurring of debts. I am advised that the effect of this bill would be to repeal that restriction.

(Signed) CARL E. MILLIKEN,
Governor.

Dated at the Executive Chambers,
April 4, 1919.