Warrants—State Warrants—Interest—Legislative Journals.

The interest rate on state warrants registered on and after April 1, 1925, is 4 1-2 per cent.

W. E. Harmon, Esq. March 25, 1925.
State Treasurer,
Helena, Montana.

My dear Mr. Harmon:

You have requested my opinion as to what interest rate state warrants registered after April 1, 1925, will bear.

House bill numbered 23, which, according to its terms, takes effect on April 1, 1925, attempted to amend section 180, R. C. M. 1921, as amended by chapter 159, laws of 1923.

The enrolled bill which was signed by the speaker of the house and president of the senate and approved by the governor provides that the interest rate shall be 4 1-2 per cent.

By repeated decisions of the supreme court of this state it has been held that the enrolled bill is conclusive upon the courts and that resort may not be had to the legislative journals to determine whether an act was properly passed, except for the one purpose of determining whether the "aye" and "no" vote on its final passage was entered upon the journals.

State ex rel Gregg vs. Erickson, 39 Mont. 280;
Barth vs. Pock, 51 Mont. 418, 426;
State ex rel. Woodward vs. Moulton, 57 Mont. 414;
Palatine Ins. Co. vs. N. P. Ry. Co., 34 Mont. 268;
State ex rel. Bray vs. Long, 21 Mont. 26;
Martien vs. Porter, 68 Mont. 450.

There is a conflict among the decisions of other courts as to whether the court may resort to the legislative journals to determine what was done in the passage of a bill.

Among the cases reaching the conclusion adopted by the supreme court of this state may be cited, among others, the following:

Ritzman vs. Campbell (Ohio) 112 N. E. 591;
Lucas vs. Barringer (S. C.) 112 S. E. 746;
In re Opinions of the Judges (S. D.) 180 N. W. 957;
King vs. Terrell (Tex.) 218 S. W. 42;
Harris Co. vs. Hammond (Tex.) 203 S. W. 445;
People vs. Camp (Cal.) 183 Pac. 845;
State ex rel. Clancy vs. Hall (N. M.) 168 Pac. 715.

The following cases, inter alia, reached the contrary conclusion, either directly or indirectly, and have held that resort may be had to the legislative journals:

Rice vs. Lonoke-Cabot Road Imp. Dist. No. 11 (Ark.) 221 S. W. 179;
Ex parte Seward (Mo.) 253 S. W. 356;
House vs. Creveling (Tenn.) 250 S. W. 357;
State ex rel. Hopkins vs. City (Kan.) 194 Pac. 931;
State ex rel. Davis vs. Cox (Neb.) 178 N. W. 913;
State vs. Schultz (N. D.) 174 N. W. 81;
People vs. Examiners (Ill.) 115 N. E. 852;
Anderson vs. Bowen (W. V.) 89 S. E. 677;
Dunn vs. Dean (Ala.) 71 So. 709.

Were it possible to resort to the legislative journals to determine what was done with reference to the passage of house bill No. 23 these facts would be disclosed: that when the bill was introduced in the house it provided that state warrants should carry 4 per cent interest; it passed the house in that form and was transmitted to the senate; the senate amended the bill by providing that the interest rate shall be 4 1-2 per cent; the house refused to concur in the amendment and a conference committee was appointed from both houses, which, in its report, recommended that the senate recede from its amendment. This report was adopted in both houses.

The bill, when enrolled, provided for 4 1-2 per cent interest and in that form it was presented to and approved by the governor.

Unless the supreme court of this state sees fit to depart from the rule consistently adhered to by it reference to the journals may not be had, and in that event it is clear that the enrolled bill may not be questioned and that state warrants registered on and after April 1, 1925, will bear interest at 4 1-2 per cent.

Very truly yours,

L. A. FOOT,
Attorney General.