

Backbencher chronicles Michigan's half-freshman 73rd Legislature -- one of the nation's first modern legislatures. The author was a leader of the forbidden Freshman Caucus. Backbencher will both inform and amuse those interested in this intriguing field of human endeavor.

Backbencher, A Legislative Memoir

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BACKBENCHER

A LEGISLATIVE MEMOIR

A photograph of the Michigan State Capitol building, featuring a large central dome with an American flag on top. The building is a grand, multi-story structure with classical architectural elements like columns and a pediment. The sky is overcast and grey.

George F. Montgomery

House of Representatives
73rd Michigan Legislature

District 21

Capitol, Room 19

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6. Legislative Engineering

A Senate staffer asked me one day if we were about ready to move forward with House Bill No. 522. The question struck me as strange because, under the joint rules, the bill numbering system had assigned the first two thousand numbers to Senate bills. Therefore, the lowest House Bill number was 2001. Then I realized that the 522 to which the staffer was referring was Room 522 of the Jack Tar Hotel. Dr. William Simmons, the chief lobbyist for the state's one and only School District of the First Class, usually occupied that room. The first class designation allowed the legislature to make general laws that applied only to the Detroit Public Schools.

Dr. Simmons was about 5 feet 8 inches tall and of medium build. He wore glasses and a bow tie, and always presented a dapper appearance. His infectious smile often obscured the intensity of his quest for dollars to operate the Detroit Public Schools. Dr. Simmons was affectionately known to his friends as “Sweet Ole Bill” and sometimes to others by the initials only! Thus, the staffer's inquiry really concerned progress on the new School Aid formula which was being developed by a group of school lobbyists and pro-school legislators under the guidance of Sweet Ole Bill.

Each day, after session, legislators interested in schools were invited to drop by Room 522 in the Jack Tar Hotel for some liquid refreshment and informal discussion of the School Aid situation. These daily caucuses were useful for exchanging information and keeping-tabs-on the flow of business through the legislative mill. Usually, the gang would break up after an hour or so and each person would go his separate way. As Dad was on the Education Committee while I was a member of Ways and Means, we were both included in the core group of school aid conspirators.

Other school lobbyists were also invited to attend these school-supporter strategy sessions. Dick Smith represented a group of underfunded suburban, or bedroom school districts. His districts had very little industrial tax base but plenty of boys and girls to educate. Obviously, the new school aid package would need to include special

consideration for Dick Smith's districts which went well beyond the extra funding for "distressed" districts that Dad had been instrumental in getting the legislature to provide prior to 1965.

Another room 522 regular was Henry Linnie, President of the Michigan Federation of Teachers, AFL-CIO. Statewide, Federation membership lagged far behind that of the Michigan Education Association, but the Federation did represent the majority of teachers in a few districts including Detroit. Detroit Federation of Teachers President Mary Ellen Riordan only came to Lansing a few times each year, but she was always welcome in room 522. Other room 522 regulars included Eldon Rosegart who represented the Oakland Schools ISD, Max Cochran and Alex Canja from the State Department of Education and, of course, the big guy from the Michigan Education Association in East Lansing.

One day, I heard Sweet Ole Bill suggest to the other school lobbyists that they should "knock with their elbow" when they come to Room 522. In other words, they should not show up empty-handed. He said that the state's only School District of the First Class would not be insulted if other school lobbyists contributed something to the education caucus refreshments.

It was interesting to observe how the various education lobbyists responded to his suggestion. Some began immediately to contribute generously to the supply of munchies and liquid refreshment in Room 522. Others ignored his suggestion. I was especially amused to watch the lobbyist representing the Michigan Education Association, the state's largest and wealthiest teachers' organization, bring three cold bottles of his favorite beer to Room 522 each afternoon. After consuming all three beers, he left. I guess his 70,000 members could not afford for him to help wet-the-whistles of any of the elected lawmakers. I wondered if the MEA lobbyist was planning to pass the new school aid bill single-handedly.

Apparently, the three-beers routine also annoyed Sweet Ole Bill. One afternoon, he quietly suggested that if the MEA lobbyist showed up, a couple of the freshman legislators should grab the second and third beers from the refrigerator and drink them before the lobbyist could finish his first. He did, they did, and he left after draining the first beer. It was the last time that I ever saw him in room 522.

Sometimes our school aid discussions continued over dinner. I remember one night that we were having dinner in the hotel dining room. I was sitting next to Representative Ray Wurzel [R-Port Huron], the former Chairman of the House Education Committee. When Dad noticed that I was drinking my coffee black, he said, "You'd better put some cream in your coffee, son. This man is a dairy farmer."

As I added some cream to my coffee, Ray Wurzel said, "You don't have to do that."

"I'm flexible," I responded. "Actually I like it both ways." Ray smiled as I continued, "I want you to know that I am a major consumer of dairy products. I drink milk, eat ice cream, butter, and cottage cheese..."

"I'm glad to hear it," Wurzel said. "We need a lot of people like you."

Dad always made it a point to know as much about each member as he could. He studied their biographies in the Michigan Manual, and absorbed tidbits of information from their conversations. Dad was trying to teach me to be as sensitive to the other members as he was. In time, I appreciated that my colleagues were a diverse and interesting group of individuals.

* * * * *

During the early months of our legislative service, a lot of freshmen accepted the hospitality of room 522 after session because there was nowhere else to go. As had been the accepted practice in the part-time, "Horse-and-Buggy" Legislature, ordinary members were provided no office space. Our only desk was at our assigned seat on the floor of the House. Secretarial support also was very limited, with ten members assigned to each secretary. Our party's secretarial pool was on the fourth floor, in the attic of the Capitol Building.

I was, perhaps, more fortunate than many of my colleagues. My assigned secretary, Serena, was either exceptionally efficient or else the remaining nine members in her group were not giving her much work. In any event, she produced all of the work I requested very quickly and very competently. Then, suddenly, Serena was gone. I learned that the

MEA lobbyist had hired her to work for him at his office in East Lansing. When I reported the loss of Serena to the group in Room 522, Sweet Ole Bill commented that stealing a good secretary away from a group of ten lawmakers was a sure way to alienate ten votes.

Most freshmen found the lack of office space and limited secretarial support to be totally unacceptable for members of what was now supposed to be a full-time legislature. We were aware, however, that the press and even some of our legislative colleagues challenged our contention that the Constitution of 1963 had made the 73rd Legislature full-time. That irked me because I had been required to terminate my employment with the Livonia Public Schools in order to be sworn in as a legislator.

The freshmen made our complaints concerning office space and secretarial support known to the top leadership who, of course, did have offices and individual secretaries. A delegation of freshmen met with Speaker Kowalski to present our demands. We suggested that Speaker Kowalski view a few episodes of "Slattery's People." When he asked who Slattery was, we explained that "Slattery's People" was a new CBS television drama in which Richard Crenna portrayed a dedicated state legislator. We told the Speaker that we wanted offices and secretarial help similar to what Slattery had on TV. The Speaker promised that he would try to find time to watch the program.

Speaker Kowalski promised to remedy the problem of office space and secretarial support as soon as possible. He told us that several executive agencies, including the Department of State, the Treasury Department, and the Department of Education, were scheduled to move out of the Capitol Building and into the recently completed State Office Complex or other office buildings in downtown Lansing. Within a few weeks, the Speaker did provide each freshman a cubical in a gang office, and secretarial support was improved to one secretary for every four members. That was much better. I was assigned to Room 19 just inside the entrance under the rear staircase, on the ground floor of the building. In the distant past, this area had served as the stables under the State Capitol Building, which had been built prior to the invention of the "horseless-carriage." Although we joked about being exiled to the stables, we were pleased to have office space at last.

Room 19 was actually a two-room suite. The inner chamber contained a cubical for each of seven members. My inner office mates were Dan Cooper, Dick Young, Ed Mahalak, John Bennett, Ed Michalski, and Bill Ryan. Two secretaries, Florence and Joyce, occupied the outer office. It also contained a cubical for the eighth member of our double group. That member, Floyd Mattheussen, claimed that his assignment to the outer office made him the office manager. Room 19 was often crowded, but it was also very convenient as our assigned parking spaces were just outside the rear entrance of the building. Again, I counted myself fortunate, as my new secretary Joyce was very competent and very efficient. Somehow she managed to complete all of the work which Floyd Mattheussen, Eddie Mahalak, Dan Cooper and I gave to her. In time, I almost forgot how Serena had been lured away from our legislative secretarial pool by the promise of big bucks and improved working conditions at the MEA's Taj Mahal in East Lansing.

* * * * *

One day, at an after session gathering in Room 522, we plotted floor strategy for passing House Bill No. 2107. Jack Faxon, my Ways and Means Committee colleague, was the chief sponsor of this "simple little bill" which would grant the School District of the First Class, the Detroit Public Schools, the same authority as other school districts to issue bonds up to 2 percent of the district's valuation. Because of Detroit's huge tax base, 2 percent would amount to millions of dollars. It was anticipated that Detroit Representative E. D. O'Brien would oppose the passage of this legislation.

To limit O'Brien's opportunity to attack this bill, Jack was to have just one turn to make his pitch for the passage of the bill. It was agreed, however, that after E.D. O'Brien had spoken and raised some objections to the bill, none of us were to answer him. We were reminded that if we remained in our seats, O'Brien would have only one shot at House Bill No. 2107. We were assured that we had enough votes to pass the bill and that there was little likelihood that we could win over any of the bill's opponents.

The show down occurred on Tuesday afternoon, March 2, 1965. By offering amendments to the bill, Representative O'Brien got extra turns to speak and blast the bill. In the end, however, House Bill No. 2107 passed by a vote of 83 to 19 (HJ'65, #26, Roll Call #40, 1,375-6). E. D. O'Brien and three other members exercised their constitutional right to protest the action of the house by explaining their "NO" votes. The protests complained about the activities of the Detroit Board of Education's lobbyist. They also criticized the use of the previous question to curtail debate on Third Reading, and alleged that the bill's supporters had misled the members of the house (HJ'65, #26, 1, 376-7).

After session, Dr. Simmons said that he would accept the criticism as long as the bill was enacted. Representative Faxon was happy that his bill had passed, but he was frustrated that he hadn't been allowed to respond to any of Representative O'Brien's numerous objections to the bill. Although the strategy to circumvent E. D. O'Brien had worked in that the bill was passed, I thought it had been a bit too brutal!

At another after session gathering in Room 522, we were discussing the three-bill package of political party reform legislation that I had introduced on Friday, February 12th (HJ'65, #14, 1, 250-1). I was asked why I had chosen Lincoln's Birthday to introduce my first, second and third bills? I answered, "I did it to honor the members of the minority party who had joined me to provide bipartisan sponsorship for this landmark legislation." Then I smiled and admitted, "Actually, the bills were not ready any sooner."

I went on to explain that Representative Spencer, an experienced member of the minority party had signed as the first cosponsor on each of the bills: House Bills 2150, 2151 and 2152. I also explained that Representative Dingwell, my second cosponsor on each of the bills, was a majority party member of the Elections Committee, the committee to which the bills had been referred.

Sweet Ole Bill said, "Now that's what I call good bipartisan sponsorship."

"That's right," said Max, one of the in-house lobbyists for the Department of Education. "Say, I was wondering if you might like to be the chief sponsor of some of our department bills?"

Max handed me a draft of a bill to improve state funding for driver education. This driver education bill was an example of an “agency bill.” It had originated in the Department of Education, an agency of the executive branch of government. Some agency bills come to the legislative body by way of the Executive Office. In that case they are known as “Executive Bills.” Neither the governor nor a departmental director can introduce bills into the legislature. Only members of the House and Senate can introduce bills. If no member of the House or Senate is willing to sign as sponsor, the bill cannot be considered by the legislature.

After looking over the driver education bill draft, I told Max I would be happy to sponsor it for him. As the bill was pre-drafted, the blueback was returned from the Legislative Service Bureau in just a few weeks. I solicited a few bipartisan cosponsors and introduced it as House Bill No. 2741 on March 13 (HJ’65, #56, 1, 932).

Max had a whole stack of Department of Education agency bills. He gladly would have let me sponsor more than one. I said that one was my share, as I already had submitted an education bill of my own to the Service Bureau. Max asked what my bill was about. I explained that it would authorize the State Board of Education to accept \$3.5 million in federal funds available under the Cooperative Research Act of 1963. I explained that I had learned about the availability of these funds in a post-graduate course in Instructional Technology I had taken at Wayne State University in 1964. Max said that he was very happy to hear about my bill because he had a draft of similar legislation somewhere in his pile. If I planned to introduce mine, he would check that one off too.

The enabling legislation to accept the federal education funds was introduced as House Bill No. 2212 on February 23 (HJ’65, #21, 1, 316). I didn’t know it at the time, but this bill turned out to be the first of several bills, of which I was the prime sponsor, to become law. This brief little bill was processed through the Education Committee, the Ways and Means Committee, and the Committee of the Whole. It was passed by the House and sent to the Senate by mid-April (HJ’65, History of House Bills in the House, HB 2212, 3, 3573).

Senate Education Committee Chairman Gerald Dunn and his colleagues apparently found that House Bill No. 2212 was the right

vehicle in the right place at the right time. They decided to fatten up the critter. It was returned from the Senate on June 17 with three amendments plus an amended title (HJ'65, #96, 2, 2320). On June 21, I recommended that the House skip the conference committee procedure and concur in the Senate amendments.

I remember what happened next as clearly as if it were only yesterday rather than nearly four decades ago. Roy Spencer, a senior minority party member of the Education Committee, demanded an explanation.

“Mr. Speaker, through the chair I would like to ask the sponsor to explain how these Senate amendments have affected the amount of money authorized by this bill?”

“Representative Montgomery, can you enlighten the gentleman?”

“Yes, Mr. Speaker. The original bill authorized the State Board of Education to accept about three and one-half million dollars in federal funds available under the Cooperative Research Act of 1963,” I responded. “These Senate amendments conform to the original purpose of the bill by authorizing the State Board of Education to also accept some additional money now available under Public Law 89-10 recently passed by the Congress.”

“Representative Spencer.”

“Mr. Speaker, may I ask if this Public Law 89-10 has a name?”

“Representative Montgomery?”

“Yes, Mr. Speaker and Representative Spencer, Public Law 89-10 is also known as the Elementary and Secondary Education Act of 1965.”

“Representative Spencer.”

“Thank you, Mr. Speaker. May I now ask again how much these Senate amendments add to the amount of money the State Board of Education will be receiving from the federal government?” Spencer persisted.

“Representative Montgomery?”

“Mr. Speaker and fellow members: As I understand it, the amount would be increased by about forty-three and one-half million dollars, for a grand total of forty-seven million dollars the first year.”

“Representative Spencer.”

“Mr. Speaker and fellow members: Then this is no longer the ‘simple little bill’ which this house passed a few weeks ago,” Spencer quipped.

“Representative Montgomery?”

“Mr. Speaker, the gentleman from Lapeer knows very well that this was never a ‘simple little bill.’ He is, after all, one of the cosponsors,” I responded, “and everyone knows that he has never sponsored or cosponsored a ‘simple little bill’ during his entire career in this body!”

That brought down the House, and Spencer laughed too as he resumed his seat. All of this good-natured interrogation and repartee was directed back-and-forth through the chair as required by House rules. Finally, the House concurred in the amendments by a vote of 94 to 0 (HJ’65, #98, Roll Call #766, 2, 2425). The bill was referred to the Clerk for enrollment and printing and presentation to the Governor, which occurred on July 8 (HJ’65, #103, 3, 2927).

The last week in June, every legislator received an urgent request from the State Department of Education begging us not to begin our summer recess without first authorizing them to accept the federal funds recently made available by Congressional enactment of Public Law 89-10. Understandably, department bureaucrats were very anxious to get their hands on the cornucopia of cash provided by the Elementary and Secondary Education Act of 1965. Apparently, they were unaware that we had already completed action on that authorization.

Representative Clark showed me the department’s memorandum and asked, “Isn’t anyone paying attention over there at the Department of Education? You should notify the Superintendent of Public Instruction and the other bureaucrats in the Department of Education that if they hurried, they might still make it to the Governor’s Office in time to get in the picture when Governor Romney signs your bill.”

“Take it easy,” I told Harold. “I’m sure the bureaucrats at the department are finding it difficult to adjust to the speed and efficiency with which this New Legislature takes action on items like this. The Old Legislature usually made them beg for several years before they would authorize the department to accept federal funds. It was only a couple of years ago that Dad was able to tack an amendment onto Senate Bill No. 1247 that finally allowed the state to accept the money available under Titles V and X of the National Defense Education Act of 1957!”

On July 16, Governor Romney signed Enrolled House Bill No. 2212, and it became Public Act No. 209 of 1965 (HJ'65, #103, 3, 2951).

* * * * *

The business of greatest concern to those who met regularly in Room 522 was, of course, the annual adjustment of the state School Aid formula. Whatever its actual number, I learned that Capitol insiders often referred to the new School Aid bill as "House Bill No. 522!" As I remember it, the goal of the education lobby was always to get the maximum amount of state dollars for schools with the minimum number of strings or restrictions attached.

"Sweet Ole Bill" maintained that *lobbying* didn't quite cover what he did in Lansing. Dr. Simmons preferred to describe his work as *Legislative Engineering*. Judging by the results that were achieved "for the boys and girls of the State of Michigan" while he was on the scene, I don't know of anyone who would seriously dispute his contention.

In 1965, the actual number of "House Bill No. 522" was House Bill No. 2189. It had been introduced with eighteen cosponsors, including both Dad and me, on February 18 (HJ'65, #18, 1, 292). Like every school aid bill, House Bill No. 2189 amended several sections of Public Act No. 312 of 1957, the most recent total reenactment of the state School Aid Act. That act provides not only general membership aid, but also a number of categorical aids for local school districts (Public Acts of 1964, Public Act No. 285, 556-567).

The general membership formula of the School Aid Act provides equalizing aid adjusted to the *wealth* or *ability* of each local school district. It contains two factors, a gross allowance and a deductible millage. The amount of per pupil aid for a local school district is equal to the difference between the gross allowance factor, and the product of the deductible millage factor multiplied by the *wealth*, or ratio of the local district's State Equalized Valuation per pupil.

This computation provides more aid to poor districts (those with a low ratio of SEV per pupil) and less aid to rich districts (those with a high ratio of SEV per pupil). Because most school districts levy many more mills for operating purposes than the deductible millage factor used

in the membership aid formula, the general membership aid falls far short of full equalization.

House Bill No. 2189 addressed this problem by providing, for the first time, an alternate general membership formula. Most districts would remain under the A-formula, which would be improved to a gross allowance of \$260.00 less 4.675 deductible mills. However, the poorest school districts (those with an SEV of less than \$12,214 per pupil) would have their membership aid computed under the alternate B-formula which provided a much greater degree of equalization by using a much higher gross allowance of \$380.00 per pupil less 14.5 deductible mills.

The effect of the dual formulae was to hinge the downward slope of the equalizing aid line. The wealthier districts were left on a gentle slope provided by a low number of deductible mills. At the same time, it provided the poorest districts the benefit of a much higher gross allowance and a much steeper slope resulting from a high number of deductible mills. The hinge, or intersection point, is computed by dividing the difference between the two gross allowance factors by the difference between the two deductible millage factors.

Because the use of an alternate general membership formula was a new notion, I spent a lot of time preparing visual aids, like line and area graphs, to show how the two proposed formulae would affect the amount of state aid per pupil for various local school districts. The X-axis represented local district *wealth* in SEV per pupil. The Y-axis represented dollars per pupil of membership aid. At any point on the X-axis, the distance between the plot of the 1964-65 formula and the plot of the proposed dual formulae gave an immediate visual measure of the amount of improvement proposed by the new school aid bill for all districts with that amount of *wealth* per pupil.

In addition to providing a colossal increase in membership aid for the poorest districts, the 1965 amendments to the School Aid Act contained several improvements in categorical aids. One of these, an entirely new program recommended by the Governor, would provide \$7.5 million to fund supplementary educational services targeted for economically and culturally disadvantaged pupils. Obviously, the Detroit Public Schools would qualify for a big share of these funds.

Another categorical, of particular importance to the Detroit Public Schools, was the municipal overburden section, Sec. 17. Dad had gotten this provision amended into the School Aid Act in 1964 (Public Acts of 1964, 563-4). It was designed to channel additional funds to school districts, like Detroit, where the local tax base is less available for school operating purposes because of high relative tax levies for other governmental purposes.

The municipal overburden provision reduces the wealth factor used to compute general membership aid, thus increasing net state aid. Wealth measured in SEV per pupil is proportionally reduced by a fraction of the percentage by which the total tax burden for non school operating purposes of an applicant district exceeds 125 percent of the burden for non school operating purposes carried by the balance of the school districts of the state (Public Acts of 1964, 564). To qualify for additional aid under Sec. 17, a local school district's non-school operating tax burden first must exceed the 125 percent threshold. Then, a fraction of the excess over the 125 percent threshold is used to slide the district to the left on the deductible millage line and thereby treat the district as if it were less wealthy in computing its general membership aid. In order to get this provision into the School Aid Act in the first place, Dad had accepted a fraction of only 1/20 in 1964 (Public Acts of 1964, 564). Of course, that had severely limited the amount of supplemental aid distributed to overburdened school districts under Sec. 17.

In 1965, our goal was to increase the value of the fraction in Sec. 17, and thereby increase the supplemental aid paid to overburdened school districts like the Detroit Public Schools. House Bill No. 2189 proposed to replace 1/20 with 1/2. Dad jokingly explained that we were just removing one little zero from the computation. As soon as the Education Committee completed its work on House Bill No. 2189, it would be referred to the Ways and Means Committee. Then the ball would be in my court.

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