

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)

Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Thursday, January 22, 1976

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Louis Berube of Auburn.

The journal of yesterday was read and approved.

Papers from the Senate

Bills from the Senate requiring reference were disposed of in concurrence.

Reports of Committees**Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Relating to Supervised Practice by Third-Year Law Students Pursuant to Court Rules" (S. P. 620) (L. D. 1952)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE
Office of the Governor
Augusta, Maine

January 21, 1976

To Members of the 107th Maine Legislature:

I am writing each of you to ask that we in the Executive and Legislative Branches of government demonstrate to the People of Maine that we can come together, shoulder our own responsibilities, and mutually resolve problems facing us.

I am asking the members of this body to work with the Executive Branch in the weeks ahead to find funding for new programs approved in the Supplemental Budget without funding for both years of the biennium. We have conceded from the beginning that these programs — comprising approximately 10 per cent of our spending reduction program — present a legitimate question of legislative intent.

This ten per cent was part of the Supplemental Budget which many of you voted for feeling that we were going to be able to find the money to fund it. We were able to locate money from cost savings to fund 3.8 million dollars worth of these programs, but we had to make a decision between neglecting legislative intent on established programs... which we chose not to do... and finding money for new programs sufficient in dollar amount to implement the remaining portion of the legislation involving these new programs. This we intended to do but to date we have been unable to find the additional dollars. If you are able to help us find this additional money, I say to you as Governor that we will immediately implement these programs.

Also, as Governor I will take responsibility for confusion that has existed in this area. The Attorney General and the Governor are not in disagreement, as some reports have indicated, on 90 percent of our spending reduction efforts. We are also in agreement that the Executive and Legislative Branches, either individually or collectively, are in a position to address the remaining 10 percent.

In effect, the answer to the question of the remaining 10 percent is in our hands and therefore, at this point I am advised

that in the Executive Branch we do not have a "solemn occasion" that would justify our burdening the Supreme Court at this point.

I am certain there are questions in the minds of legislators about these specific programs. By the same token, we in the Executive Branch have questions as to whether we can be forced to start up a new program that has not been adequately funded for the biennium. We feel strongly that if such an issue was forced it would, in effect, dictate that the Executive Branch initiate taxes to pay for the program. This is an authority the Executive Branch does not want and should not have and we feel the Constitution of the State of Maine does not intend for the Executive Branch to have that obligation. Taxation is clearly the responsibility of the Legislature.

Even though both branches are faced with questions, I do not feel, at this point, that we have made a sincere effort to come together and resolve the problem. We do not feel there is an unresolvable controversy presently existing that would justify asking the Maine Supreme Judicial Court to address this matter as a solemn occasion. Whether or not the Executive Branch would refuse to start the programs if by working together the Legislative and the Executive Branches failed to resolve the funding problem is a hypothetical question and one which we feel can be eliminated by cooperation.

The Executive Branch has not refused to implement these programs. Planning has been accomplished and our financial situation is the only reason for their not having been started.

In my address to this honorable body on January 19th, we presented the Legislature with three alternatives:

- (1) Endorse this portion of our plan.
- (2) Repeal the Supplemental Programs in question.
- (3) Or, defer the start-up of the programs until such time as we have more accurate revenue figures for the remainder of this fiscal year and until we can examine the revenue outlook for the second year.

Since the Legislature approved these programs in good faith and since the Executive Branch has demonstrated its good faith in planning for the implementation, I would request that this body accept the third alternative and defer the start up until we have a more accurate picture of our revenues.

Hopefully, we can work together to find the funds necessary to begin these programs as the Legislature intended. I have already pledged my cooperation in helping this body analyze and curtail or cut programs not providing full service so we can find additional funds.

In addition, I was trying to suggest and will now suggest that this Legislature help us find the money to start up and continue these programs. Meanwhile, we are taking another look in the Executive Branch to see if we can identify other sources of funds for this purpose. While I hope we are successful, I fully recognize that the Legislature has the additional alternative to pass a tax increase... but again, this approach does not have my support at this time.

If we are unable to identify such funds by later in the session, then perhaps we could justify going to the high court for an advisory opinion.

At that point, this Legislature would have legitimate questions to ask, and as

Governor, I also would have questions to ask.

I respectfully ask this body to work with me in the weeks ahead to try to identify funds for these programs.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor

The Communication was read and ordered placed on file.

**Petitions, Bills and Resolves
Requiring Reference**

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Bill "An Act to Establish a State Veterans Home" (H. P. 1874) (Presented by Mr. Dam of Skowhegan)

Bill "An Act Appropriating Funds for the State Share of the Spruce Budworm Control Program and Imposing a Tax on Forest Lands for Spruce Budworm Control" (Emergency) (H. P. 1875) (Presented by Mr. McBreairty of Perham) (Cosponsors: Messrs. Powell of Wallagrass Plantation, Garsoe of Cumberland)

Bill "An Act Providing Funds for Young Women's Christian Association Fair Harbor Emergency Shelter in Portland, Maine, an Emergency Shelter for Girls" (H. P. 1876) (Presented by Mrs. Boudreau of Portland)

(Ordered Printed)

Sent up for concurrence.

Business Legislation

Bill "An Act Concerning Individual Qualified Retirement Plans" (H. P. 1877) (Presented by Mr. Hewes of Cape Elizabeth)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Provide Supplemental Appropriation for Summer Programs for Exceptional Children" (H. P. 1878) (Presented by Mr. Hennessey of West Bath)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act Relating to Employment of Drug Inspectors by the State Board of Pharmacy" (H. P. 1879) (Presented by Mr. Perkins of Blue Hill)

Bill "No Act Authorizing the Department of Mental Health and Corrections to Purchase Residential Services" (H. P. 1880) (Presented by Mr. Hennessey of West Bath)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Relating to Public Inspection of Certain Juvenile Court Records" (H. P. 1881) (Presented by Mr. DeVane of Ellsworth)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act to Clarify Municipal Development Authority" (Emergency) (H. P. 1882) (Presented by Mr. MacEachern of Lincoln) (Later Reconsidered)

Bill "An Act Concerning the

Identification by Fingerprints of Past Offenders" (H. P. 1883) (Presented by Mr. Joyce of Portland)
(Ordered Printed)
Sent up for concurrence.

Liquor Control

Bill "An Act Concerning the Purchase of Liquor" (H. P. 1884) (Presented by Mrs. Durgin of Kittery)
(Ordered Printed)
Sent up for concurrence.

Natural Resources

Bill "An Act to Allow Certain Mining Operations within the Sandy River and Temple Stream without a Permit from the Commissioner of Inland Fisheries and Wildlife" (H. P. 1885) (Presented by Mr. Morton of Farmington)
(Ordered Printed)
Sent up for concurrence.

Taxation

Bill "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations" (H. P. 1886) (Presented by Mr. LaPointe of Portland)
(Ordered Printed)
Sent up for concurrence.

Transportation

Bill "An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways" (H. P. 1887) (Presented by Mrs. Berry of Madison)
(Ordered Printed)
Sent up for concurrence.

House Reports of Committees

Leave to Withdraw

Mr. Gauthier from the Committee on Judiciary on Bill "An Act to Provide Court Interpreters for Deaf Persons" (H. P. 1843) (L. D. 2008) reporting "Leave to Withdraw"
Report was read and accepted and sent up for concurrence.

Consent Calendar

First Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

Bill "An Act to Establish a Boundary Line Between the Towns of Winslow and Albion" — Committee on Legal Affairs reporting "Ought to Pass" (H. P. 1821) (L. D. 1982)

No objection being noted, the above item was ordered to appear on the Consent Calendar of January 23, 1976, under listing of Second Day.

Bill "An Act to Increase the Total Authorized Indebtedness of Kennebunk Sewer District from \$1,000,000 to \$3,000,000" — Committee on Public Utilities reporting "Ought to Pass" (H. P. 1810) (L. D. 1969)

On the request of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

Bill "An Act to Amend the Charter of the Searsport Water District" — Committee on Public Utilities reporting "Ought to Pass" (H. P. 1837) (L. D. 2002)

RESOLVE Authorizing and Directing the Director of the Bureau of Public Lands

to Permit Great Northern Paper Company to Cut and Remove Wood from Township 6, Range 11, W. E. L. S. — Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-856) (H. P. 1803) (L. D. 1962)

Bill "An Act to Validate Proceedings Authorizing the Issuance of Bonds and Notes by Region 2, Southern Aroostook County Vocational Region" (Emergency) — Committee on Education reporting "Ought to Pass" (H. P. 1798) (L. D. 1957)
No objections being noted, the above items were ordered to appear on the Consent Calendar of January 23, 1976, under listing of Second Day.

Consent Calendar

Second Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

Bill "An Act to Clarify Certain Provisions Relating to the Establishment of Hospital District No. 1" (H. P. 1835) (L. D. 2000)

Bill "An Act Relating to Unexpended Funds for Highway Construction on Indian Reservations at Pleasant Point and Peter Dana Point" (C. "A" H-855) (H. P. 1812) (L. D. 1971)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for concurrence.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

JOINT ORDER — (S. P. 635) Relative to Bills and Resolves to be Considered at this Special Session. — In Senate, read and passed.

Tabled — January 21, by Mrs. Najarian of Portland.

Pending — Passage in concurrence.

Mr. Rolde of York offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-857) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: This is the order that I spoke about yesterday, and I would like to refresh your memory because there was some confusion over this.

One of the problems that we had was that when this came to us from the Senate, the Senate Calendar did not correctly print the entire order, so there was a misunderstanding and some people felt that the order was intended to keep legislation that was the result of studies by the Joint Standing Committees out of this session. The reason that impression was given was because one part of the last sentence was omitted from the Senate Calendar, but it does exist on the original order, a copy of which I have in my hand. I will read the final sentence in its entirety.

It says, "This Joint Order shall not apply to such bills or resolves as are intended only to facilitate the business of the legislature" and this is the key phrase, "nor to such bills and resolves reported by any Joint Standing Committee in the regular course of business." So that means definitely that any legislation resulting from study orders that Joint Standing Committees had will be allowed into the special session.

The amendment here is simply to change — the original order said, "All members of the Committee on Reference

of Bills would have to approve any bill that was allowed into the session now, after cloture." This changes the figure to "no less than six."

I hope you will accept the amendment and pass the order.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the members that had some problems with this order, and in talking with the Majority Floor Leader, he was able to eliminate my objections. My concern was the concern, I think, of many of you in the operations of the Joint Standing Committees pertaining to study orders that we passed in the last regular session. I have no objections to it and I urge its passage.

Thereupon, House Amendment "A" was adopted.

The Order received passage as amended in non-concurrence and sent up for concurrence.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

Bill "An Act to Permit the Development by the Secretary of State of a Numerical System of Driver License Control to be Used in Place of Social Security Numbers" — Committee on Transportation reporting "Ought to Pass" (H. P. 1811) (L. D. 1970)

Bill "An Act Relating to Lease or Purchase of Railroad Lines by the Department of Transportation" — Committee on Transportation reporting "Ought to Pass" (H. P. 1814) (L. D. 1972)

No objections being noted, the above items were ordered to appear on the Consent Calendar of January 23, 1976, under listing of Second Day.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Bill "An Act to Repeal the Local Leeway Provisions of the Present Education Finance Statute" (Emergency) (H. P. 1888) (Presented by Mr. Palmer of Nobleboro)

Was referred to the Committee on Education, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

On Motion of Mr. Albert of Limestone, it was

ORDERED, that Donald Webber of Belfast be excused for the duration of his illness.

Mr. Ault of Wayne was granted unanimous consent to address the House.

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: Last spring in the regular session of the 107th, this House did pass the so-called returnable bottle bill. I supported it, always have, and I sponsored it, as a matter of fact, the previous two sessions. Unfortunately, it was killed in the other body.

Also last spring, the 107th passed a joint order which said, "Ordered, that the Legislative Council be authorized, with the Joint Standing Committee on Natural Resources, to conduct a study of said regulations and to report the results of this study, together with any implementing legislation, to the 107th Legislature." This

order directed the Legislative Council to do this.

As a result of the Order, the Natural Resources Committee has met periodically during the summer conducting such a study of solid waste disposal. I attended, I believe, every one of those meetings with other members of the Natural Resources Committee. The only reference we made during all of these meetings last summer to the returnable bottle bill was as the result of a memo dated November 19 from our legislative aides, which included it among a list of possible things that we should consider in our solid waste study. We never discussed the so-called returnable bottle bill other than to ask them to pursue it so that we could consider it when we might meet again this winter.

Now, considerable publicity has suddenly arisen about the non-returnable bottle bill being allowed in this session. It is my understanding that when we had a screening of bills to come into this special session, the Legislative Council did not allow the nonreturnable bottle bill to be admitted.

I also understand there is a rule that any bill that was killed in the regular session, unless it was a "leave to withdraw," would not be allowed in this special session, and I would expect you would correct me, Mr. Speaker, if I were wrong, but that was my understanding.

Well, John Day, in the Bangor Daily News, quoted yesterday that a majority of the committee favors a nonreturnable bottle bill in their report to this special session. I want to point out again, we have never had a vote and we have never discussed the nonreturnable bottle bill.

Today in the Associated Press it says a minority of the committee would support such a bill. We have never had a vote on it.

We voted yesterday, unanimously, to ask the Legislative Council two questions, on a motion of Representative Doak, and we wanted an answer in writing. Because of the wording of this order, which says the Legislative Council shall report to the 107th Legislature, we wanted to know was if any legislation that we proposed in our committee had to be approved by the Legislative Council, as all of the legislation had to be when we came in before this screening committee two weeks ago. We also wanted to know, can the committee come out with a minority report, so if a majority of the committee does not support bringing a nonreturnable bottle bill into this session, can a minority of the committee, a minority of one, do it?

We want those answers because if we bring a nonreturnable bottle bill into this session, I am sure you are aware it is going to extend this session a solid week anyway, at a cost of some \$200,000 probably, does the Legislative Council want this? We need answers to these questions. There is no sense in us going to a lot of work and effort for a nonreturnable bottle bill in our committee and then have the Legislative Council say "No, we are not going to let it come in."

I just want you all to know that no decision has been made in the Natural Resources Committee on a nonreturnable bottle bill, and it is my understanding we won't vote on it for at least a week, because we have never even seen it; it hasn't even been written yet. I just wanted you to be aware of that.

On motion of Mr. Carey of Waterville, the House reconsidered its action of earlier

in the day where Bill "An Act to Clarify Municipal Development Authority," House Paper 1882, was referred to the Committee on Legal Affairs.

On further motion of the same gentleman, the Bill was referred to the Committee on Local and County Government, ordered printed and sent up for concurrence.

(Off Record Remarks)

Mr. Henderson of Bangor was granted unanimous consent to address the House.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to speak about something that has been gnawing at me for quite a long time, and especially the last few days, and it is with respect to the Governor's recent comments about the deficit.

As you may recall, last year, among others, I suggested that we tone down the way in which we speak about the Governor and his efforts to cut costs, and I am trying to control that urge right now myself, but I have been concerned about the basis of the general previous position to blame — although it is usually said without laying blame and then goes ahead to lay blame on the legislature and specifically free spending, liberal Democrats, among others, but I think we are all probably still feeling the burden of this, that we have been responsible primarily for the deficit we are now facing. I find this very frustrating because this is a constant theme and it is hard for me, or maybe any of us, to develop a constant and consistent reaction to this, to try to get across to the people of the state the true facts.

The Governor, in his press conference the other day, was very concerned that the superintendent of the school district in Portland was not relating all the facts, and I think it is important that we do have those.

He also, yesterday, said that he wanted to be judged primarily by the people around him and the decisions they have made, because he relied heavily on them for expertise.

I think I would, just for my own satisfaction and maybe to try to straighten the record out a little bit, like to make just a few comments. Number one, it was the people around him, his finance officers, who made estimates of revenues for this budget year. They have not proved to be accurate. Secondly, it was the people around him who proposed to this legislature the largest budget in the history of the State of Maine after proposing that costs could be cut. Thirdly, it was the people around him in the Department of Education, although we share this burden as well, who estimated the cost of the school funding act. They were the ones who gave us the information, the technical persons who gave us reason to believe that this would be a workable proposition at their last meeting.

In all of those respects I think there has been a great failure, not that we don't share that to some extent, because we warned the Governor that the revenues would not be half enough and we had a responsibility, I feel, either to have cut his budget or to have raised the revenues to balance it. We were under great political pressure then, as we are now, to be cooperative with the Governor to the nth degree, and we tried sincerely to do that. Even though we felt he was wrong, we went along with his proposal and now we

are in a big mess collectively, and we bear some of that responsibility, I feel.

The Governor, again, has asked that we tell the whole truth. In his message the other day, a passage of that Representative Tierney has already quoted, said, "I am pleased to say that our approach will allow for a reduction in the rate of the uniform property tax." Yet, when asked whether that was really accurate at a press conference the other day, reminding the Governor that in fact his proposals would involve an increase in the uniform property tax, just not as great an increase as would have been proposed otherwise. He indicated that was the case. There will be, as I understand it, an increase over the past year, even in the Governor's plan.

He has argued strong for efficiency, and that is something that all of us liberal, free-spending Democrats and everybody else can be in favor of, I certainly am. It would obviously deliver more programs to more people at less cost, and that is important. I, personally, haven't seen a nickel of improvement in efficiency. We have seen cost reductions, we have seen programs not implemented or cut back, and I won't go through all the hearts and flowers of human services programs, but I think we understand what those mean in terms of actual "hurt people" impact. The efficiency we would like to have, but haven't seen yet and I can understand it, it is a very, very difficult job. It is a very difficult technical job but it is very easy to call for cutbacks, it is easy to lay blame, very easy to try to tell the people that there will not be a tax increase, those are the easy political routes. The difficult political routes are saying, maybe we need a tax increase, maybe the Governor is wrong and if we feel he is, we have to be very clear that we communicate our feelings to the people that he is wrong on many basic issues.

I haven't really expressed this as well as I would like to and I am going to try to express it better in the future, but I hope all of us, especially the leadership of both parties in both houses, can try to communicate to the general public the nature of the problem we are in. We share it but it is not all our fault.

On motion of Mr. Carey of Waterville, Adjourned until one o'clock tomorrow afternoon.