

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, January 22, 1976

Senate called to order by the President.

Prayer by Dr. Richard Cleaves of Augusta:

May we pray. Eternal God, as we seek to fulfill the trusts that you give to us, and also the trust that is placed in us by our people, we ask your presence and your strength this day and all days. Amen.

Reading of the Journal of yesterday.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence, with the following exception: Bill, "An Act to Clarify the Advisory Status of Comprehensive Municipal Zoning Plans." (H. P. 1868) (L. D. 2039)

Comes from the House referred to the Committee on Natural Resources and Ordered Printed.

On motion by Mr. Jackson of Cumberland, referred to the Committee on Local and County Government in non-concurrence and Ordered Printed.

Sent down for concurrence.

Communications
STATE OF MAINE
Office of the Governor
Augusta, Maine 04330

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 percent of our spending reduction program — present a legitimate question of legislative intent.

This ten percent 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 within the authority 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 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 to start up these new programs, then perhaps at that time 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

Which was Read and Ordered Placed on File.

Mr. Speers of Kennebec was granted unanimous consent to address the Senate.

Mr. SPEERS: Mr. President and Members of the Senate: I hope that all of you have had an opportunity to read the message from His Excellency regarding his position with regard to the four programs that he has refused to implement at this time. There are one or two implications in the wording of the message which he has sent to us which I feel should be clarified for the record and for the people of the State of Maine.

The Governor states on page 3 of the printed calendar, in the second paragraph, "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." Well, Mr. President and Members of the Senate, there was no feeling on the part of the members of the legislature at the time that this budget was enacted that it was going to be necessary to find the money to fund it at some point in the future. When the legislature enacted the budget at the end of last year, it was a balanced budget. The revenue estimates were those revenue estimates that were presented to us by the Governor himself, 444 million dollars for the current fiscal year, and the budget programs that the legislature enacted did not exceed that 444 million dollars for the current fiscal year. The budget was balanced according to the revenue estimates provided to us by the Governor. So there was not the feeling that we were enacting legislation for which we were going to have to find some money at some point in the future. The money was there appropriated in the budget.

Now, the Governor had presented to us at the beginning of last year his own budget which, after the Appropriations Committee had taken a look at it, resulted in a 4.2 million dollars deficit in the budget that the Governor had presented to the legislature. This resulted because of some court interpretations regarding funding of the school finance law. It was not a fault of the Governor at that time. But the fact still remains that the budget presented to us by the Governor had a 4.2 million dollar deficit in it, and the Appropriations Committee went to work and worked very long and very hard at solving that problem and presenting to this legislature a budget which ended up with a 1 million dollar surplus, even with enacting the supplemental budget.

The Governor had indicated that he hoped to be able to find savings in state government which would mean that we would be able to continue many of the programs that were enacted in the supplemental budget for the second year of the biennium without the necessity of raising taxes. That was to be the question that we were going to be facing in this special session. Well, of course the revenue estimates, far from finding savings in state government, the actual revenue receipts have presented us with a situation whereby we are faced with cutting

programs that have already been enacted, let alone being able to continue for the second year those programs.

The second comment that is made in the message presented to us by the Executive that I feel deserves some comment is the claim by the Chief Executive that if this issue were forced it would dictate that the executive branch initiate taxes. Mr. President and Members of the Senate, I think it is obvious that the executive branch does not have the power to initiate taxes, nor could anything that the legislature do force the executive on its own to initiate taxes for the people of the State of Maine. The Governor states that this is an authority that the executive branch does not want and should not have, and I know of no one in his wildest imagination who would ever have suggested that perhaps this is an authority that the executive should have. Not only is it an authority that the executive does not want and should not have, Mr. President, it quite obviously is an authority that the executive does not have.

So this leaves us with the grave situation whereby the legislature enacted a balanced budget at the end of last year, and whereby we are faced with the situation where the revenue receipts are not equal to the revenue estimates. Therefore, it is incumbent upon us as the legislature, and as the executive branch of the government in working with the legislature, to readjust the budget that was enacted to bring it into balance. But in that regard, again it is a rather strange situation, Mr. President, because when we met with the Governor last evening to work out this problem of trying to have the programs actually implemented that were enacted by the legislature, the Governor indicated to us that he was not prepared to say that we would not have a balanced budget at the end of this current fiscal year; that he was not at this point prepared to say that the revenue receipts were not going to equal the revenue estimates.

In the paragraph on top of page 4, he states that 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. What is the financial situation? On the one hand we are told that the money is not available, and yet on the other hand we are told that the budget, at this point at least, is still balanced and that we still will have a balanced budget by the end of this current fiscal year.

We are faced with a very difficult situation. I think the first difficulty is in determining the actual financial status that we are now faced with. And the leadership has taken a significant step, I feel, in asking the Appropriations Committee to investigate the current financial status of the state and to present to the legislature its assessment of our current financial status. Presumably then, Mr. President, we will go about the task of tailoring the budget to fit the actual revenue receipts. And at that point, should it be obvious that a tax increase would be necessary to continue particular programs, then that question will be faced at that time.

I would hope that we can continue to meet with the Governor and to work out the problems that we are faced with in this regard in implementing the programs that were actually enacted and are existing as state law today. But I did feel that there

were certain implications that were stated in the message that we received today that should certainly be challenged on the record; the principal one of which is the fact that when we left these chambers last July the budget was balanced in accordance with the figures and the revenue estimates that were presented to us by the Chief Executive of this state.

Mr. Conley of Cumberland was granted unanimous consent to address the Senate.

Mr. CONLEY: Mr. President and Members of the Senate: I shall thank the majority floor leader for his explanation relative to the financial situation of the state and the message of the Chief Executive.

Mr. President and Members of the Senate, as the minority floor leader of this body, I feel a compulsion on my part to at least express the concern of the people of this state that have been in touch with me relative to some of these programs that have not been put into effect.

I think there are many members of this body who have supported the Chief Executive time and time again throughout the regular legislative session, and as a member of this body and as one of its leaders, I have always discussed matters very openly with the members of my party, particularly in the areas of finance, and tried to get expressed opinions by everyone as to what their particular feelings were. I know that when we get back to the enactment of the supplemental budget of last year that there was grave concern among several members of my party as to, one, some of the programs that were encompassed within that supplemental budget, and secondly, to the financing of the second half of the biennium.

The majority floor leader has spelled out quite clearly that when we left these chambers last year there was a balanced budget by figures both given to us by the Chief Executive and his departments of the budget and also by our Legislative Finance Office, headed up at that time by Mr. Garside. In fact, when we left these chambers we had a surplus of somewhere over 1 million dollars.

The problem that I am faced with today and my concern is not really the four programs of \$700,000 or \$800,000 that were enacted, because at this late date six months have already passed whereby they have not been implemented, so obviously that figure has been reduced by almost 50 percent. What disturbs me is that there is almost a constitutional crisis, in a sense, as to the legislature when it acts, when it overrides a veto, and the Chief Executive still fails to implement those programs. We all disagree, each and every one of us every day, but we know, on the other hand, that the majority makes the decisions as to what takes place or what becomes law within this state. The constitution is very stringent. In fact, on many occasions we have to have a two-thirds vote of both branches of the legislature, such as the case with the supplemental budget. Not only did we have to vote on it several times, we had to vote again on a veto, which was overridden, and the Chief Executive failed to act.

I do not honestly want to have to go before the Supreme Court with this particular matter. In fact, the legislative leadership met last night again with the Chief Executive, hoping that in an area of cooperation the Governor would commence this morning with the

implementation of those programs and resolve this once and for all.

As the good majority floor leader has spelled out, once again we have been given figures by the Legislative Finance Office that show the budget as of today to be anywhere between 13 and 15 million dollars in the red, and yet the Chief Executive clearly states that he is not ready or willing to accept that there is any deficit as of this moment. There is no reason why we should not believe the Legislative Finance Office at this time. We have relied very heavily on those figures presented to us by that office year after year after year, and I would have to give them an efficiency rating of batting a pretty good high average. They have been pretty accurate right down the line, and there is no reason today why we should disbelieve the figures that are being given to us. That is why the legislative leadership is responding to what we feel is a grave situation, to try to look at the entire budget and to try to bring it into line. On the other hand, we also recognize, irrespective of the fact that we may disagree and all of us have our own minds made up as to certain problems and programs, we recognize the fact that the majority does rule. This is still a government of the people, for the people, and by the people.

Senate Papers Joint Resolution

Mr. Curtis of Penobscot presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

IN MEMORIAM

Having Learned of the Death of Dr. Roswell P. Bates of Orono, Former Speaker of the House of Representatives, Chairman of the Executive Council and Senator

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 643)

Which was Read and Adopted.
Sent down for concurrence.

Appropriations and Financial Affairs

Mr. Clifford of Androscoggin presented, Bill, "An Act to Provide Funding for the 7th Justice of the Supreme Judicial Court." (S. P. 644)

Which was referred to the Committee on Appropriations and Financial Affairs.
Sent down for concurrence.

Business Legislation

Mr. Merrill of Cumberland presented, Bill, "An Act to Conform the Maine Truth-in-Lending Act to Federal Statutes." (S. P. 647)

Mr. Thomas of Kennebec presented, Bill, "An Act to Correct and Clarify the Maine Banking Code." (S. P. 650)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Education

Mr. Katz of Kennebec presented, Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 651)

Which was referred to the Committee on Education and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. O'Leary of Oxford presented, Resolve, Authorizing Sabon P. Milligan to Bring Civil Action Against the State of Maine. (S. P. 645)

The same Senator presented, Resolve, Authorizing Ladd Farms, Inc. to Bring Civil Action Against the State of Maine. (S. P. 646)

The Committee on Reference of Bills suggested that these Resolves be referred to the Committee on Legal Affairs.

On motion by Mr. Speers of Kennebec, referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Public Utilities

Mr. Curtis of Penobscot presented, Bill, "An Act Concerning the Charter of the Orono-Veazie Water District." (S. P. 648)

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Committee Reports Senate

Leave to Withdraw

Mr. Collins for the Committee on Judiciary on, Bill, "An Act Concerning the Filing of Cases in State Courts." (S. P. 619) (L. D. 1951)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Cyr for the Committee on Public Utilities on, Bill, "An Act Increasing the Indebtedness of the North Yarmouth Water District." (S. P. 625) (L. D. 1979)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

(Senate at Ease)

Called to order by the President.

Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

House Paper

Bill, "An Act to Repeal the Local Leeway Provisions of the Present Education Finance Statute." (H. P. 1888)

Comes from the House referred to the Committee on Education and Ordered Printed.

Which was referred to the Committee on Education and Ordered Printed in concurrence.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate:

Mr. BERRY: I listened, Mr. President and Members of the Senate, with a great deal of attention and interest to the comments and remarks of our two good leaders. I felt that they had covered certainly part of the area, but in the minds of all of us, I am sure, there are questions

that do need to be answered. It is just a matter of timing, and I think perhaps it may be a little bit early in the session, but I can certainly see the necessity for the comments that these two outstanding gentlemen made.

I do think that in the minds of all of us there are some concerns. The concerns have been certainly brought to the fore in other states, and we don't have to look very far from the confines and boundaries of the State of Maine to get a little guidance or a little foreview of just where we may be heading. I think that the leaders of the State of New York or the leaders of the municipality of New York two years ago probably would little have dreamed that they would have been going through the constraints of the last few months. I think perhaps this is the thought that we have in our minds here not only today but for the rest of the session. How can we avoid what we see happening elsewhere? Now I don't mean it just the way it sounds, but I think that we should make an extremely not only sincere but strong effort not to get in any position or posture of bickering with the Governor. And I say this because I think that the people of the state are beginning to look a little bit away from the legislature for help and a little bit more toward the Governor — and I say this in an impersonal way — a little bit more toward the Governor for the satisfaction and the help they feel they need. I think this is wrong because I think the legislature itself should be the fore group of the three branches of government to look after and satisfy the people's concern.

I say my remarks in no spirit of disagreement with either the Republican or Democratic leadership, and I am sure they understand this, because I am not addressing myself principally to what they did say; I am principally addressing my comments to what I think are equal if not greater problems.

When we are saying that we see problems in Maine, not coming to Maine, but in Maine that other states and other government entities have faced, and are paying a very dear price for facing, it seems to me we are saying the game is a little bit different than it was, even as late as a year ago, and I don't believe either the people of the State of Maine or we or the Governor are too far off if we say well, we might have made some decisions that long ago, but in view of the approaching problems, that maybe we ought to continue now to adopt a posture of being ready and willing to change our course of action. I think this is what concerns all of us. I think we should be ready and willing to change our course of action. To my mind, this does not mean a blind commitment to anything we have done. I don't care whether it is a 440 million dollar budget or a little small supplemental budget. The important point is that we cannot keep the State of Maine on a course where it will lead us into the absolute certainty of trouble.

I just would conclude by wanting to assure the Senator from Kennebec, Senator Speers, and the Senator from Cumberland, Senator Conley, that I am in agreement with practically all they said, but I do hope that our actions here during the special session will involve these ingredients of willingness to reevaluate what we have done in the past and perhaps, above all, to take a posture which is going to require an awful lot of courage and a lot of good old American guts to keep

this state from going where it certainly looks like it is headed now.

Mr. Speers of Kennebec was granted unanimous consent to address the Senate:

Mr. SPEERS: Mr. President and Members of the Senate: I certainly wish to commend the good Senator from Cumberland, Senator Berry, for his remarks, and to assure him that I agree with him when he calls for the legislature to be ready to accept realities that we are faced with at the present time, and would simply like to express again that this is why the leadership yesterday requested of the Appropriations Committee to take another look at the budget which we did enact at the end of the last session and to take a look at that budget in light of the realities that we are faced with today, the realities that the legislature is recognizing as to where we are headed should we not make the required changes in the budget that we enacted. I simply want to commend the good Senator from Cumberland and express that we are in complete agreement, and that the legislature itself is accepting its own responsibilities, recognizing that we do have financial difficulties, and that on our own we are going to reassess the position we took at the end of last session in light of the realities of the financial difficulties with which we are faced at the present time.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until 1:00 o'clock tomorrow afternoon.