

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

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**KENNEBEC JOURNAL
AUGUSTA, MAINE**

voting "Nay". Is it the pleasure of the Senate to grant this leave?

It is a vote.

The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, that Item 1-12, L. D. 2248, L. D. 2249, and L. D. 2250, be referred to the Committee on Taxation. A "Yes" vote will be in favor of this motion; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carboneau, Cianchette, Clifford, Conley, Corson, Cyr, Danton, Graffam, Greeley, Jackson, Katz, Marcotte, McNally, O'Leary, Pray, Roberts, Wyman.

NAYS: Senators Berry, R.; Cummings, Curtis, Graham, Hichens, Huber, Merrill, Reeves, Speers, Thomas, Trotzky.

ABSENT: Senator Collins.

A roll call was had. 18 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with two Senators pairing their votes and one being absent, the Bills were sent to the Committee on Taxation and Ordered Printed.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, having voted on the prevailing side, I move reconsideration of this action and hope everybody will vote against the motion.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate reconsider its action whereby these bills were referred to the Committee on Taxation. Will all those in favor of reconsideration please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

Sent down for concurrence.

(Off Record Remarks)

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

Mr. MERRILL: Mr. President and Members of the Senate: I don't care to respond directly to the issue that was just discussed by the Senator from Kennebec, Senator Katz, but it raises a point that has gone through my mind many times since we have begun this biennium period under the leadership that we have and in the times that we have today.

One thing that has gone through my mind time and time again is the trend that exists in government and outside of government right now to constantly, whenever an issue breaks out and whenever any controversy develops, to question the motives of the people involved.

A democracy exists on the idea that the best thing to do is to bring controversy into the open and to discuss issues and to try to resolve them in the public marketplace of ideas. And I think the system will exist pretty well, and I think the people can make their decisions very well, if it is on the basis of the quality of those ideas and not constantly questioning the motives of the people who bring them up.

First of all, those of us who are engaged in the business of law, where we oftentimes have to make judgments about motives, know that this is one of the most difficult things to conclude, that the only person who has any inkling really of the motivation is the person who is doing the acting, and even then sometimes the

motives are so complex that they don't understand. So it doesn't do anything to help resolve the problem, and it does an awfully lot to stop the resolution of the problem.

It would be my hope that the tenor of the remarks of the Senator from Kennebec, Senator Katz, would be heard by many in this state, and not only the select group at whom he aimed them, and that we would begin again to make public debate a debate of the issues, a debate of the merits, and not constantly raising the question about people's motives. I am afraid that all of us have good motives and bad motives and at times we succumb too much to the latter, but I think for the most part that the people who serve this government and the people who work in the state for the public good are motivated by good desires and think they are working towards good ends. And those who want to improve the public order, I think, the first step they ought to take to do so is to accept that as an assumption, and then discuss the quality of the ideas and the quality of what we do. If we can do that, I think that we can preserve the nation whose bicentennial we honored today for a long time to come. And if we fail to do that, the cement of a democracy, which is trust, will be eroded over the years, and I am afraid we will separate and lose the great dream we have worked for so hard.

(Off Record Remarks)

On motion by Mr. Speers of Kennebec, Recessed until the sound of the bell.

After Recess

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:

Enactor

The Committee on Engrossed Bills report as truly and strictly engrossed the following:

Emergency

An Act to Make Necessary Revisions in the Income Tax Law for School Funding Purposes. (H. P. 2112) (L. D. 2264)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate, with one negative vote, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, having voted with the majority, I move that the Senate reconsider its action whereby this bill was passed to be enacted, and urge the Senate to vote against the motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby this bill was passed to be enacted. Will all those Senators in favor of reconsideration please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Bill, An Act to Revise the Laws Relating to Funding of Public Schools. (H. P. 2020) (L. D. 2196)

Tabled — February 25, 1976 by Senator Speers of Kennebec

Pending Motion of Senator Speers of Kennebec to reconsider Enactment.

(In the House — Passed to be Enacted)

(In the Senate — Passed to be Enacted)

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SPEERS: Mr. President, I urge the Senate to vote against the motion.

The PRESIDENT: The pending motion before the Senate is the reconsideration of L. D. 2196. Will all those Senators in favor of reconsideration please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

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

Mr. MERRILL: Mr. President, I know the hour is late and I intend to speak for just a very short period of time. The purpose of my speaking is to urge the Governor to reconsider his previously stated position and not to veto this bill.

These two bills that we are sending down today have received more than two-thirds of the entire membership in both houses. I think that if he acts to veto the bills it would be futile, and it would have a negative effect in that it would delay for another period of time the people who have to make up the budgets in the cities and towns being able to know what the basis of their computations is going to have to be.

I think that the Governor has made his position perfectly clear and I think that he can let this bill become law without his signature and the people in Maine will know clearly where he stood, will understand why he did it, and the gesture on his part I think would be appreciated by everybody now that has to deal at the town levels with the town budgets. The real effort now, I think, to bring control into educational spending is going to be made at the local level, and the attention should be directed there and this matter should be moved out of our consideration.

We still have other big problems to deal with, and among those problems we are going to have to be coming to grips with the problems that we face in finding, I think, necessary places where we can make cuts in order to deal with the budget. If we can direct our attention towards that next week, and not have to fight these battles over again, it would be helpful.

I would just like to make one point also about the criticism that has been raised with what we have done, the criticism that we have given some great boon to out-of-state taxpayers and to businesses in Maine by the fact that we have shifted this small part of the property tax burden to the income tax. I would like to say just two things in that regard. First of all, the Governor has stated, and he has stated it many times since this summer, that he thinks 1994 never should have been enacted in the first place. With the enactment of 1994, the taxes on these businesses and these out-of-state taxpayers in many instances more than doubled. The fact of the matter is that if we look at where these people will be as a result of this legislation that we pass on top of 1994, many of those people are paying twice the property taxes now that they would have paid had these two actions, 1994 and these revisions, taken place.

How can any individual be against the passage of 1994 and the placement of the uniform property tax and then turn around and say what we have done by moving the mill rate back a quarter of a mill is giving these people a big tax break? I just don't

think the two positions are consistent and I don't think they would bear close scrutiny. Also I don't think that it is quite fair. The 35 percent of the property tax money that we collect that comes from businesses in Maine, most of these businesses are small, they are run by people who live in Maine, and they are run by people who pay Maine income taxes. These people aren't getting any special break. We know, and the Governor has stated, that Maine businesses are paying a very high percentage in taxation already. It may make good rhetoric to talk about businesses getting big tax breaks, but the fact of the matter is that it just isn't true, and these people are going to pay their taxes in Maine.

I might also point out that roughly 5 percent of the income tax we collect is collected from out-of-state individuals who earn some monies in Maine and pay income taxes here, so it isn't a complete shift onto Maine taxpayers. I don't think that these reasons bear close scrutiny, particularly when given by a person who is against 1994 completely, and I think that the fact that we have come as close as we have to the Governor's estimates, and the fact that we have demonstrated that we have two-thirds in both bodies, I hope those will prompt the Governor to reconsider his position and let this bill become a law without his signature.

Mr. Gahagan of Aroostook was granted unanimous consent to address the Senate.

Mr. GAHAGAN: Mr. President and Members of the Senate: I think that the good Senator, Mr. Merrill, has completely missed the whole point of what we are doing by saying that we should pass this bill because it really doesn't give a big benefit to out-of-state taxpayers. I am not as concerned about out-of-state taxpayers as I am about the taxpayers in the State of Maine.

I don't think educational funding is necessarily out of control either. I think state spending is out of control. That is the big issue that we are supposed to be looking at here in this state.

When the majority leader this morning said that he thought we should get this education thing out of the way and then we could proceed to the budget, I think he was incorrect in his statement. I think the educational funding of 260 plus million dollars is a big part of the state budget and that too should be considered.

I really don't know if everybody thinks they know where they are going, but I don't think we are headed in the right direction, and I think we should stop and ask the questions of just what it is we are doing here.

Since Senator Merrill has asked the Governor not to veto this bill, I think perhaps I should take this opportunity to go on the record and say that I think he should veto this bill. I think if he does veto this bill it will give us a chance to stop, put the brakes on, and take a look at what we are doing and maybe take a look at the order that I put in this morning which really didn't have enough votes to get a roll call. In my experience in the legislature in three years, I have only seen this happen once, and I have never seen it happen in the Senate.

I don't understand what is going on here. There seems to be some steamroller coming down the hall that is telling us to pass this bill because it is the only thing we have got before us. For once, I think this legislature should do what leadership

wanted us to do at the beginning of this session, to sit down and take a look at program review, at program elimination. Although the majority leader said this morning that we were doing this in the Appropriations Committee, we are not doing this in the Appropriations Committee. And to my knowledge, Performance Audit is not doing it.

We have been meeting, we have been hearing bills, but there has never been a mention from leadership or from the Chairman of the Appropriations Committee that we were going to consider program elimination on a priority basis. Representative Garsoe, a member of the committee, and myself have spoken to the chairman on several occasions and had asked that we begin to consider it. And last week I went to the President of the Senate myself and I asked him if we should not begin to do this immediately before the education funding bill goes through, before we consider the matter of state employees' raises. We should do all of this before. Government is just taking off. We have got a program here which, as I said yesterday, has been pretty much written out in a book. If you want to read what Maine government is doing, you can read this *Advisory Commission on Intergovernmental Relations Program*. We received it a couple of weeks ago in the mail, and whole thing is laid right out before us. You can see exactly what has been going on here. We are attempting to put in a property tax out of page 31. The whole of state government was pretty much set up in the past eight years during the Curtis Administration by this public administration clearing house. Let me just read the summary contents of this book, and you can see exactly where government reorganization came from:

Part 1, State Government Structure and Processes

Part 2, Local Government Modernization

Part 3, State and Local Revenues, which includes property taxes

Part 4, Physical and Personnel Management

Part 5, Environmental Land Use and Growth Policy

Part 6, Housing and Community Development

Part 7, Transportation

Part 8, Health

Part 9, Education

Part 10, Criminal Justice.

This little book contains a whole lot of what is going on in Maine. If you haven't read it, you should really read it. It is amazing, if you didn't know where the stuff is coming from. It comes out of Washington. It is a big national clearing house. I can speak to this, I studied this in graduate school; a master's degree in Public Administration, and I sat at the feet of these people. This is what they are teaching, city management, outside commissions, a lot of this stuff that is promoting a particular idea. And I think it is great, in the beginning I believed that their motives were sincere. In 1959 when this Intergovernmental Relations Advisory Commission was first started, the sponsor of this legislation, Senator Edmund S. Muskie, was very sincere, and I believe that he felt he was doing the right thing. I think now we are seeing the manifestations of one of these programs that was provided by professional administrators, of which I am qualified to be one. This is one of the programs, and it is haunting us today, and it is going to

haunt us in the future unless we stop and take a look at what we are doing.

This program here represents something which is very desirable if we had a lot of money in the State of Maine. But we don't have a lot of money, we can't afford it. And if we just pass this education bill and we pass the tax to fund it, and tomorrow we come up with a state employees' salary increase and then we pass the tax to fund it, this thing is going to end.

If the Governor vetoes this bill, and we do not have an override in the other body, we are going to have to really take a serious look at what we are doing in state government because we are going to have to come up with something, and I think we should be ready. I think that as we go home this weekend and talk to the people that we represent, we are going to be hearing from them that they don't want this to go through.

We are all in favor of education. We are all in favor of state employees. I would really like to be able to give education as much money as it wanted. I would really like to be able to give state employees a salary increase. But we just can't keep taking from out in the public, we can't keep taking from the tax dollars. They are not going to last. So if we want to give a salary increase to state employees, if we want to give education all the money that it needs, let's take a look at what we have got in the state, let's do this priority program review. I don't care if it is my order that goes in or not. Put any order in you want, put anybody's name on it you want, but just listen to what the order says. And I want to read this into the record because it didn't get in this morning.

WHEREAS, the People of Maine have established the authority delegated by the Constitution of Maine; and

WHEREAS, the People of Maine have delegated to the Legislature the power to control spending and taxation; and

WHEREAS, the Members of the Maine Legislature are both entitled and obligated to perform that task; and

WHEREAS, a state and national financial crisis exists which, through inflation has seriously curtailed the purchasing power of State Government; and

WHEREAS, existing services exceed the ability of Maine people to support them financially; and

WHEREAS, a comprehensive review of existing and pending state and federal mandates and initiatives is an essential first step in controlling this financial crisis; and

WHEREAS, this crisis is most essentially a financial matter, now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be directed forthwith to make a comprehensive review and evaluation in order to establish the State's degree of fiscal commitment and to make such recommendations for the elimination of programs on a priority basis which the State can no longer financially sustain; and be it further

ORDERED, that the Honorable James B. Longley Governor of the State of Maine, be respectfully requested to personally assist the committee in said survey and development of recommendations for legislative consideration in order to prevent any duplication of effort and to achieve the best possible coordination of

effort upon final implementation of such recommendations; and be it further

ORDERED, that the study of any subject or matter adjudged by the committee to be relevant or germane to the subject of this Order shall be deemed within the scope of the committee's inquiry; and be it further

ORDERED, that the committee report its findings and recommendations, including any suggested legislation, to the next special or regular session of the Legislature."

I do not believe that it is the right thing to enact this bill, and I think that if we all stop to think about it, it isn't right. We just can't do it without taking a look at the whole picture of state government.

Government in the country today and in this state is like a balloon that you just start blowing up, and then you let a little air out and it contracts. Then you put some more in it, and it goes a little bigger, and it contracts. So we have decreased the property tax a little bit. Well, it will expand probably in the next session, and then it will contract a little bit. We have just about reached the limits and we are just about ready to pop.

I agree with Senator Katz, as he said this morning, that the state is not in bankruptcy now. No, it is not near it, but it is heading in that direction. Within five or six years, maybe even sooner, we are going to see some very serious financial problems in this state, unless this legislature takes a very serious look at the whole problem of financing in state government. We are just a poor state, we are not a rich state. We can't have all these high finangled programs that are being promoted by an administrative lobby. We can't afford it. So we have got to take a look at what we can afford, and I hope we take a very, very serious look and vote against this.

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

Mr. KATZ: Mr. President, to a very real extent I feel that our actions here today are not the actions of problems facing the 107th Legislature, but the fulfillment of an obligation created by the 106th. And I would like to take you back just three years to tell you what happened and what was said, and I will do it very quickly.

When 1994 was passed, we removed about 28 million dollars off of the local property tax. And at that time we very clearly made a commitment that as we moved the state's share of the cost of education from 33 percent to 50 percent somebody was going to have to come up with the balance when the 107th met. Now, in this body I said very clearly that if economy kept on its merry way, and that was a big "if", and if education continued to get its historic percentage of the state government, and that is another big "if", that it is possible that no tax increase would be necessary, but I considered that highly unlikely and politically unpalatable.

At that time I said that if we were to live up to our responsibilities in the shift of this 28 million dollars, that the 107th Legislature would have to raise the income tax something in the order of 33 percent. Well, I guess that is pretty much what we have done. This is the first time this legislature has given any thought at all, any action at all, to pay for what we did last session. And it is absolutely inconceivable that anybody alive could

think that we could increase the state's share of the cost of education from 33 to 50 percent without raising some taxes at the state level. And I am aware of the fact that the 107th met under the most difficult possible circumstances, but what we have done here today I think was absolutely committed by the action of the 106th.

Mr. Cianchette of Somerset was granted unanimous consent to address the Senate:

Mr. CIANCHETTE: Mr. President and Members of the Senate: As you know, my efforts in this whole situation have been to find a way that the Governor could live within his commitment to the people and we can still meet the obligations of this session. Looking at his letter we see on our desks today, he says that he still wants to cooperate and still wants to find a way to do this. I suggest that he should consider an additional bill, that can be done before the end of this session, that would take care, I believe, of all the problems or practically all of the problems he outlines in this fact sheet on education financing. I am sure the answers are not that far away. He could sign this legislation, and he could introduce one simple other bill to take care of this situation of the out-of-state residents not paying property tax, a very simple matter. I think it would be a good idea to do that, and I think that we would be in line with his thinking, he could stay in line with everything he has committed, and we could move this session on. I hope he does that.

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

Mr. JACKSON: Mr. President and Members of the Senate: I spoke briefly the other day in opposition to L. D. 2196. I addressed the area where I felt we hadn't gone back to the school, the educational community, to ask them to address the situation at that level. I again added in that I didn't feel, if we weren't going to address the community, the educational community, that I didn't feel we had enough money in L. D. 2196 to adequately fund the cost of education in this state. Thirdly, we pass a bill which cut by ten percent state mandated programs, which in effect is going to save the state \$3.8 million, almost one-half mill increase on the property tax at local level to remain in the current budget if the budget did not increase next year for the school administrative districts or schools.

In thinking about this, I thought back to a group that I spoke to, and I spoke on state government, county government and local government. I just looked on my desk and I did have some notes on the speech that I prepared, and I think it would be quite appropriate to address this situation. As I wrote on this, the crisis of confidence in government is quite real. The people have lost their faith in the ability of our governmental institutions to efficiently and effectively solve our state problems. Today the taxpayers of this state, property tax, income tax, whatever the case may be, could not be more concerned, more critical, more disenchanted, and more alienated from the very institutions which bring order, efficiency and service to those whose dollars support them than they are right now.

Yesterday we saw fit to enact a piece of legislation which takes from the taxpayer, the working man of this state — and I assume the five percent that Senator Merrill mentioned are the working men who serve the military in this country,

partially, and I would say that that would probably take up a good percent of the five percent — 18.3 million dollars. In doing this, we give non-residents, as the Governor states on the back of his letter we received on our desks this afternoon, a reduction in the property tax by 6.5 million dollars. I call this justice to the taxpayers and the workers of this state.

As I continue on, we have at this state government since 1963 created bureaucracies that expand work to take the time or to fill the time available for its completion. Subordinates in these departments increase at a fixed rate, regardless of the amount of work produced. Expenditures rise to meet incomes needlessly. And when funds are limited, and it is quite obviously around here, the only economy made is in thinking. I might finish in stating that as far as I can see, and I have been a resident of this state for 31 years, and I have been a taxpayer of this state for a good 13 years, all we buy with higher taxes is additional administrative delay. And I would like to thank you gentlemen for your time.

On motion by Mr. Speers of Kennebec,
Adjourned until 12 o'clock tomorrow noon.