

REMARKS TO THE NATIONAL ASSOCIATION
OF STATE BUDGET OFFICERS
ANNUAL CONFERENCE

JULY 16, 1984

LEGISLATIVE ANALYST

STATE OF CALIFORNIA

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San Diego, California

I. INTRODUCTION

- A. ICE BREAKER
- B. PURPOSE OF MY REMARKS - EXPLORE FROM A LEGISLATIVE VANTAGE POINT THE RELATIONSHIP BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES.
- D. FOCAL POINT - THE INCREASING TENDENCY OF LEGISLATIVE BODIES TO BECOME INVOLVED IN WHAT HISTORICALLY HAVE BEEN VIEWED AS EXECUTIVE BRANCH FUNCTIONS.

II. MANIFESTATIONS OF THE PROBLEM

- A. BUDGET
 - 1. STATUTES DIRECTING THE GOVERNOR TO INCLUDE FUNDS FOR A PARTICULAR PROGRAM, OR A PARTICULAR AMOUNT OF FUNDING IN HIS BUDGET.
 - 2. BUDGET LANGUAGE DIRECTING THE GOVERNOR, IN GREATER AND GREATER DETAIL, HOW TO ADMINISTER FUNDS INCLUDED IN THE BUDGET.
 - 3. SUPPLEMENTAL LANGUAGE THAT PROVIDES FURTHER GUIDANCE ON HOW FUNDS ARE TO BE USED.
- B. PROGRAM ADMINISTRATION
 - 1. CHANGES IN LINE-ITEM BUDGETS AFTER THE BUDGET HAS BEEN ENACTED (SECTION 28).
 - 2. REVIEW OF PRELIMINARY PLANS FOR CAPITAL OUTLAY PROJECTS.

3. REVIEW OF CHANGES IN THE USE OF UNIVERSITY SPACE.
- C. PERSONNEL ADMINISTRATION
 1. HOW VACANCIES SHOULD BE FILLED.
 2. WHAT CONSTITUTES A PASSING SCORE ON A CIVIL SERVICE EXAMINATION.
- D. FINANCIAL MANAGEMENT: HOW STATE FUNDS THAT ARE TEMPORARILY IDLE SHOULD BE INVESTED.

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I THINK YOU GET THE POINT

III. PERSPECTIVE ON THESE TRENDS

A. SEPARATION OF POWERS

1. IN SOME RESPECTS, IT IS NOT SURPRISING THAT LEGISLATIVE BODIES ARE BECOMING MORE INVOLVED IN EXECUTIVE BRANCH ACTIVITIES.
2. THE LINES OF DEMARCATION BETWEEN ALL THREE OF THE BRANCHES ARE FADING RAPIDLY.
 - a. THE COURTS IN CALIFORNIA, FOR EXAMPLE, HAVE GOT THEMSELVES A FIRM GRIP ON THE PUBLIC PURSE STRINGS.
 - b. IN FACT, OUR SUPREME COURT HAS RULED--YOU'LL LOVE THIS!-- THAT THE COURTS CAN ORDER THE USE OF ANY FUNDS APPROPRIATED BY THE LEGISLATURE TO SATISFY COURT JUDGMENTS UNLESS THE LEGISLATURE EXPRESSLY PROHIBITS THE USE OF THOSE FUNDS FOR THAT PURPOSE.

- c. AT THE SAME TIME THAT THEY'RE TAKING ON THE LEGISLATURE'S POWER OF APPROPRIATION, THE COURTS ARE TELLING THE EXECUTIVE BRANCH HOW TO RUN ITS PRISONS.
 - d. AND IF GOVERNOR DEUKMEJIAN GETS HIS WAY, THE NEXT REAPPORTIONMENT PLAN AND ALL FUTURE PLANS WILL BE PREPARED BY RETIRED JUDGES.
3. IN ADDITION, PLEBISCITARIAN GOVERNMENT HAS REPLACED REPRESENTATIVE GOVERNMENT--SOME MIGHT SAY, BY DEFAULT, IN A NUMBER OF KEY AREAS.
- a. THIS NOVEMBER, FOR EXAMPLE, THE VOTERS WILL DECIDE:
 - (1) HOW POLITICAL CAMPAIGNS ARE TO BE FINANCED;
 - (2) HOW MUCH CAN BE SPENT ON AFDC AND MEDI-CAL;
 - (3) WHETHER FEES IMPOSED BY THE STATE AND LOCAL GOVERNMENTS CAN BE USED TO COVER THE COST OF EMPLOYER CONTRIBUTIONS TO EMPLOYEE PENSION FUNDS;
 - (4) WHETHER CALIFORNIA WILL JOIN 18 OTHER STATES AND GET IN THE LOTTERY BUSINESS;
 - (5) WHETHER CALIFORNIA WILL JOIN 32 OTHER STATES AND CALL FOR A CONSTITUTIONAL CONVENTION TO CONSIDER AN AMENDMENT REQUIRING A BALANCED BUDGET; AND
 - (6) TWELVE OTHER FAIRLY IMPORTANT ISSUES.
 - b. SEVEN OF THESE QUESTIONS WERE PUT ON THE BALLOT THROUGH CITIZEN INITIATIVES.
4. IT'S NO WONDER THE LEGISLATURE FEELS PUT UPON.

B. OF COURSE, IN CALIFORNIA, THERE'S ANOTHER REASON WHY THE LEGISLATURE HAS TAKEN ON SO MANY EXECUTIVE BRANCH FUNCTIONS, BESIDES THE GENERAL FADING OF THE LINES SEPARATING LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES.

1. FOR THE BETTER PART OF EIGHT YEARS, FROM 1974 THROUGH 1982, CALIFORNIA HAD A PARLIAMENTARY FORM OF GOVERNMENT WITH NO CLEAR LINE BETWEEN LEGISLATIVE AND EXECUTIVE . . .
2. . . . AND NO PRIME MINISTER!

IV. DETERMINING FORCES

A. INTRODUCTION

1. GETTING BACK TO THE TOPIC AT HAND--THE LEGISLATURE'S TENDENCY TO BECOME MORE INVOLVED IN EXECUTIVE BRANCH ACTIVITIES--LET ME OFFER SOME PERSONAL THOUGHTS ON THE ROOT CAUSES OF THIS TENDENCY.
2. IN BRIEF, I THINK THREE FACTORS ARE PRIMARILY RESPONSIBLE:
 - a. THE PUBLIC'S EXPECTATIONS REGARDING "GOVERNMENT";
 - b. THE INDIVIDUAL LEGISLATOR'S POSITION IN THE POLITICAL PROCESS; AND
 - c. THE GROWTH IN THE NUMBER OF LEGISLATIVE STAFF.

B. THE PUBLIC'S EXPECTATIONS

1. WHILE THE SO-CALLED "TAXPAYERS' REVOLT" HAS BROUGHT ABOUT MAJOR CHANGES IN HOW GOVERNMENT RAISES AND SPENDS OUR MONEY, THE ONE THING THAT HAS PRETTY MUCH EMERGED FROM THIS PERIOD IN

TACT IS THE PUBLIC'S INSISTENCE THAT GOVERNMENT RIGHT WRONGS--
BE THOSE "WRONGS" REAL OR ALLEGED.

2. DESPITE THE MANY SUCCESSFUL ASSAULTS ON GOVERNMENT'S ABILITY
TO EXPAND, THE PRESSURES ON IT TO EXPAND ARE AS GREAT AS THEY
EVER WERE.
 - a. THERE ARE NOT FEWER INTEREST GROUPS TODAY THAN THERE WERE
ON JUNE 6, 1978 WHEN HOWARD JARVIS MADE HIS NORMANDY
LANDING; THERE ARE MANY MORE.
 - b. AND THE DEMANDS THAT GOVERNMENT "DO SOMETHING" ARE JUST AS
FORCEFUL AS EVER.
3. YOU, OF COURSE, ARE WELL AWARE OF THE DEMANDS ON GOVERNMENT
TODAY; YOU, AFTER ALL, ARE THE FRONT LINES WHEN IT COMES TO
KEEPING THESE DEMANDS IN CHECK.
4. BUT I AM CERTAIN YOU DO NOT FEEL THE PRESSURES AS MUCH AS
INDIVIDUAL LEGISLATORS DO.
5. MUCH OF THIS, OF COURSE, IS A SELF-FULFILLING PROPHECY.
 - a. CANDIDATES RUN ON A "CAN DO" PLATFORM.
 - b. THEY SOLICIT FROM US ENDLESS LISTS OF WRONGS TO BE
RIGHTED.
6. WHEN WE TAKE THEM UP ON THEIR OFFER, HOWEVER, WE EXPECT
RESULTS AND THEY FEEL THE PRESSURE TO DELIVER.
7. IN THE FACE OF THIS PRESSURE, THE TRADITIONAL LINES OF
SEPARATION BETWEEN THE BRANCHES CRUMBLE PRETTY QUICKLY.

8. THUS, THE PUBLIC'S EXPECTATIONS REGARDING GOVERNMENT HELP EXPLAIN:
 - a. WHY LEGISLATIVE BODIES DO NOT JUST FUND PROGRAMS--THEY FUND INDIVIDUAL APPLICANTS OR ORGANIZATIONS; AND
 - b. WHY THEY NOT ONLY TELL EXECUTIVE BRANCH AGENCIES WHAT TO DO, BUT HOW TO DO IT AND WITH WHOM.
- C. THE INDIVIDUAL LEGISLATOR'S POSITION IN THE POLITICAL PROCESS.
 1. A SECOND KEY FACTOR EXPLAINING THE TENDENCY OF LEGISLATIVE BODIES TO INTERVENE IN EXECUTIVE BRANCH ACTIVITIES IS THE NATURE OF THE INDIVIDUAL LEGISLATOR'S POSITION IN THE POLITICAL PROCESS.
 2. A LEGISLATOR TODAY HAS NO SHIELD TO ABSORB OR DEFLECT THE PRESSURE COMING FROM AN EXPECTANT CONSTITUENT OR INTEREST GROUP.
 - a. ON THE ONE HAND, POLITICAL PARTIES ARE A PALE SHADOW OF WHAT THEY ONCE WERE.
 - (1) AS A RESULT, THEY ARE NOT IN A GOOD POSITION TO HELP OR PROTECT INDIVIDUAL MEMBERS.
 - (2) THIS MEANS THAT MEMBERS ARE PRETTY MUCH ON THEIR OWN WHEN IT COMES TO GETTING ELECTED AND RE-ELECTED.
 - (3) IT ALSO MEANS THAT THE PUBLIC'S EXPECTATIONS ARE FOCUSED ON INDIVIDUALS RATHER THAN LARGER GROUPS.
 - b. ON THE OTHER HAND, THE COST OF CAMPAIGNING HAS MADE THESE INDIVIDUAL MEMBERS MUCH MORE DEPENDENT ON OUTSIDE GROUPS--MOST OF THEM LOOKING FOR SOMETHING FROM GOVERNMENT.

- (1) TO GIVE YOU SOME IDEA OF WHAT IT COSTS TO SEEK OFFICE IN CALIFORNIA, LET ME CITE A FEW EXAMPLES.
 - (2) ABOUT \$500,000 WAS SPENT BY THE CANDIDATES IN THE AVERAGE LEGISLATIVE RACE DURING 1982 (THIS IS AN AVERAGE OF COMPETITIVE AND NONCOMPETITIVE RACES!).
 - (3) THE TREND, MOREOVER, HAS A STEEP UPWARD SLOPE TO IT.
 - (4) ONE STATE SENATOR, AN INCUMBENT SINCE 1959, TOLD ME THAT:
 - (a) IN 1978, HE SPENT \$52,000 IN THE PRIMARY AND GENERAL ELECTIONS COMBINED, WITH THE LATTER BEING A CONTESTED RACE.
 - (b) IN 1982, JUST FOUR YEARS LATER, HE FELT HE HAD TO SPEND \$326,000 JUST IN THE GENERAL ELECTION!
 - (5) WHAT IS SPENT, OF COURSE, MUST FIRST BE RAISED.
 - (6) AND THE NEED TO RAISE THAT KIND OF MONEY MAKES IT A LOT HARDER THAN IT USED TO BE TO SAY "NO".
- c. THUS, A GROUP OF LEGISLATORS WHO SEEM THEMSELVES AS BEING ON THEIR OWN AND IN NEED OF CONSIDERABLE FUNDS TO GET RE-ELECTED IS GOING TO BE MORE INCLINED TO INTERVENE IN EXECUTIVE BRANCH FUNCTIONS--WHEN ASKED BY A CONSTITUENT TO DO SO--THAN LEGISLATORS WITH A STRONG PARTY IN FRONT OF THEM AND FEWER FINANCIAL PRESSURES BEHIND THEM.

D. GROWTH IN LEGISLATIVE STAFF

1. FINALLY, I THINK THE GROWTH IN THE NUMBER OF LEGISLATIVE STAFF IS PARTLY RESPONSIBLE FOR THE MORE ACTIVIST LEGISLATURE.
2. IN SAYING THIS, I DO NOT MEAN TO BE DEROGATORY; I AM, AFTER ALL, A LEGISLATIVE STAFFER.
3. THERE ARE TODAY, HOWEVER, A LOT MORE OF US THAN THERE WERE 10 YEARS AGO.
 - a. THE CALIFORNIA LEGISLATURE EMPLOYS 2,500 PEOPLE TODAY, ALTHOUGH THE NUMBER HAS BEEN DROPPING STEADILY SINCE JUNE 5TH.
 - b. I'M TOLD THAT THE U.S. CONGRESS EMPLOYS 10,000 PEOPLE IN THE CAPITOL ALONE.
4. EACH OF US, IN THE COURSE OF PERFORMING OUR DUTIES, DEVELOP PROPRIETARY INTERESTS IN CERTAIN PROGRAMS, ACTIVITIES, OR AGENCIES.
5. THESE INTERESTS, COUPLED WITH THE TRAPPINGS OF AUTHORITY THAT GO WITH THE PHRASE "I'M CALLING FROM ASSEMBLY MEMBER _____'S OFFICE," PROVIDE ALL THE INGREDIENTS NEEDED FOR INTERVENTION IN THE EXECUTIVE BRANCH FUNCTIONS.

V. CONCLUSION

A. INTERVENTION IS NOT NECESSARILY EVIL.

1. FOR EXAMPLE, THE CALIFORNIA LEGISLATURE'S INSISTENCE THAT ALL REDIRECTION OF FUNDS BE SUBMITTED TO THE LEGISLATURE FOR

REVIEW SEEMS TO BE A REASONABLE PRICE FOR WHAT IT GIVES UP IN RETURN: THE POWER TO CONTROL EXPENDITURE THROUGH LINE-ITEM APPROPRIATIONS IN THE BUDGET ACT.

2. SIMILARLY, WHEN MY OFFICE STOPPED THE DEPARTMENT OF CORRECTIONS FROM BUYING 2,300 CELL DOORS THAT COULD NOT HAVE BEEN USED BECAUSE THEY WOULD HAVE OPENED THE WRONG WAY, I LIKE TO THINK THE PUBLIC WAS SERVED.

B. MUCH OF THIS INTERVENTION CANNOT BE TREATED SO CHARITABLY, HOWEVER.

C. IN MY VIEW, THE FACTORS RESPONSIBLE FOR IT ARE GOING TO BE PRETTY DIFFICULT TO CHANGE.

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