

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

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September 6, 1978 — September 15, 1978

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APPENDIX

SENATE

September 13, 1978

Senate called to Order by the President.  
Prayer by Mr. Julius Sussman of Augusta.  
Mr. SUSSMAN: This Prayer is accepted from a High Holiday Prayer for the Prayers for our Country and from this Prayer Book from the DAY OF ATONEMENT PRAYERS and that Day of Atonement comes just four weeks from today.

Almighty God, Eternal Ruler of the Universe, Thou art revealed in the harmony and beauty of nature, Thou would also manifest in the loves of good men and the righteousness of nations. Keep our Nation forever righteous and just. Bless our country and all mankind with the light of thy presence. May all the peoples that make up this great commonwealth consecrate their efforts under thy guidance to the cause of liberty, equality, and justice. O God and Father of all men do thou boundest ever more closely into a brotherhood of peoples that we may labor unceasingly against the festing place of malice, greed, fear, and ignorance, hypocrisy and corruption, adverse and violence. May this County forever be in the land of the free where all may dwell in security and peace.

Prosper our Country O Lord in all its worthy endeavors so that future generations may praise thee and call us blessed for the spirit of fellowship implanted in the hearts of all Thy children. Thou shape thy blessing under the President of the United States, the Governor of this State, and the members of the Senate and the House and all others in rightful authority. Fashion Thou our hearts anew and bend our will to Thou purpose so that the call to war and the clash of arms will not resound in our land. Grant that our country may lead the world in the pursuit of peace and fulfillment of our visions and dreams of peace.

May I conclude with the traditional blessing: The Lord bless thee and keep thee, the Lord cause his countenance to shine upon thee and be gracious unto thee. May the Lord lift His face unto thee and grant thee peace. Amen.

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

Mr. KATZ: Mr. President and Members of the Senate: Mr. Sussman has been here delivering prayers on previous occasions. Superficially previously they seemed to be a longer than the average, but if you listen to what he says they are very frequently more thought provoking than the others.

Julius yesterday was honored by the Daughters of the American Revolution, he was given a medal and a citation. It is the highest citation this national group gives. I understand, only the third time this medal has been awarded in the United States. Mr. Sussman has received just about every possible award his activities could possible qualify him for. I suspect Rotary, Kiwanis, Calumet Club, B'nai Brith you name it and Julius has been awarded citations which reflect the respect and esteem the community feels for him, and if you will glance at Mr. Sussman now you will see that he is enjoying every word that I am saying.

I represent 30,000 people and perhaps it may be difficult for each of you in your own districts to identify the one person who clearly assumes the spot as the number one person in your constituency, but today with great sincerity I say if you ask the people in Senate District 19 the one person whom they most love and respect for his good deeds covering a — not quite a century of life so far, that person would be Julius Sussman, and Julius and his wife, Lil have earned that respect and esteem through a life time and I am very, very proud and pleased to see him at the Senate just the day after his latest very, very single hour. (APPLAUSE)

Reading of the Journal of Yesterday  
Paper from the House

Non-concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution to Limit the Amount of Government Spending and Taxes which may be Made without Voter Approval. (S. P. 772) (L. D. 2209)

In the Senate, September 12, Passed to be Engrossed as amended by Senate Amendment "G" (S-624) as amended by Senate Amendment "E" (S-629) thereto.

Comes from the House, Passed to be engrossed as amended by House Amendment "P" (H-1258) in non-concurrence.

On Motion of Mr. Speers of Kennebec, Tabled until later in the day, pending further consideration.

(Off Record Remarks)

On Motion of Mr. Speers of Kennebec, Receded until the sound of the bell.

(Recess)

(After Recess)

Senate called to order by the President.  
Out of Order and under suspension of the rules.

On Motion of Mr. Speers of Kennebec, Ordered, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out all bills in its possession no later than 10 a.m. on Thursday, September 14, 1978. (S. P. 777)

Which was Read.

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

Mr. SPEERS: Mr. President, the Members of this body will recall that several days ago there was a joint order presented and passed that requested the two bills that are remaining in the Committee on Appropriations and Financial Affairs to be reported out at that time. Apparently that order has been lost or misplaced or something because we have not seen anything of it back here in this body again and needless to say we have not seen those two bills so we thought we would give it another try.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate. I would like to call the attention of the good friend, the Majority Floor Leader, Senator Speer's attention to the House Calendar of today where it shows the Joint Order tabled somewhere at the other end.

Which was passed sent down forthwith for comments.

(Off Record Remarks)

On Motion of Mr. Speers of Kennebec, Receded until the sound of the bell.

Recess

After Recess

Senate called to order by the President.

On Motion of Mr. Speers of Kennebec, the Senate voted to take from the Table:

RESOLUTION, Proposing an Amendment to the Constitution to Limit the Amount of Government Spending and Taxes which may be Made without Voter Approval. (S. P. 772) (L. D. 2209)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Consideration

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

Mr. SPEERS: Mr. President, I move the Senate Recede from Engrossment.

The PRESIDENT: The Senator from Kennebec, Senator Speers now moves that the Senate

recede from its action whereby this Resolution was passed to be engrossed. Is it the pleasure of the Senate? It is a vote.

Mr. SPEERS: I now move the Senate recede from adoption of Senate Amendment "G", as amended.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate recede from its action whereby it adopted Senate Amendment "G", as amended, to L. D. 2209. Is it the pleasure of the Senate? It is a vote.

Mr. SPEERS: I now move that Senate Amendment "G", as amended, be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Speers now moves that the Senate indefinitely postpone Senate Amendment "G", as amended. Is it the pleasure of the Senate? It is a vote.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I present Senate Amendment "J", (S-632) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "J" to L. D. 2209 and moves its adoption. The Secretary will read Senate Amendment "J".

Senate Amendment "J" (S-632) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, Senate Amendment A is the same as Senate Amendment I except that the last page was reprinted because of an error. The error being that the re-ratification provision was omitted in the first printing.

Senate Amendment J is an attempt to recognize some of the problems that have been pointed out in this session with this effort that we are making to bring tax limitation into our constitution. This amendment has been worked on by several members of the Senate and Staff and we think that it improves the product in several respects and perhaps simplifies it and makes it a little easier to understand. The first thing that I would mention is that the title has been changed to take out the language about taxes, because this amendment really doesn't deal with taxes directly, it does, of course, indirectly.

The second point is that in the paragraph numbered one on the first page, which is the key section, there is a change in the ratification wording so that the ratification would be by the electors of each unit in accordance with law. Previous versions have spoken about referendum. Now in accordance with law, here, means that the Legislature in the future can decide what techniques and mechanism should be used in a ratification procedure. At the present moment without adding anything to our statutes it would mean that the town meeting, for example or administrative school district with proper notice in various techniques of meeting could within that very meeting provide for lifting the ceiling. The City Council on the other hand would have to send it out to referendum because it has to go to the electors of the unit. It may well be that the next legislature would decide on some intermediate mechanism, some perhaps more efficient way but way that would still provide that all the voters would have a better chance to realize that they were lifting a ceiling.

The next point that I would draw your attention is that this version does exempt from the ceiling the dedicated revenue accounts in general. Now let me point out that with respect to the highway fund there is a particular treatment and it is not entirely easy to follow because the highway fund is already in the constitution and this necessitates covering that point in three different places so that on page three under C and F you will find language that might make you think that the highway fund was not subject to the ceiling. But when you come over to page 4, you will find a specific

reference to Article 9, Section 19 of the constitution which is that provision that deals with the highway fund. There you will find the language that says that this fund, the allocations made from it, are to be subject to the provisions that we are introducing here that do set these ceilings. This, of course, was the result of a testing of sentiment in the past day or so here.

There is another change here that merits your attention because the emergency provision that we discussed a little bit the other day has been changed so that although the legislature and the Governor still must agree as to the nature of the emergency. The Legislature will retain its authority about the method and the amount of funding.

One of the aspects of this draft that pleases me is that it moves toward a greater degree of local control than was the case in previous amendments. I look carefully at the material that the Maine Municipal Association collected and put together and one of the big points that was clear, I think in their work, is that our municipalities do feel that it is important to have a ceiling at the State level, but they want the local control as much as possible over the expenditures for which they are responsible. Now this doesn't go all the way in that direction but it does permit the voters in every municipality to decide by referendum that that municipality may take itself out from under the ceiling for any number of periods not to exceed three years in each period. That question was properly raised the other day as to whether this was a one time or whether it might be done more than once and we have made it clear here that it may be done more than once by a municipality if its voters so vote.

I do not claim to know all the questions to all the questions that might arise in a discussion of the document of this complexity but I have absorbed myself in it for the past couple of days and I feel much more comfortable with this than I have with anything that I have seen today. I think that it is important that we give the voters of this state an opportunity to decide if they want a ceiling placed on governmental expenditure, a ceiling that has some escape hatches in it for emergencies, a ceiling that does reflect income and cost of living factors in a manner that this Legislature will have some degree of control over in its selection of indices. I hope the Senate will adopt this amendment.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate. I hope not to engage in a long discussion as I have previously. I have not had very long to study this amendment very frankly, and I am sure there are many things about it that I won't be able to anticipate in this short period here today, however and I don't intend to raise all the problems that I have identified anyway, because I become more and more discouraged about any of this process bearing any fruit. I would, however, compliment the sponsor of this amendment in that it does attempt and succeeds in many areas addressing some of the problems that have been raised here so far in this process. And I suppose if I had absolutely confidence in myself that I could anticipate every problem that might come out and then the Senate would reflect that as they have here with most of the problems that I have raised as I would have confidence that we could ultimately reach a perfect constitutional amendment. However, I don't have that such confidence.

However, I am interested in the way one problem that I raised the other day was addressed by the drafters. In the original 2209 as amended by Senate Amendment G, on page 3 of the compilation of those two when put together under Section C, Subsection 5, there was a section which dealt with individual local units. And it dealt with the problem of those local

units losing some of their specific local unit now, we have to be careful of the discussion could get confusing if we don't keep in mind the distinction between we are talking about the general protection of the overall level of funding going out to local units and the impact on a specific one. There was a section which tried to deal with the problem of the specific units and you will recall that I looked at the language in that and talked about the financing the phrase - financing - talked about how that really made a loophole for the cities, such as South Portland that had a significant amount of funding for one time project this year coming from the State about one million dollars for them this year for sewage treatment, and that section and that concept of that sort of specific protection to a specific community as I read this proposed amendment, Senate Amendment J, leaves out that sort of protection and thus gets around the problem that I raised. However, I think in treating the problem that I raised in this fashion, possibly another problem is raised in its place, because that was originally put in there by its sponsor, that section to deal with a problem where a community would get a substantial amount less money one year than it got the year before. Maybe its assessed value would go up relative to the assessed value of the other communities in the State and the educational formula that we had in effect at that time when that would be in future would thus adjust down the state revenues that would come in its place. The original idea was, I think was specific note towards the education problem to say OK you have less money from the State you got two hundred thousand dollars less from the State but your own ceiling will go up two hundred thousand to reflect that specific problem that you have. This section is left out and I don't see anything that provides that sort of protection to individual communities in this present draft. I wonder if there is such a section here and if there isn't what was the thinking that went into that exclusion?

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President. In dealing with the question of a State-local allocation which funds our local school units, it is the intent of this amendment that this state/local allocation be considered as an entity and very, very clearly as state valuation increases, and the ratio of State support to a specific community changes possibly radically that none the less the individual community which in effect has had a transference of some of the funding from the State onto its shoulders, it seems to me comes in under the question of transference of responsibilities. The Senator is shaking his head that he disagrees. As we dealt with the construction of this amendment this is the intent of the amendment as it stands. Very clearly the bi-annual variation in State valuation of a community is going to make imperative that State/local allocation be treated as an entity otherwise there is chaos.

Mr. PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate. The Senator from Kennebec, Senator Katz, is referencing, I think, Section 6 on page 3 of the amendment. I studied this amendment in the brief period of time I had before to see if this would deal with specific community problem that I talked about. It is not impossible that it would be so interpreted and I would not maintain that to the Senate. It seems unlikely to me, however, though, that adjustment in allocation amount to a specific community as a result of re-evaluation would generally be considered constitute transfer of program or service from one level of government to another. Certainly it could be read that

broadly to include that but when one recognizes that this is a constitutional restriction which would be placed on state government. I think it is usually prudent to assume that the Supreme Court will interpret these things narrowly. And I don't think any narrow interpretation of program or service and the transfer of one from one level of government to another that the change in the subsidy formula in education would constitute transfer of a program of service from one level of government to another. I would think that the obvious example of a transfer of a program from one service to another would be that if we decided to stop a funding teachers' retirement or we decided to stop participating in tree growth something of that kind and so if that is where the hat is being hung, there are certainly better ways I think most specifically to deal with that problem that would be more likely to provide the result that the Senator from Kennebec, Senator Katz hope for.

I like to address, if I could, how another problem was dealt with here. You will recall and maybe we can get into it a little bit broader sense the whole local control discussion. I don't know what any members of this Senate feelings of local control are. I think mine have been expressed fairly consistently over my four years in the Senate. You will recall my feelings about the ceiling and education in the previous session. I don't like the idea very frankly of dictating a spending ceiling to the local communities I like the idea of them developing their own. If they want to and provided a union method of doing it. That's a philosophical objection I have with this bill. Even if that wasn't going to be the case, I would prefer an approach that would provide some more leeway at the local level. Consider the snow storm that I talked about in our previous session here in the Senate where I raised the possibility in Hancock County. Now as I understand this, and I can be corrected because I haven't had that long to study this, but as I understand this there is no emergency provision as such with the local government. I assume that they could go to the Legislature and let the Governor put in a call if the Legislature was sitting. But let's assume in December that they are not sitting — let us hope that in December we won't be sitting. Then the other avenue left open to the community is the possibility of just not declaring an emergency as such but going through the means necessary to go over the limit of spending. Now this in a town meeting town this amendment improves the situation for those selectmen faced with the snow and the fact that they are up against their spending ceiling. Because now they aren't forced to advertise and go to referendum which could take 17 days — an impractical thing we'd all admit to have to do in case of a snow storm like that. Instead they can post in the mist of the snow storm 7 days in advance a special town meeting can be held at which time the problem can be addressed. That comes about, I think, because there is not local control — there's not a locally devised program with a local emergency hatch — it is as if we had to go to Washington to get out from under our emergency clause it's practical equivalent and I think that real local control in an amendment of this kind would simply provide a way for voters to institute a plan of their own at the local level if they wanted to. I see no reason, no compunction that we in Augusta should take away from local people the necessity, if that is what they want to do, to petition their local governments and develop a means for themselves of local control. That's in the way of an editorial aside I guess.

I liked to raise a question here about access revenue — amounts raised in access of the spending limitations. Would somebody explain for my benefit please what exactly will be done with those — Now, let me make my questions specific and clear — Amounts raised in access of the spending ceiling which, I believe, in this

amendment is created in subsection one.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed an additional question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the Senator from Cumberland, Senator Merrill may have adequately answered his first question by his second question.

Coming back to the question of local control. In the first place in the case of a snow storm, which will occur presumably on December 31 to make it even more dramatic for our purposes, it seems to me that a prudent community which insist, because of local decision making, to maintain a fiscal year which breaks the harsh Maine winter into two parts rather than incorporating the Maine winter into a single year as we do in school fiscal years. Now mind you I suggest that is voluntary. If they want to adhere to that old calendar year so they have all these crisis they presently have about December snow storms they have freedom to do so, but if they wish to deal with it out of access revenue which a prudent local community and many selectman whom I see around the state are not only preparing for a rainy day, they are preparing for a snow day, that is possibly an answer to the question.

The question of the timing of referendum which the Senator has mentioned on two separate occasions, it seems to me does an outstanding job of declaring the delimita of local statutes. But I would suspect that a succeeding legislature will take a look at all the laws pertaining to municipal referendum and ask whether or not they should not be changed in light of the enactment of this constitutional amendment, and I suspect knowing the legislature that they will be responsive to the request of the Maine municipal people as they come in and say existing law is now impossible to live with and let's change it so that we do not destroy the remarkable institution known as town meeting but we might further enhance its value.

With respect to access revenue. Access revenue is a little more apparent at the state level because we have been fortunate enough always through careful budgeting to come up with surplus and in most communities that I have had personal experience with, a prudent governing body also identifies surplus to come up with to face emergency.

So although the Senator's concerns are very well placed, I think in these specific cases there are answers.

Let me take the Senate's attention, for just a moment, to talk about this question of local spending. I am told that there is an enormous ground swell of support for some kind of cap of spending in the State of Maine and by and large the municipal people identify this need for a cap primarily at State level and we at state level if we were asked to identify the need for a cap, we would point to federal level. We always point upward. But let me read into the record the history of local spending since 1961 just in case there are those present on the third floor of the legislature will say let us deal by constitutional amendment with state spending, if you wish, but when we talk about the local spending, let's deal with it by statute. From fiscal 1961 to fiscal 1977, local government spending rose dramatically a total of 338 percent. Now if you equate revenues received with dollars spent, these receipts were \$127.9 million in 61 and 1977 they totaled over \$560 million. But where did the money come from? And is there a need for a constitutional limitation on local spending. Where did the money come from? Who paid the enormous increase of local spending during this period? Obviously the bulk came from local property tax and the public view when you are talking about local spending, you're talking about local property taxes.

That's how local government is financed. But the big percentage in dollar revenues which finance local spending include some real eye openers beside local property tax. The property tax during this period grew by 192 percent. Too much, but let's look at some of the other sources of local spending that don't emerge, that don't get written up in the paper, and really really make us arrive at policy decisions on some basis other than knowledge.

Federal funds to local communities during this period increased 1,567 percent. State funds flowing from our appropriations to the towns and cities increased during this period 716 percent and the various users fees have increased 461 percent. On that basis increase in local property taxes have been a junior partner to the really big percentage increases. Very clearly the dramatic increases in the funds needed the fuel the spending of Maine's communities comes from areas that are far removed from the local property tax.

Now during the same period the Maine Legislature has been labled as the big spender and our hands are not clean. But during this period if you look at the much harrowed in increase in state spending, fully 30 percent represent increases in state support to local communities. The state has raised the funds and given it for spending to the local communities. 30 cents out of every dollar the legislature increases appropriations by during this period went directly to local communities.

If we are to be responsive to the charge that brought us here, and the charge to me was very clear and the charge to me was very clear in the original bill sponsored by the Senator from York, Senator Danton. It was to put a cap on spending within the State of Maine including all levels of government. So although I sympathize with the Senator from Cumberland, Senator Merrill's concern about local control, I think the question of local control has been absolutely dealt with by the Senator from Knox, Senator Collins and I think the charge of the legislature is very well represented by including the local communities in a constitutional amendment.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: it probably should come as a surprise to no one to find Senator Katz and myself differing on issues of local control. My views are not the same as his and I think that has been apparent throughout the four years. I believe that people have an obligation to provide help in programs that we want to encourage so we can leave it to them to deal with the specifics of a spending limitation plan and part of the reason is I think they can do a better job of fashioning a proper response to the particular problem in that community.

I didn't understand the total thrust of the remarks of the Senator from Kennebec, Senator Katz in regards to this local control issue. I would like to say that he is absolutely right in pointing out that the taxes the local government has control over has not gone up to a great extent as the total overall spending of the communities in the period of 1974 to 1978 the City of Auburn has gone up 5 percent in revenues, Ellsworth went down .2, in Bath they went up .475 percent, republican administration of Bath just slightly out stripping the democratic administration in Auburn. Old Town, more democratic in that area, 3.25 percent.

So the fact is to a greater extent that as has been pointed out by the Senator from Kennebec, Senator Katz these increases that we hear about and that he quoted come about as a result of money coming in from all levels of government. I don't know what conclusion that leads us to, it doesn't lead me to the conclusion that it is necessary for the levels of government that have been pouring in the extra money are appropriate for those levels that either one to start criticizing local government for spending

too much. Some how there is an inconsistency in that. Inconsistency in giving my kid bigger and bigger allowance a week and then telling him I am going to have to enact some new law around the house because he is spending too much money. Some how there is an inconsistency in that those very people who have been the ones that have increased the money the most and some people would say force the communities to spend more money, I've never been in that position but that was the position taken by a lot of people in the uniform property tax position but now be the ones to say okay, we're going to take away local control spending because they spent too much at the local level. I think this effectively takes it away. All the specifics take it away they just have the power to exempt themselves every three years if they want to, but I don't like getting side tracked on a philosophical discussion as much as I enjoyed the Senator from Kennebec, Senator Katz, because I asked a specific question and that is how revenues can be dealt with and I asked the question as specifically as I knew how. I asked him or anyone in the Senate for that matter, what would happen with access revenues raised in access of the spending ceiling. Now that issue was addressed as I read it in the previous 2209 as amended by Senate Amendment G in which they provided for a means for those accesses to be dealt with. However, there is a different access, that was on page—that was on the first page of the composit amendment we had use of access revenues in access of the spending limit. Now this section starts out access revenue amounts collected in access of appropriations. Not the spending limits, but less than the limitation determined in accordance with sub-section 1 may be appropriated as reserve or may be used for whatever purposes. Now let me tell you what this means, to me, maybe I'm wrong and again I'm ready to stand corrected. But as I see it, we are talking about three levels here, possible levels that have touched upon these, at least the composite of these three different approaches. One is the level that we appropriate at. Let's assume for purposes of discussions that were \$300 million. Then at the level of ceiling that we could appropriate at. Let's assume that \$320 million. This amendment, as I read it, access revenue section, says that that \$20 million spent between the appropriations and the limitation could be spent for whatever purpose the governing body wanted to. Which the is the law now I would assume. However, what happens if the limitation is \$320 million and the amount collected is \$340 million? That problem was addressed in the original constitutional amendment but of revenues in access of the spending limit. I have not found yet, it maybe addressed somewhere else, but it is not addressed in this access revenue section here now. I just wonder how it would be dealt with.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate, I would like to address a number of the questions raised by the Senator from Cumberland, Senator Merrill regarding the last one as to what would be done under this proposed amendment with access revenues, that is revenues in access of the limitation.

This amendment specifically says that it cannot be used for appropriations or additional spending. This leaves as options for legislative judgment dead service payments,—of bonded indebtedness, a reserve or a surplus for, I think it is important, a foreseen and justifiable contingency so that they don't have to justify a surplus of any significant amount to voters. Such contingencies might be, for example, the preferred maintenance which we have no we built into our budget over the past four years. It could be foreseeable and predictable increases in energy cost unless the increase becomes more clear and let's say the legislature foresees energy cost increasing perhaps \$20 million

in 1980. I think the legislature could establish surplus to justify keeping this surplus as a surplus with a clear explanation and justification of why it is doing so.

Or another option open to the legislature is of the return of taxpayer's money to taxpayers. If the paramount concern of the public in general is the property tax, I would assume this would be the paramount concern of the legislature and I would presume this would be addressed if and when surpluses are available.

Finally there is another option open to the legislature which I'll mention again. The legislature could hoard a surplus for no justifiable purpose and the only reason they would do so that I can see is to intentionally anger taxpayers and I would hope that the taxpayers would see that they had a new legislature very quickly.

So I think seriously the options available are dead service payment, retirement of bonded indebtedness, foreseen and justifiable to voters contingencies in return to taxpayers in tax relief for tax reform, however you want to term it.

Touching on the local control issue. I feel very strongly that there is a statewide infest in limiting government spending at all levels of government. If there is such a statewide infest, one might point out whether it is present or not is to ask a statewide question, do you want a limitation on all levels of government. This statewide infest is determined by statewide referendum under amendment. If the answer is yes, the limitation would be on municipalities at which point they at their local option by vote of their local electors could ask themselves the local question, do we want to remain under this limitation.

So I think this does deal with statewide interest and if the fact that it comes to referendum is a measure of response of that referendum is a statewide interest.

I would like also to touch on the possibility of a snowstorm emergency. I think in section three on page two which deals with access revenues. This section specifically allows municipalities to set up reserve if funds are available to meet such contingencies. This is a specific provision to allow municipalities to do so if the funds are available. In general I do feel that this implies in this—this proposed amendment implements in a cleaner, I hope more understandable version. The major points of L. D. 2209 as amended by Senate Amendment G I do think will provide effective practice limitation of spending certainly on the same—hopefully on local levels of government and again I would like to point out that I see this limitation not as instrumental or cap, but as a yardstick beyond which the various governmental bodies must justify their actions to the satisfaction of voters. If they can't do so, I think they better learn to do so, otherwise the disrepute of the various levels of government can only increase.

The PRESIDENT: The Chair recognizes the Senator from Cumberland Senator Merrill, who having spoken three times, request leave of the Senate to speak a fourth, is it the pleasure of the Senate to grant this leave? It is a vote.

Mr. MERRILL: Mr. President and Members of the Senate: I have to infer and I would be glad to yield the floor if my inference is incorrect that those monies collected in access of the limitation can be dealt with under and only under the exclusion section as provided in this statute. If that is the thrust of the remarks of the Senator from Cumberland — would the Senator from Cumberland or any other Senator please section by section, phrase by phrase take me through how amounts in access of the limitation collected from taxes would be dealt with.

The PRESIDENT: The Senator from Cumberland, Senator Merrill poses a question through the Chair to any Senator who may care

to answer. The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: At the risk of repeating myself this bill outlines specifically what maybe done outside the limitation in the exclusions the funds may not be spent, therefore, they would have to be a surplus of some form. If the surplus can be justified it may be maintained as a surplus — what I am saying, the voters if they see the State accumulating a surplus in access of a surplus they can very well ask — Are you not over taxing? And I think the answer would be yes, unless you can say we are keeping this surplus intact to face certain specific emergencies. So I think the options open are a surplus which is defensible or justifiable to the people or tax reform or tax relief.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I am sincerely confused. I think that the Senator from Cumberland is telling us that this money collected in access of limitation may only be spent in a certain way and maybe my confusion is in access of appropriations or an access of limitation. Money collected in access of appropriations but under a ceiling, if I understand this correctly, may be spent in any way, but money collected in access of limitation may only be spent in specific ways as outline in the exclusion. If I am correct there, I would appreciate the Senator from Cumberland would so —

Mr. PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: They may be used in — it is left to the discretion of the Legislature except that there may not be spent as an appropriation. Then after that, the specific exclusions, these are really the mechanisms or the options that are opened to the Legislature in the face of a surplus in access of the limitation.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill who have spoken a fourth time request leave of the Senate to speak a fifth. Is it the pleasure of the Senate to grant this leave? It is a vote.

Mr. MERRILL: Mr. President, I think I have — I think I understand without the benefit of a section by section description that my original assumption, I think, as I have placed it before the Senate in the previous time on the floor, is in fact, how this is meant to work. The amounts in access of the ceiling cannot be appropriated in the terms of this act. Exclusions, of course, are not covered by this act. So the list of exclusions on five, which I referenced early, we have those things that could be done with the money and I presume the Senator is correct, although I am not initially sure that when he suggested just a failure to do anything with the money from an appropriation point of view would be one of the options available because it is not, in fact, not an appropriation. But those things include under exclusions expenditures from federal funds but that's not appropriate, really to this one. Expenditures for debt service, certainly an appropriate use of the monies; expenditures from State dedicated revenue accounts, well that one doesn't really deal with this one directly. Expenditures of revenue from used charges, — well, that one isn't appropriate. Expenditures made by the State to reimburse the organized municipalities for loss of revenue as a result of tree growth law — that's one thing they could do with these excess revenues. Allocation of revenue received pursuant to Article 9 well that one's really not appropriate. So we've got probably the surplus option available. We've got the expenditures for tree growth reimbursement available and we've got debt service available.

Well, I don't find that an exceptional, an acceptable — acceptable slate of options. Why is tree growth reimbursement singled out as the one single area that the State can make expenditures in access in way to help the organized

municipalities. There aren't any trees in the city of Portland that we harvest and put under the tree growth law and yet we have problems say what the legislature has done in past inventory tax reimbursement which is left out under this draft. We've singled out tree growth — that's the one area we can help out, very sensitive, very sensitive area. You don't want those municipalities to start considering another way they could deal with this problem except having the state bail out. I can only think of one other way. That's to change the amount of taxes the people are paying under tree growth. Let's put an exception in for that one. For this double standard its revealed as we explore this thing a little further — its a beaut! I thought at first the access revenue thing was just mis-drafted because it says nothing — it says absolutely nothing. The money that they don't appropriate below the ceiling they can do what they want with. I thought that there must be a mistake, it says nothing — maybe because if they didn't have that in there, I assumed at first that it was the same thing as the use of access revenues as we have had it previously. It's a whole different method of dealing with access revenues. Thing about tree growth is the one thing that we can do, the only form of property tax relief we can provide with those funds above the ceiling.

I've got another question. My desire to question is I must say. I have another question here. We've got another. I took the occasion to educate myself, re-educate myself I hope, at little bit on the English language at little bit and dangling modifiers, prepositional phrases and that sort of thing. This is not as gross an example as we had previously but it is one, that concerns me. On Page 2, subsection 4 we deal with the protection of local government, this is one of the things that we discussed more than anything else. It's been the focus of alot of discussion because it is very difficult problem to deal with to create proper balance between the protection for the locals and some flexibility for the state. And I see at the end after a comma the phrase — "except as governed by statutes in effect on January 1, 1979" now I don't — it is not clear from the structure of this sentence what is modified by that. It is possible that we could be talking about shifting cost of programs except those programs and services which are governed by statutes prior to January 1, 1979 which is all our programs and services. Now, I think, I figured out once what I thought that it meant. I think that it means that we have to protect these local levels and not shift the thing on the property tax, except as we have previously shifted onto the property tax. I think that the word "governing" probably goes back to reference — what word would it reference? Maybe from requiring, would it reference requiring? Yes, requiring that non-state levels of state governs finance. So I think that the word "governing" is meant to reference that requiring. If that is the case and I don't think it's too clear from the drafting. I wish somebody would say unequivocally so on the floor of the Senate here and make clear that this except as governed by statute in effect on January 1, 1979 is meant to reference to nothing else, except previously enacted exclusions. Previously shifts back on to the property tax exemptions from the property tax and we are not going to reimburse them — that is not clear from the - of the sentence and ought to be made clear for the record.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber, who having spoken three times request leave of the Senate to speak a fourth. Is it the pleasure of the Senate to grant that leave? It is a vote.

Mr. HUBER: I would like to, as clearly as I can, point out as I did when I initially spoke on the subject of accessive revenues in access of limitations that clearly the most obvious alternative available to the Legislature in case of over collection of taxpayer monies is to return

the monies to the taxpayer. This was inadvertently avoided by the Senator from Cumberland, Senator Merrill. This could be used to return taxpayer money in the form of tax relief, tax reform, if the paramount concern of the Legislature is the property tax which it probably is. I would presume that the Legislature would use this vehicle.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill, who having spoken five times request leave of the Senate to speak a sixth. Is it the pleasure of the Senate to grant this leave? It is a vote.

Mr. MERRILL: Mr. President, it wasn't through inadvertence that I left it out. I included the possibility of a surplus and then read exceptions. I suppose in a prospective sense if we knew prospectively how much money we were going to have, we could adjust the amount we raised in taxes so as to provide the tax relief. However, if the tax relief required an appropriation as most of the tax relief measures that we passed throughout the year have, particularly if we are relieving another level of government, it requires an appropriation. We can't cut property tax as such in this Legislature we don't have property taxes. Now we could increase our spending through an appropriation to some way to the local government, say through revenue sharing and maybe reduce property taxes. We could have a circuit breaker for which we would appropriate money at least the ones we have drafted in the past have carried appropriations with them and have gone to the Appropriations Committee. I don't know how we can affect much of the source of tax relief we are talking about without an appropriation. I could figure out how we could prospectively cut income tax - we could reduce the schedule. It is clear from this bill how we could reimburse the communities for the tree growth but I don't think that much leeway is left when we are hanging the whole idea that there are options available except those outlined in 5 on the word "appropriation" which is a whole new approach to this problem not utilized in previous drafts. I don't think that there is really much flexibility to deal with - reimbursement of money, tax money, particularly with property tax or a situation when we are not dealing with the situation prospectively.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, last week I went over the Department of Transportation as I was concerned about the last paragraph on Page one in the last sentence of that paragraph of Page two and I noted that on Page two of Amendment J in subsection 3. I was concerned I wanted to see if there way we could put a cap on taxes. I was thinking of indexing the income tax perhaps the corporate tax at the same time. But, I wanted some kind of language that would do just this - I suppose its needless to say that I did not come out of there with any wording I could use but I did come out of there with an education - quick education - of what the awyers assigned to that Department interpreted a whole paragraph in that particular sentence to mean. And believe me it wasn't like anything that I've heard in these chambers, in our caucuses, or even out in the halls.

Mr. President, they scare me. There is no limit to how much we can tax and I see nothing in this proposal before us that puts any limit on how much we can tax and we have other interpretations of what will happen to all this excess. But you put this in the context of the language of Amendment J and it scares me and I don't believe that the lawyers that drafted his for the tax limitation committee or those who worked on this new draft meant have it that way. But I would submit to this Legislature that it is just as wrong to over tax the citizens of this State as it is to spend their dollars. If we are going to put a limit on how much we can spend why don't we get to the point

where we say how much is going to be the limit on how much we take out of their pay checks each and every week. Mr. President, I am all for a spending limit but I am also for a limit on how much we are going to collect from these people and I can say now the municipalities would be in here asking to appropriate more in taxes so that we would have more revenues we needed so we would provide the services and send the money down to them. Mr. President, I think that there is a much easier way to do it but I can't subscribe to the principles sent down in this amendment.

The PRESIDENT: Is the Senate ready for the question. The pending question before the Senate is the adoption of Senate Amendment J to L. D. 2209. The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President. I move that when the vote is taken it is taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested, In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered. The pending question before the Senate is the adoption of Senate Amendment J to L. D. 2209.

A yes vote will be in favor of adoption of Senate Amendment J a nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEAS — Chapman, Collins, D; Collins S; Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman, Sewall.

NAYS — Carpenter, Conley, Martin, Merrill, Minkowsky, O' Leary, Pray, Usher.

ABSENT — Cummings, Curtis, Mangan.

22 Senators having voted in the affirmative and 8 Senators in the Negative, with 3 Senators being absent, Senate Amendment "J" is adopted.

The Secretary will read House Amendment "P".

House Amendment "P" Read.

The PRESIDENT: Is it now the pleasure of the Senate to Indefinitely Postpone House Amendment "P"? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, thank you. First of all I would like to point out the Senate that unless my memory fails me and it could at this point in the proceeds in response to my specific request that somebody speak on the record as what was meant to be limited by the modifying phrase except as governed by statute in effect on January 1, 1979 — nothing was said on the record and members considered this here or elsewhere not to recognize that absent will be noted by a court if it ever has to interpret that.

Let me say in one other small point, that isn't it interesting in the different way we treat the local governments to this bill that we are about to be asked to engross — pass to be engrossed and the way we treat the state government. The State can have an emergency and get its legislature and governor together and jump right over the ceiling. The local municipalities — we don't let them establish an emergency procedure of their own but they can put money away for a rainy day. Prudence, I suppose would dictate putting money away for a rainy day. Prudence, I suppose would dictate putting money away for a rainy day so you don't have to go over your ceiling. I suppose the same thing could be said on the state level as well. Somebody at the local level who has already become suspicious about whether or not the State deals with itself as fairly as it deals with

them on such things might have an eyebrow raised by this approach. This violates the concept of local control I don't think there is much question. It assumes there is a presumption which is in our law that the State is supreme. That the creatures of the towns and municipalities are a creature of the state and that is a legal presumption that has force and there is certainly no question that what we are doing here is legal and constitutional in that regard. But it is not a presumption that is accepted by Maine people. Those of us who grew up in Maine particularly in small town know it, those of us who have watched Maine over the years and politics in Maine over the years know it. The fact of the matter is that the town of Fal-mouth from which the Senator from Cumberland, Senator Huber comes was here before there was a State of Maine and was here before there was a United States of America and that, I guess, historical situation makes a lot of us in New England think that probably the towns are probably the building blocks from which all things all levels of government have grown. Not that is not the legal fiction. But that is political reality. And its one I don't mind feel the need on many issues, there are some exceptions to take great exception and argue with because I like the idea of people feeling what goes on at the local level is important and that is important to participate at that local level and I don't like the idea of people thinking that can fixes for what goes on at the local level if they don't like it by coming to Augusta. Sometimes we do it, but I probably participate in a few examples if I stood here and thought about it that violate that more often than should, but I don't like it. It's the general principle. I think probably the more we have dealt with all of the problems of this, the more we have come to recognize some things whether this passes or not. That is that the best protection against all these problems we are trying to deal with isn't some prospective gyrations with rules of the game in the constitution it's probably the people that have this concern become more involved in the political process. I was talking with somebody in the House that put out a thousand questionnaires that dealt on this subject — a thousand — there was one response out of a thousand against it.

Now its been difficult to reach me by phone I admit because I have been taking advantage of the fact that I am not a candidate for office and spending some time at the ocean with my wife and family, but the amount of phone calls I got on this issue are not a good indicator except maybe the ones where people have been able to catch me here. But the letters on this issue, compared to the moose bill. I think I got more letters on how big we should have the hole on the lobster traps, remember that when the two houses were out of concurrence on that one? Now I am not saying that people out there aren't interested in this issue, I am not meaning to say it or imply it — they are. But where are they? You know that one of things that talked about behind closed doors last week — that when we went home for the weekend the avalanche would come. I have sort of been doing an informal poll. it's nothing compared to the moose bill. But what does that say? Does that say the members of the tax limitation committee are barking up the wrong tree being concerned about this that when they say the people aren't concerned — NO. It means maybe the answer and I have listened to Mr. Jarvis the man who had such success in California speak on town meeting down in Washington recently. And he said the answer wasn't his Proposition 13 — that's not the answer. The answer is for people to get interested in what their government is doing. to get involved in it and he talked with some of the people who ask concerned questions and he said if you think that Proposition 13 and things like it are going answer — it's not unless you get involved in the governmental process and if you don't think it

reflects what people want, try to elect people and run yourself and make it reflect what you want. Now, nobody can argue that the political process doesn't change. The veterans here — the old vets — The Senator from Cumberland, Senator Conley — the Senator from Kennebec, Senator Katz they've seen these things change what was great politics one year is bad politics now. There was probably even a time way back in distant memory somewhere where it was a good thing to be in favor of health and poor people. Gone are those days. The political climate changes and as it does this Legislature changes. Look at the votes of some people. People who voted against constitutional limits on taxation in the past — a few years ago, now find themselves as champions of constitutional limits on spending. Why? This Legislature considered a constitutional spending limit just a few months ago and it was unanimously OUGHT NOT TO PASS.

So the mood changes and as the mood changes the political system changes to reflect it, particularly if people get involved in the governmental process and like we talked about that town meeting for example that I talked about before which has been fixed by the Senator from Knox, Senator Collins, at least modified in this draft. People don't like what goes on in a town meeting, that's the clearest example. No fixes for you bub — you go to the town meeting — that's what it is about. If you don't like what the Legislature does, stop paying attention — get as interested as the people who don't want the mooses to be killed. I had a guy who used to call me up every day on that baby. What's happened now? Is Jerry Conley going to switch his position? I said "No, the only thing you got about is that they are going to take him across the river and he won't be able to continue to."

Some levity, but I am serious about it. The answer is not this — God knows it's not that we have to change the rules by which we play the whole game and write in an answer. The thing — the specific thing troubles me. The concept itself troubles me just in the fact that people look upon this as the answer — not in itself if we could get the perfect wording I wouldn't mind putting it into the constitution. I suggested a way we might do it would be getting some wording, working with a statute and then getting it in. But if somebody sees this as an answer, it's not. Somewhere, somebody is going to have to address themselves just to start changing this process around so we have to vote on spending issues. I couldn't even convince the Senate — talk about a failure, failure as a State Senator, I couldn't even concern about spending, I couldn't even convince this Senate to adopt that procedure. We have a new thing we would vote on how we wanted the money to be spent. Detail by general area by general area — the overall money we wanted to spend. So people back home like the people who are concerned with the Tax Limitation Committee and look at their Senator and say (inaudible) this is the total amount of money he wanted to be spent but he broke the ceiling at the end. Why did he do it? Or he didn't want to spend as much money on this as I think is important. I couldn't even convince the Senate to do that. Those are the sorts of things, a procedure that allows the system to reflect peoples will and the people, the citizens — the voters being interested enough and caring enough to watch and get involved in the political process. It's not this.

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

Mr. KATZ: Well, Mr. President, I should say WOW. I could say that was the final speech because — but I won't because who knows we may be back here for three special sessions but if we are, it will be over my completely unwilling body. I don't want the Senate to leave tonight with a misinterpretation of the issue of local control. The facts are clearly written in

the draft that we are just about to pass to be engrossed. That any local community in the State, unlike the State itself, any group of local citizens that want to exempt their community for a period not to exceed three years as many times as their want forever if need be, gets very special treatment from this constitutional amendment. There is no such provision for state government, we're in it. Period. Until the constitutional amendment may be modified someday. I think it is important to give the people at home the truth and the truth is that they are gaining more control, more influence over their municipal officers under this constitutional amendment if they chose to do exercise that control then they have before it was passed.

Over the last evening and early this morning I spent some time in the State Library. I always feel a sense of inadequacy when I debate with an attorney because my education has been so narrow and neglected in the law, but one part of the constitution really, really intrigued me so I went downstairs and got some excellent help that is always available and I said — "How did section, Article 8, Section 9 of the Constitution get adopted?" Let me read it to you. "The Legislature shall never in any manner to suspend or surrender the power of Taxation" That's all it says.

There is no legislative record to go by, can't you imagine the field day the articulate Senator from Cumberland, could have then. What does it mean? Well I'll tell you what it means. It means all these statutes that have been passed since, it means all the accumulation of learned Case Law that has occurred since then. It's a living paragraph. It means far different things today than it did when it was adopted in 1875. If you have any unease, as I did when I came here that you are creating an imperfect document, I'm inclined to feel much more relaxed and I urge you to.

What do we do with the surplus that we collect over and above the ceiling? Either bury it in the ground or in the bank or keep it or return it to the people and under what conditions can you return it to the people? Does anybody know that answer right now? I find it very hard to identify any Supreme Court Justice who says you cannot use this essentially illegal surplus to reduce taxation. Can you imagine the ways of the court are serious indeed but the courts will speak. I just wanted to share with you my hope that we have this one constitutional amendment right now in front of us and there are two in the Appropriations Committee and there is one floating down at the other end of the corridor and there are three more ready to pop through to joint orders ordering the Appropriations Committee to report bills out and maybe the Governor can give us a last chance if everything else fails by introducing another one.

If we are to live up to our responsibilities, let's deal with this specific document in front of us. At the moment we are in non-concurrence. It goes down to the other body but let's not back away and say if we blow this one we'll have other chances. Let's use this one. Let's live up to the responsibilities and on that event there is no reason we can't go home tomorrow having done something that some may view with suspension but some of us in the Senate at least feel is a perfectly good sound constitutional response to what the people want.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, I'll be brief. The issue of whether or not we should be concerned with specifics has been raised again by the Senator from Kennebec, Senator Katz. I have never suggested to this Senate that we know exactly what every word means and it does not change. I have suggested with matters of constitutional law there should be a higher degree of rigor than with matters which are merely statutory, and I have

suggested as the scope of the constitutional amendment increases, the rigor should increase and if nobody said anything about what they meant by the surrender of the power of taxation not an uncommon phrase in the constitutions, at the time it was passed probably the courts would have benefitted by somebody saying what they meant by it. Somebody asked me whether this amendment effected the amendment. I wonder if that is why the Senate was researching it.

But I don't think there is anything inappropriate with being concerned about how we are affecting government when we pass constitutional amendment which seeks not touch only the states, not only the state county, not only the state, the county and school districts, but the state and the county and the school districts and the towns and whole area of how and when they spend money. The areas are just not dealt with and areas are left vague and uncertain when the sentences are so fully drafted that people will flunk English if they ever turned anything that in. For anybody who taught English, had such a beautiful week I was convinced that if the thing passed that we had last week was going to do was to urge my friends I were concerned with defeating it would buy a full page in the Bangor Daily News, the Portland paper and the other dailies of State and publish that sentence in its entire and say what are the politicians in Augusta trying to get you to vote for now. Why when even concerns money.

I don't think there is anything wrong with mandating that we know what we are doing before we do it. As a matter of fact I think it our duty. Not because we anticipate everything that will happen in the future because we ought to have a clear idea of what we're going to now.

Now I've been accused here indirectly as elsewhere around for being nit-picker on the thing. Nit-picking. A nit-picking lawyer. Somebody said they didn't like lawyers anymore and modified the statement. Well we all have to depend on lawyers one time or the other to help us out with legal cases or fund raising or whatever we need them for. Let me say — let me say that there is nothing wrong with people trying to figure out what they are putting into the constitution and if it's been nit that I've been picking all week why is it that as I bring up objection after objection that they are dealt with one way or another in amendments 1, 2, 3, 4, 5, and 6? Is it just because this just sort of humor a young fuddy-dud? Poor old guy, let's take care of the nit picking things somebody might think they are important, I don't think so. I think it is because people recognize the concerns are legitimate. We started with one last week that had a loophole so wide you could drive the hole state budget through it. We end up with some of those problems being taken care of here and whole other problems arising. This isn't the best way to write the constitution and I think the people here know it and I think most people would recognize that I am not raising some new high standard never before thought of. As a matter of fact it is not as high as the standard I have seen Senator Katz apply to some legislation that has gone through here with which deals with very small issues. I think there are more people in this Senate that really probably got into debating and really interested in the details of whether we have gone on this ear muff that has been involved actively in the debate process over this constitutional amendment. As a matter of fact, I think I got more letters on that one too.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I would like to state that I am extremely happy and pleased that the good Senator from Cumberland, Senator Merrill is here. There is no question in mind after the initial



vote was taken almost a week ago by a 31 to 2 vote that perhaps the original draft of 2209 that the vast majority of members of this body probably have been enacted if ever could have gotten through the House.

I think we should be concerned with the fact that we were called in to deal with the constitutional amendment. The good Senator from Kennebec, Senator Katz has made reference to that several times. I've stated before we came here to vote on what was supposed to be a perfect bill. A bill that had more than 13 drafts which was torn to shreds by the time it came to engrossment last Friday and it was done primarily through the efforts of the good Senator from Cumberland, Senator Merrill. I think he has raised very strong and objective criticisms dealing with the proposed amendment before us this afternoon and I would suggest that if by chance we are faced with this again, that we all do a lot of thinking about it.

Several years ago we passed what we called constitutional amendment dealing with home rule, and every community throughout this state has a right to exercise that home rule and now we, individuals sitting in this Chamber, here again those creatures of the state as referred to by the good Senator from Cumberland, Senator Merrill, that those creatures of the state somehow or another have different types of individuals running their local government and we've got to keep our eye on them. Well some how or another I always thought the democratic process was elections and then when people weren't responding to the voters that they had the opportunity to vote them out and they don't have to wait three years in most cases, most cases they can do it in one year, sometimes two, sometimes three but at least in my community I know they have the opportunity of at least changing one-third of the local government every year. I think we better get back to the drawing board and I think we better come up with an amendment that is suitable to the vast majority of the membership of this Senate because you hear the little birds talking outside the corridor everytime a vote is taken here. It's not the people in my party, it is people in the opposition, or the majority party here when it comes to the day that they have to bite the bullet, you may see them leaving town.

The PRESIDENT: The pending question before the Senate is the engrossment of L. D. 2209 as amended.

The Chair will order a Division.

Will all those Senators in favor of passage of this Resolution to be engrossed please rise in their places to be counted.

Will all those Senators opposed please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I request a Roll Call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call it must be the expressed desire of one fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places to be counted. Obviously more than one-fifth having arisen, a roll call is ordered.

The pending question before the Senate is the Engrossment of L. D. 2209.

A yes vote will be in favor of Engrossment.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

#### ROLL CALL

YEAS—Chapman, Collins, D; Collins, S.; Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, McNally, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman, Sewall.

NAYS—Carpenter, Conley, Mangan, Martin, Merrill, Minkowsky, Pray, Usher

ABSENT—Cummings, Curtis

23 Senators having voted in the affirmative

and 8 Senators in the negative, with 2 Senators being absent, this Resolution is Passed to be Engrossed, as amended, in non-concurrence Which was sent forthwith for concurrence.

On Motion of Mr. Huber of Cumberland, Adjourned until 10 o'clock in the morning, September 14, 1978.