

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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APPENDIX

SENATE

Thursday, September 14, 1978

Senate called to Order by the President.

Prayer by Reverend Howell K. Lind, Winthrop Street Universalist Church, Augusta.

Reverend LIND: Divine spirit of understanding, we pause at the opening of the session to invoke thy guidance and thy support. Give to this assembly patience for the understanding yet to be. Grant to them a calmness from the frustrations and tensions of this time and may they hold ever before them the needs of the people of the State of Maine and thy spirit do we pray. Amen.

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 House, September 12, Passed to be Engrossed as amended by House Amendment "P" (H-1258), in non-concurrence.

In the Senate, September 13, Passed to be Engrossed as amended by Senate Amendment "J" (S-632), in non-concurrence.

Comes from the House, that Body having Adhered.

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

Mr. CONLEY: Mr. President, I move that the Senate recede and concur with the House.

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

Mr. SPEERS: Mr. President, I think it is most unfortunate that this bill is returned to this body in the position that it now is in, and would simply point out to the Senate that the motion before the Senate is to have us agree to essentially a fraud on the people of the State of Maine.

The position of this bill as it was passed in the other House is nothing short of meaningless. The other body would have us adopt a constitutional amendment which would in affect direct the Legislature of the State of Maine to convene to enact laws and that is precisely what the constitution has us do at the present time. The amendment that is before us, Amendment "P", which states that a limitation could not be exceeded except by a 2/3's vote of both branches of the Legislature. I would point out to the people of the State of Maine because it needs not be pointed out to the people here in this session because we all know it, but I would point out to the people of the State of Maine that there is no appropriations bill that gets passed in the legislature at the present time except by 2/3's vote of both branches of the Legislature.

We have at this moment, what in effect this amendment would ask the constitution to direct us to do and that is a statutory limitation of spending in state government, because state government may not spend any more than has already been appropriated by both branches of this Legislature. So we have enacted, in effect, a statutory limitation on spending as of this moment and what the people of the State of Maine are asking of this Legislature is to have an opportunity to vote on a constitutional limitation of spending. And I am very sorry that the other body has not seen fit to give the people of this State that opportunity. And for this body to recede and concur, as is the present motion, would be to concur in perpetrating a fraud on the people of the State of Maine. I urge the body to defeat the pending motion.

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

Mr. MERRILL: Mr. President and Members of the Senate. Reasonable men can differ. I certainly differ very strongly with the characterization of this motion and the affect of this

motion. I don't think it would perpetrate a fraud at all and I don't think that it would be meaningless. It is at the minimum a dictated to an act of statutory spending ceiling and to have that put into law. It could be, if we continue our work here, be accompanied when it goes to the people, this constitutional amendment, with that very statutory work. The two things together I think are far from perpetrating a fraud and we have discussed that previously. In order to argue that it would be a fraud I think that what you have to say is that 2/3's of both bodies would totally ignore what the people had put into law through the referendum process. Now if you believe that is true, of course, in order to get 2/3's you have to get at least some members of the minority party in both branches. If you believe that is true, then you can believe this would be a fraud. I don't think 1/3 of the people in either branch would ignore what would be the dictates of the people in passing the spending limitation act.

Well, the Majority Leader, the Senator from Kennebec, Senator Speers and I differ but I would like to say in defense of my position that there is an excellent editorial in the Morning Sentinel this morning that I commend to the reading of every Senator here. Now I won't read it all, but I would just like to quote briefly from it. They say "We think the Lynch plan or some version of it has merit. Wherever possible the constitution should avoid specific details and only provide broad guidelines for government." They go on to say "The Lynch plan would provide the flexibility needed to deal with so complicated a subject" And they conclude in the following "Lengthy session in the Augusta may be costlier than a docile one day approval of a pig in a poke would have been. It is likely that the people of Maine would have been better served in the long run by a more deliberate approach..." People who write the editorials for the Waterville Sentinel and I certainly don't know them personally, don't see this as a fraud, a sham, or meaningless. I don't, and I don't think anybody here honestly believes that 2/3's of the members of the House, 2/3's of the members of the Senate all be it that there will be new members there are going to ignore the will of the people if we send some specific statutory language out of here today. As a matter of fact I have been perplexed throughout this session because I have been hearing sort of a mixed fallback position discussed by some members here. The people that say that the constitution — have it all in the constitution or nothing at all — cause what they say is all the constitution or nothing, we won't enact anything statutory. Why if this thing doesn't go through we will go to the people. Well, I understand that one of the candidates for Governor who is not a member of either political party suggested recently that the people through the referendum initiative process could amend the constitution. Of course he has never served in government and can be excused for his ignorance of the process, but we all know that the only thing that thing can be done through the referendum initiative process is amend the statute the very thing that we are essentially urging here today with the added safeguard of providing for 2/3's vote of both bodies.

And I might say one other thing. People say to me what affect would it have having this in this constitution except for the fact that it would mandate that we had to do something and it would make the 2/3's requirement people point out that you get 2/3 requirement when you pass the budget all the time. I think it would have a very important procedural effect. When we vote on confirmations in the executive council we have to do it separately than anything else. There is a special constitutional procedure that requires 2/3's vote and so we do it with a specific phrasing and by having a special constitutional provision and having the laws that were passed subsequently that might

change it come under that specific constitutional provision would assure that when the House and Senate voted it wasn't done in the context of the whole appropriations bill. you know somewhere a little line in there said you amend spending limitation act would have to be done separately and distinctly — a knowing vote you know — pursuant to the constitution, 2/3's vote — both houses being required to amend the spending limitation act and I think under that context that's good, good protection if we sent it out at the same time. I don't think it's fraud, I don't think it's meaningless—I agree with the Waterville Sentinel. Its the statesman like thing to do.

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

Mr. CONLEY: I move that when the vote be taken it be taken by the yeas and nays and I would urge that the Senate vote to recede and concur with the House.

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 PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur.

A Yes vote will be in favor of the motion to Recede and Concur.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, McNally, Morrell, Pierce, Redmond, Speers, Wyman, Sewall

ABSENT — Snowe, Trotzky

8 Senators having voted in the affirmative and 23 Senators in the negative, with 2 Senators being absent, the Motion to Recede and Concur does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to adhere?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, when the vote is taken, I move that it be 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 Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I request leave of the Senate to pair my vote with the Senator from Penobscot, Senator Trotzky. If he were present he would vote yea, and I would vote nay.

The PRESIDENT: The Senator from Cumberland, Senator Conley, would vote nay. Is it the pleasure of the Senate to grant this leave? It is a vote.

The pending question before the Senate is that the Senate Adhere to its previous motion.

A Yea vote will be in favor of Adhering.

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.; Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, McNally, Morrell, Pierce, Red-

mond, Speers, Wyman, Sewall
 NAYS — Carpenter, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher

ABSENT: Snowe

22 Senators having voted in the affirmative and 8 Senators in the negative, with 2 Senators pairing their votes, and 1 Senator being absent, the Motion to Adhere does prevail.

On Motion of Mr. Huber of Cumberland,
 Recessed until 4 o'clock in the afternoon.

Recess

After Recess

Senate called to order by the President.
 (Off Record Remarks)

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

Mr. KATZ: Mr. President and Members of the Senate: I haven't thought out the remarks that I am going to make now so perhaps they will be somewhat intempered. Regardless of how we feel about the issue in front of us, we all treasure the Legislative process. So far since I have been here I have seen two pieces of legislation—there are five I would presume from the remarks of the two floor leaders we are about to adjourn, not recess, but to adjourn so that we have to come back another legislative day. I have seen two bills, the other three are still down at the other end of the corridor—we haven't seen them. I don't know whether it is costing \$25,000 or \$30,000 a day, but I'd say I am not very proud of either the people or the motives of those who have kept those three bills from us and caused us to come back another day. The system hasn't worked. The Joint Orders that we sent down haven't even been acted on. Well, if they have it was only in the last hour. I'm proud of the process, I think we have been soiled by the process, and we can only do our job when we are given the chance to operate within the process. That I think that we all love and it simply hasn't worked and I feel put upon.

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

Mr. MERRILL: Mr. President, I interpret the previous remarks as did the Senator from Kennebec, Senator Katz, that we are about to recess for an extra day. My feeling about where the responsibility for that lies is not quite as certain as the Senator from Kennebec, Senator Katz. I think that the House has acted with dispatch on the 2209 and there is two other bills that I think will probably come up here with equal dispatch. Whether or not it was a good idea to save some other approach so that there would be a possibility of a fall-back position when agreement broke down on 2209, as we saw it happen, remains to be seen I guess in terms of whether there is any flexibility. We are left to find a compromise position, but I am not troubled by that as long as neither body takes too long to deal with an idea once they get it—I am not troubled by that situation. As to the one House bill that has been out and not available to us yes, I think there has been a sentiment simply not to close off an option of an amendment to another bill and I think that will be dealt with very quickly as well. I don't know if the system has broken down or not. It's hard to say as the final measurement isn't in. I know that I don't agree with many of the assessments of what has gone on here that I have seen including the joint statement by the members of the Tax Limitation Committee. I think that its unfortunate that they left when they did. From my own point of view, I know that if I were in their position I'd probably feel somewhat frustrated but it's hard to say that there isn't some flexibility in the system when a group of citizens get together, I don't know how large it is, I have never seen an official mem-

bership list and their contributions list hasn't been circulated. But when a group of citizens get together and the State executive and legislative process go to the following measures to respond to the wishes that they represent, those measures including calling a Special Session in the middle of an election, using the offices of the executive as a place for this citizens group to meet and to prepare their strategy holding a special session that reports out the bill to the sponsoring body exactly in the form in which was given I think that certainly shows some accommodation to the interest of this citizens group especially when you recognize that the idea that they come up was essentially an idea that was dealt with in the second regular session and rejected unanimously by a committee.

So I don't know if the system is broken down or not. I hope people will be in a flexible position tomorrow because I think we can really do something for the people of Maine that are concerned about limiting spending.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 9 o'clock in the morning, September 15, 1978.