

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

SENATE

Wednesday, September 6, 1978

In compliance with a Proclamation of His Excellency, Governor James B. Longley, the Senators convened in the Senate Chamber at ten o'clock in the morning and were called to order by the President.

Prayer by the Reverend Robert B. Newland of St. Mark's Episcopal Church in Augusta:

Let us Pray. O God You made us in Your own image and redeemed us through Jesus Your son, look with compassion on the whole human family, take away the arrogance and hatred which infect our hearts, break down the walls that separate us, unite us in bonds of love, and work through our struggle and confusion to accomplish Your purposes on earth, that in Your good time all nations and races may serve You in harmony around Your heavenly throne.

O God, the fountain of wisdom whose will is good and gracious and whose law is truth, we beseech You so to guide and bless our Senators and Representatives in the Legislature of this State that they may enact such laws as shall please Thee to the glory of Thy name and the welfare of this people through Jesus Christ our Lord. Amen.

The Secretary read the Proclamation.

State of Maine
Proclamation
By the Governor

WHEREAS, there exists within the State of Maine an extraordinary request by volunteer citizens of Maine to place a constitutional limit on government spending and taxation; and,

WHEREAS, there exists within the citizens of this State and many members of the 108th Maine Legislature a feeling that government spending and tax limitation is an issue which should be addressed; and

WHEREAS, a group of dedicated volunteer citizens has drafted a reasonable spending and tax limitation proposal and has requested that I, as Governor, call the 108th Maine Legislature into Special Session so the said proposal can be submitted to the voters of Maine for adoption; and

WHEREAS, the Leadership of the 108th Maine Legislature has stated that a Special Session should be limited in its scope to consideration of the tax limitation question; and

WHEREAS, there exists a need for the Legislature to act in a timely fashion so the people of the State of Maine can vote on a tax limitation constitutional amendment at the November 7th General Election;

NOW, THEREFORE, I, James B. Longley, Governor of the State of Maine, by virtue of the Constitutional power vested in me as Governor, convene the Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol at Augusta on Wednesday, the Sixth Day of September, 1978, at ten o'clock in the morning in order to consider a Resolution, proposing an amendment to the Constitution TO LIMIT THE AMOUNT OF GOVERNMENT SPENDING AND TAXES WHICH MAY BE MADE WITHOUT VOTER APPROVAL.

Seal:

Given at the office of the Governor at Augusta, and sealed with the Great Seal of the State of Maine, this Twenty-Second Day of August, One Thousand Nine Hundred and Seventy-Eight and of the Independence of the United States of America, the Two Hundred and Second.

Signed:

JAMES B. LONGLEY
By the Governor

Signed:

DORIS HAYES
Deputy Secretary of State

A true copy attest:

Signed:

DORIS HAYES

Deputy Secretary of State

Which was Read and Ordered Placed on File.

ROLL CALL

The roll being called, the following Senators responded to their names:

YEAS — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall

33 Senators having answered to the roll call, the President declared that a quorum was present.

Out of Order and Under Suspension of the Rules:

On motion of Mr. Huber of Cumberland. ORDERED, that a message be conveyed to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

Which was Read and Passed.
The President appointed Senator Huber of Cumberland to convey the message.

Subsequently, Mr. Huber reported that he had delivered the message with which he was charged.

(Off Record Remarks)

Subsequently, a message was received from the House, through Representative Tierney of Durham, informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Out of Order and Under Suspension of the Rules:

On motion by Mr. Speers of Kennebec. ORDERED, that a message be sent to His Excellency, the Governor, informing him that in obedience to his Proclamation, a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was Read and Passed.
The President appointed the Senator from Kennebec, Senator Speers to convey the message.

Subsequently, Mr. Speers reported that he had delivered the message with which he was charged.

Communications

Department of Audit

August 22, 1978

To Governor James B. Longley and Members of the One Hundred and Eighth Legislature

In compliance with statutory requirements, I submit herewith the 58th Annual Report of the State Auditor for the fiscal year ended June 30, 1977. The financial data presented are based on the accounting records maintained in the Bureau of Accounts and Control.

We have made extensive examination of major pertinent transactions. We do not make a detailed examination of all recorded transactions on the general books of the State for the year.

We did, however, make a detailed examination of accounting records, procedures and internal controls, and verified financial transactions on a selective basis in our post audits of the activities of the various State Departments, Agencies, Boards, etc., during the year. The results of these audits, together with comments, observations and audit findings and recommendations are contained in our individual audit reports submitted to the respective State Departments, Agencies, Boards, etc.

Based on the scope of our examination, it is our opinion that, except for the exclusion of certain trust and operating fund transactions and ba-

lances recorded and controlled locally by State agencies and not reflected herein, the commentary and statistical information present fairly the financial position and operating results of the various State Departments, Agencies, Boards, etc., of the State of Maine for the fiscal year ended June 30, 1977 in conformity and with generally accepted governmental accounting principles applied on a consistent basis.

This report has been reduced to commentary and statistical information in order to implement recommendations from the Maine Management Cost Survey Commission. Statements and schedules pertaining to the financial position of the various operating funds of the State of Maine at June 30, 1977 may be found in the Annual Report of the State Controller.

I would like to express my special appreciation to the Staff of the Department of Audit for their continued loyalty and devotion to duty and to the State officials for their cooperation with this department.

Respectfully submitted,
GEORGE J. RAINVILLE
State Auditor

Which was Read and with accompanying papers, Ordered Placed on File.

The Senate of Maine

July 18, 1978

Hon. Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear Joe:

It has been a great honor and challenge to serve on Maine's Interstate Cooperation Commission, representing our State on the Council of State Governments.

The work which I have done on the Commission has now been completed. Because the annual meeting of the Eastern Region of the Council of State Governments will be held at the end of this month and because the annual meeting of the governing board of the national Council of State Governments has been scheduled for November, it would be helpful if Maine's representative from the Senate would be a Senator likely to return for additional service next year. Continuity in the work of the Council is important.

Because of these circumstances, I am resigning my position on the Interstate Cooperation Commission with this letter.

Under the authority of 3 MRSA §201, you have the responsibility of appointing the Senate members of the Commission and I hope you will find an opportunity to fill my vacancy in the near future.

Sincerely,
THEODORE S. CURTIS, JR.
Member, Commission on
Interstate Cooperation

Which was Read and Ordered Placed on File.

The PRESIDENT: The Chair will appoint to fill the vacancy on the Interstate Cooperation Commission the Senator from Penobscot, Senator Howard Trotzky, and the Chair would also like to thank the Senator from Penobscot, Senator Curtis, for having performed his duties on this Commission very well indeed.

Senate Papers

Mr. Sewall of Penobscot (Cosponsor: Mr. Danton of York) present,

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)

Which was referred to the Committee on Appropriations and Financial Affairs and ordered Printed.

Sent down forthwith for concurrence.

Orders

On Motion by Mr. Danton of York:

ORDERED, the House concurring, that three hundred twenty-five (325) copies of the Legislative Record for this Special Session be printed, one copy for each of the members of the Senate, House of Representatives, the Secretary of the Senate and Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record, under the direction of the Director of Legislative Research. (S. P. 773)

Which was Read and Passed.
Sent down forthwith for concurrence.

On motion by Mr. Conley of Cumberland:
ORDERED, the House concurring, that there be prepared, after adjournment of the present session, by the Legislative Information Officer, a Register of all the Bills and Resolves considered by both branches of the Legislature, showing the history and final disposition of each Bill and Resolve and that there be printed 600 copies of the same. The Legislature and the State Law and Legislative Reference Library shall receive such number of copies as may be required. (S. P. 774)

Which was Read and Passed.
Sent down forthwith for concurrence.

Senator Carpenter of Aroostook was granted unanimous consent to address the Senate on the Record.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: As many of you are aware, my father passed away last week and I just want to take an opportunity on behalf of myself and my family to thank all of you for your thoughts and kind words of sympathy, and for the flowers sent by our lovely Secretary, Mrs. Ross, and we just ask that you continue to keep my family and my father in your prayers and your thoughts. Thank you.

On motion of Mr. Huber of Cumberland, recessed 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, the Senate voted to consider the following:

Papers From the House House Papers

RESOLUTION, Proposing an Amendment to the Constitution to Establish Property Tax Exemptions for Maine Homesteads. (H. P. 2336) (L. D. 2210)

RESOLUTION, Proposing an Amendment to the Constitution to Require the Governing Body of State and Local Units of Government to Establish Reasonable Expenditure Limits for their Respective Units; to Provide Property Tax Relief by Requiring Property Tax Exemption on the First \$10,000 on an Owner's Principal Place of Residence; to Provide Property Tax Relief to Renters; and to Finance Property Tax Relief by Providing that a One Percent Sales and Use Tax shall be Collected by the State and Distributed to Local Governments. (H. P. 2344) (L. D. 2211)

RESOLUTION, Proposing an Amendment to the Constitution to Limit the Amount of Revenues which may be Raised by Taxes in any Fiscal Year. (H. P. 2345) (L. D. 2212)

RESOLUTION, Proposing an Amendment to the Constitution to Limit the Maximum Property Tax which can be Levied. (H. P. 2346) (L. D. 2213)

Come from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

On Motion of Mr. Conley of Cumberland, referred to the Committee on Appropriations and

Financial Affairs and Ordered Printed in concurrence.

On Motion of Mr. Speers of Kennebec, Recessed until four o'clock in the afternoon.

Recess

After Recess

Senate called to order by the President.

(Off Record Remarks)

On Motion of Mr. Speers of Kennebec, Recessed 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, the Senate voted to consider the following:

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on,
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)

Reports that the same Ought to Pass.

Signed:

Senators:

HUBER of Cumberland
MORRELL of Cumberland

Representatives:

JALBERT of Lewiston
McBREAIRTY of Caribou
MORTON of Farmington
PEARSON of Old Town
CARTER of Winslow
PERKINS of Blue Hill
HIGGINS of Scarborough

The Minority of the same Committee on the same subject matter Reports that the same Ought Not to Pass.

Signed:

Senator:

MERRILL of Cumberland

Representatives:

GREENLAW of Stonington
POST of Owl's Head
NAJARIAN of Portland

Which Reports were Read.

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

Mr. HUBER: Mr. President, I move acceptance of the Majority Ought to Pass Report and will speak briefly on my motion.

The PRESIDENT: The Senator has the floor.

Mr. HUBER: Mr. President and Members of the Senate: This report from the Appropriations Committee is really the first concrete presentation of the concept presented in the Governor's call to the Legislature, and is the one and only subject of this rather extraordinary Special Legislative Session.

I know that there are many versions that would implement this concept in various ways but the Appropriations Committee, or at least a Majority of the Appropriations Committee, felt that this should be presented for Legislative consideration by the full Legislature. We do not feel that it was appropriate for the Appropriations Committee as a 13 member body of this Legislature discuss and pre-decide for the remainder of the Legislature a subject of this importance. The Legislature must be in attendance and actively dealing with this subject to provide the proper input to the continuing work of the Committee to try and get this concept in the best Legislative form and the most acceptable Legislative form.

As I say, this is the one and only subject of

this session. I know that we must debate on the subject and hope and, sincerely hope, that this Legislature will pass an acceptable constitutional limitation which effectively carries out the purposes outlined in the Governor's call and first presented by the Maine Tax Limitation Committee.

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

Mr. HEWES: Mr. President and Members of the Senate: When I first came to the Legislature I found financial matters of State Government somewhat boring, but as I become more involved over the years I find them of great interest and the constituency in Cape Elizabeth and South Portland are particularly interested in the financial affairs of the State and all units of Government. L. D. 2209 is an attempt to control State spending and spending in all levels of government in some capacity. It seems to be a very logical way to do things in that the government will have x amount of money to spend and they must set their priorities as to what they wish to spend that money on.

There has been a staggering increase in the amount of State government spending in the twelve years I have been in the Legislature. I don't know that it has been that way at the County level, it certainly hasn't been down in our County and I don't know if the municipal level is that much, but certainly as far as the State goes, there ought to be some curtailing and I think that this is a good step forward. There will be amendments submitted, I assume, in due course to be considered but this particular L. D. is not a hastily drafted document. I think there has been seven or eight drafts. I recall that when the Executive Council was abolished we were suddenly confronted with a document overnight — amendment overnight, that has worked out to be satisfactory, but it was something that was worked on, not worked on perhaps but drafted and developed in a matter of twenty-four hours or forty-eight hours, so our increase in taxes have changed overnight so there has been much legislation enacted, signed by the Governor, after only perhaps only twenty-four, forty-eight hours of thought and work, whereas this particular L. D. has had months of work.

I think the people of Maine are looking to us in the Senate, perhaps the members of the House of Representatives are looking to us in the Senate for some guidance and leadership here, and I certainly hope that you vote to accept the Committee report of Ought to Pass.

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

Mr. MERRILL: Mr. President and Members of the Senate: I like to speak today, if I could, for the minority members of the Appropriations Committee and I expect possibly the minority of the members of the Senate in explaining why I signed out and others sign out Ought Not to Pass on the proposed Constitutional Amendment put before us by Legislative Document 2209.

Let me say first of all that I had some specific problems with the document that is before us. I do believe that it is inappropriate for the State to involve itself in the decision making at the local level to the extent that this Constitutional Amendment would do so. I do not like the idea of State Legislature and then the people, if that is their wish, passing at a State level are binding on all the municipalities limitation on how much money they can spend even if they want to spend more, and I don't like the problems that are created when you try to accomplish that fact as they are created here. I followed the many drafts of this Committee with particular reference to this particular subject. I find this draft to be the one that solves the problem the best if you are going to involve yourself in the local decision making, but nonetheless I still don't like it. I don't like the idea of us saying in the State Constitution

the local towns and cities can't spend more money if that is the desire of the voters, the majority of voters in those towns or the majority of the people they have elected. And I don't like the details, problems that you get into. As I understand this Legislation, and I am ready to be corrected, at the present time the State of Maine hands out to the municipalities as one type of the unit of government, two hundred and thirty or two hundred forty million dollars. The primary object of that being for educational aid. As I understand the proposed Constitutional Amendment before us, if the Legislature some year in the future decided to cut back on that level of aid substantially let's say because it was their decision that we had placed too much emphasis on education then it would put the communities in the position where their over all allotment would be reduced by that amount. If I read Section C-1 of this Constitutional Amendment correctly. That's a problem that I wouldn't want to force onto future local decision makers.

I might also say beyond the technical problems of this amendment, because we may be dealing with them and I can deal with them in more detail as amendments are offered, having raised that one general objection. That after alot of thought, and I can assure you although some of you may not believe it, a very sincere thought as to the whole concept of amending the Constitution for this purpose, I do not believe that it is appropriate or necessary to do so.

Let me speak to necessary first. It seems to me that if we try to fashion a response to the felt need of many of our citizens to limit the amount of money that is spent here in Augusta, that we can do so via another approach and that approach is to pass legislatively putting in our laws and not our Constitution such limitations as are being talked about here, and then to send that to the people for ratification. If the people do ratify it, as I assume most members here assume that they would, I would maintain and I think historically someone would have a hard time countering my argument, that no future Legislature would tamper with that expressed will in a cavalry of fashion. I think if we look at the history, when the people have spoken on Legislative matters whether it was their rejection of public power or their rejection of the uniform property tax or their acceptance of the Returnable Bottle Bill, that the response of the Legislature when the people have spoken clearly as to their wishes is to respect those wishes and I am fully convinced that the future Legislatures which will not include myself, would act in the same way as they always have. Now there are some who don't trust the Legislature to carry out the will of the people even when the will has been made clear. I am not one of those and I suggest to you that is the premise on which we are going to operate, if we are going to accept that our operating premise that the Legislature today and the Legislatures in the future are not going to respect the will of the people as it has been expressed then we are going to find ourselves having a very difficult time indeed to govern this State. We have always governed on the basis that we reflect what the people want, that trust has been from the people to the Legislature and the government over these years and that very trust is what gives us our power here to govern and what gives us the ability to do so. So I do not think it is necessary to put this in the Constitution to respond to this need in an honest way. If we were just going to enact it ourselves legislatively, I certainly would entertain with that in some near future date. But letting the people vote on it, looking at the history of the Legislature in the past, knowing Legislators as I do, I have no concern in that regard and I might say that that approach that I talk about has a great advantage. And the advantage is that there is unforeseen problems and there will be some, because we are dealing with a very com-

plex area, the spending of State monies that come in from many, many different sources into the general fund and are spent through us to local vehicles and to other agencies of government is a very complex area and there are problems that will not be foreseen and we will either have to ignore the constitution when those problems come up or will have to somehow belay what we are going to do until we can get out various unsundry amending amendments to this constitutional amendment.

I would point out the fact, that the some of the draftsmen were involved in the repeal of the uniform property tax. That was not developed overnight, it was done over some period of time by a citizens group and yet, as the Senator from Kennebec, Senator Katz and rest of us are fully aware, when that repeal came before us, there were technical problems in that repealer that we acted to change. Not in the spirit of tampering with what the people wanted, but in the spirit of the fact that there were technical problems that we were able to correct and still move on from there and reflect what the people wanted to do in their repeal of the uniform property tax. It is my feeling that no matter how hard we tried those same sort of problems maybe with more catastrophic effects are going to come up blocking us in us into the constitution. So by taking a legislative approach we leave ourselves the ability to deal with the problems that come up not violating the spirit of what we are attempting to do but the problems come up because of unforeseen difficulties, and I think that it, therefore, is the more appropriate way to proceed.

I might also say that I very honestly had some trouble with the timing of the session. I think that I understand what good motives and other sorts of motives have prompted us to be here together at this time. But I take legislative responsibility seriously, as I am sure everyone of you here does, and there is no responsibility that any of us should take any more seriously then what we put into the Constitution and we have before us today just weeks before a gubernatorial election which is the prime season of political activity and maybe might say more — political considerations, a major Constitutional Amendment of some five or six pages long dealing with the whole subject of how we spend all our monies, and frankly, I don't think the timing is appropriate but we are here through no decision of my own or any of us and now we are here I suppose we should go about and deal with this matter as responsible as we can. And for my own part what that means if it is ever possible for me to vote on such a vehicle is to do the sort of things that have been contemplated probably along the lines of the so-called Huber Amendment which was discussed last week, but to do it legislatively and to send it out to the people for ratification. I can answer that is an honest response to a felt need on the part of the people and one that won't cause havoc with this Legislature in the future and I hope that a majority of the members of the Senate and majority members of the Legislature haven't tied themselves in due to what I think are really extraneous considerations when dealing with the Constitution so it will be impossible for us to take what I think is appropriate steps.

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

Mr. CONLEY: Mr. President and Members of the Senate: I concur with the statement made by my colleague from Portland, Senator Merrill. In the fourteen years that I have served in the Legislature, I can honestly say that I have never seen legislation come before the Legislature so expeditiously. Legislative leadership met, it seems to me, but a few weeks ago to determine as to what committees or committee would hold the public hearing dealing with this particular item and also to the other bills that would be submitted at this special session. The leadership, or that is the Pres-

ident of the Senate and the Speaker of the House, also made allowances for any members of the Legislature to appear at the public hearings and to be compensated by the per diem so that they could attend the hearings and listen to what had to be said by those appearing at the public hearing to give testimony.

I was one of those who spent a day and a half around the Civic Center and also in Room 228 listening to the many statements that were given to the Committee, and there were some extremely interesting points that were raised by practically everyone who did testify even those who were supporting the amendment.

I guess the disturbing thing about this to me primarily is that we have lost the democratic process or the legislative process that we have always followed. I was particularly shocked to learn only this morning that the committee itself was not going to sit down and analyze the amendments based upon testimony that was given by general public. That no amendments were going to be offered by the committee dealing with this constitutional amendment dealing with spending limitations and it is the first time in the history, I believe at least as long as I have been here, that a Joint Standing Committee has not sat down and tried to at least remove some of the questionable areas within a particular bill and we are not talking about amending the Constitution of this State and I think people should be very, very concerned about that. I think we might site as an example of Senator Katz a few years ago when he brought the school funding bill before us and many of us gave it some real serious thought before the enactment of that bill. And if you check the Legislative record you could go back and see where it was clearly stated that 1994 was suppose to bring about property tax relief and we were assured at the time that the bill came before the legislature before it came before the Joint Standing Committee on Education and before the funding mechanism came before the Joint Standing Committee on Appropriations that we had nothing to worry about. And we know that we saw afterwards almost a revolution take place in this state because of the fact that we came in the next session of the legislature we were faced with the possibility of an eighteen million dollar deficit. We know that the good Chairman, Senator Huber from Cumberland, sat on a Financial Commission dealing with education and try to iron out the problems within 1994. We saw citizens throughout this State go on a rampage and bring in the petition to change 1994 and repeal the so-called Uniform Property Tax. That was statutory language. Those were the concerns of the community many communities throughout this state. I think personally that the Committee as well intended as they may be, with spending limitations, I can support that, I can support it in a statute but I honestly believe that it should be at least placed there for two sessions of the legislature to see if any problems do arise, and if no problems arise I don't think you would find any objections then to run a Constitutional Amendment in future years. But a great deal of concern about amending the constitution of this state dealing with a bill that every member of this Senate should have questions about. And to make it even a little bit stronger, I think if we could shut the lights off in this chamber, pass a roll call sheet around and we all checked it off, we'd all vote no.

So I ask you all to exemplify some courage here today and at least give it a good hard look and to prepare amendments if we are going to have that opportunity tomorrow to at least try to iron out some of the deficiencies that are presently in this Constitutional amendment.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate: I wasn't going to belabor this issue because it still has a long ways to go until. My leader said if the lights were shut off we

would all vote no. Well, I want my leader to know that I would not vote no. I been here for seven and half years. I have served with two governors. I have been a part of spending that has taken place. Not only as a member of the democratic party but there are republicans in this Senate chamber that have been a part of spending. It has been a joint effort. Government is running away, people are sick and tired of it. I am a small businessman in this state. I am sick and tired of it. I hear it every day from my customers. We don't want any more spending. The money you put into different programs aren't doing any good to the people that really truly need the help. Government has gone too far. Instead of helping the people that need help, we have gone one step further, we need them rather they need help or not. I don't see anything wrong with priorities. I don't see why elderly when they get to be 65 years old regardless of what they earned for income if they need free medicine they should be able to go and get it. Not put limitation on them, earn six thousand dollars and then you qualify and then you can get free medicine or you can get tax relief on your property or rent relief on your rent. I don't think it's right and I think we are wasting a lot of money. Now we have sunset laws ten year periods. If you are spending a half a million dollars a year by the time you review it in ten years it's five million dollars. A lot of help that is. I view of this as instant sunset legislation. I've supported the good Senator from Cumberland, Senator Merrill anytime he wanted a budget committee to set the priorities and I can remember speeches here on the floor of the Senate. That's exactly what I want is priorities. There's too much waste up here and there isn't anyone democrat or republican in this Senate Chamber that can't say we don't know where that money is being wasted. I'm not saying that we waste it, but the turnover is so great here that when the bureaucracy gets a hold of us whether its in the Appropriations Committee, the Legal Affairs Committee, the Marine Resources Committee, the Liquor Control Committee, we just don't know what's going on from one legislature to the next. Something has to be worked out. I feel this can do it and I would hope that this isn't a party issue I would hope that legislators would act in a responsible manner and support something that we can do and give the taxpayers of this state a break. Thank you.

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

Mr. LEVINE: Mr. President and Members of the Senate: I rise to agree with the previous speaker, Senator Danton from York. I too have some questions as do Senator Merrill and Senator Conley about the proper perspective for this whether it should be a constitutional amendment or whether it should be done legislatively. As it stands right now I believe I would vote for it as a Constitutional Amendment. The constitutional of the State of Maine is not perfect the framers of the constitution realizing the constitution as originally written could not remain perfect put the amendment process into it.

If we were to meet in session in the Senate and each time something came along as a constitutional amendment say we dare not tamper with it because a mistake might be made, that constitution would have remained an imperfect document and would remain imperfect forever. I don't believe it will ever become perfect we are not gods after all we are human. However, I feel that we must move on and I feel that the constitution is the proper place to put this spending limitation. More than that I feel that the people that elected me here elected me to represent them and their wishes but not to dictate to them and if it be their wish that this appear in the constitution of the State of Maine, I certainly feel that's the proper place for it.

The PRESIDENT: The Chair recognizes the

Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I would like to take issue with the comment that was made by the minority leader of this body that in some way the democratic process has been abrogated by the fact that we are debating this matter this evening.

This particular measure has been discussed and proposed and worked upon and amended and presented to the people of this State and presented to the Legislators of this State for several months. There have been hearings on this matter and there has been ample discussion on this matter. This Special Session was called by the Governor of this State specifically for one purpose and that is to consider a constitutional limitation on the spending on the level of spending on the part of all levels of government of this State and the Governor limited his call to one specific bill. That is the bill we have before us at this very moment and upon which we are working the miracles of democracy by having it before this body for discussion at the present time. Now its no secret that over the objection of many of us there was some other issues that were introduced into this legislative session. All of these matters were referred to the Committee on Appropriations at the same time the Committee on Appropriations have worked on all of these matters and it was leaderships desire, at least much of the leadership's desire through this morning and early this afternoon that the Committee report all of these bills out to this legislature so that we can get about the business for which the people have us here at the present time and that is to consider the matters before this session.

It's also no secret that the committee saw fit to withhold two of those particular matters and report only three bills out to the session this afternoon. One of which we have here before us at the present time and about which we feel fit to enter into discussion and into debate. The other two Mr. President, unfortunately, are in another body and I feel compelled to point out to the people of the State of Maine, that other body is no longer sitting, has adjourned without so much as one word of discussion on the bills before this session. Mr. President, I feel that the democratic process is working, certainly is working very well because we have before us the bill for which this session was called and we have undertaken the discussion on that particular bill, and I am hopeful that we will not waste the taxpayers money by standing in session for two or three weeks and wrangling over a lot of legislation, a lot of words, which as important as they are, have been already discussed and already talked over to a great degree and I call upon both of the parties in this session to get to work on the bills that are before us and to come to a decision, however that decision may go and not to waste the time and the money of the taxpayers of this State by refusing to consider the legislation that we have before us.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: Not to belabor the point, just briefly. I remember when this bill, a constitutional amendment was first run up the flag pole a couple of months ago, and there was such a mad rush to get on the bandwagon that I'm surprized somebody wasn't crushed and run over and killed. Since that time I think we've had eight different drafts. The Bills then were presented to the Appropriations Committee, the Bills and the Constitutional Amendment were then presented to the Appropriations Committee for final consideration a week ago, I guess, approximately. I understand there have been no changes in the Bill and the bills are now being reported out pretty much as is. I think that ought to tell us something about going slowly. I just heard the Majority Floor Leader in this Body say that we've

had great discussion here in this Body about these bills and now is the time to move forward. The only discussion I've heard, I wasn't able to make the public hearings last week and I apologize for that, but the only real discussion that I've heard in this Body on this final draft has been in the last 15 or 20 minutes here in this Body and I think it's a very momentive step to be taking after 15 minutes of discussion.

In response to my good friend, Senator Levine's remarks about perfection, I don't feel that I'm perfect by any means. I think that perhaps if we vote a Constitutional Amendment of this type, we are saying forever more that the 108th Maine Legislature in the month of September 1978 knew all that was to transpire for all the generations to come and we are in fact perfect. If you're going to be honest with yourselves, and I think that we all will be before this Session is over, however long it may be, be honest for a second and ask yourself what if we find a mistake after draft eight two years from now. Is that going to be easily changed? My good friend from Kennebec, Senator Katz, thinks a few years ago that the people would rise up against the uniform property tax in the manner that they did. What if the Uniform Property Tax had been part of our Constitution. The people would have had the vote, there is no question, to change that but would the Legislature have considered it if the people voted for it and there is no question, I don't think, that the vote—the people were in favor of tax relief and uniform spending for education and all the other glorious by-words that went with 1994 in its original conception, would we have changed it? I think that we would have not.

I think that this evening when the roll is called I probably will vote for the first reading of this Constitutional Amendment hopefully to give us some breathing room, hopefully to give us some time to consider some amendments to perhaps make it palatable to a majority of this Legislature. I would ask all of you very sincerely that we not play games here in this Legislature, in this special session. There is great room for —political games with persons running for office both for their own seats here in the Legislature and higher office and other offices. I think there is great potential for that, but I think if we're going to be honest with ourselves and honest with our constituents we have to look at this very, very carefully. It bothers me that fact that the — presently this constitutional limit has a limitation on the towns and municipalities in the counties. I listen to the remarks of my seatmate from the Town of Cape Elizabeth and I remember not too many years ago L. D. 1994 which pinched his particular municipality quite severely as far as the amount they could spend on education. Wasn't the Uniform Property Tax repeal in December an outcry for local control? I don't think there is anybody here that December the 6th that certainly said there was overwhelming voice of the people of the State of Maine that they wanted control over their own affairs and now we're telling them they can't do that without this complicated procedure which many people probably would be disgusted with.

I hope that in the next day or few days that we will look very carefully at this and not do something that says to future generations that we are perfect. This is the way that it should be and this is the way that the 108th Maine Legislature — it shall be and never more shall change. Thank you.

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

Mr. LEVINE: Mr. President and Members of the Senate: Perhaps I'm confused. The good Senator from Aroostook, Senator Carpenter, just mentioned our dictating to the people with this constitutional amendment and I'm not quite sure how we're dictating to the people. I was under the understanding that when we vote on a constitutional amendment here it still has

to go to the people and they will make the deciding vote.

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

Mr. CONLEY: Mr. President and Members of the Senate: First let me state that I have always enjoyed the friend-relationship that I've had over the years with the good majority floor leader, but I would not let our friendship intercede in the fact that — would at least speak the truth.

One, the Appropriations Committee has done absolutely nothing with these Bills. They have not worked on them. All they did was take a vote as to how to proceed with these matters. In fact, it was suggested earlier today that all five Bills be thrown out on the floor of the House and the floor of the Senate and let them go their merry way. I think that is a great way to legislate. I must commend whoever though of that as being the first brilliant, mark of brilliance and the new reform of democracy.

I know, Mr. President, as a cosponsor of this Constitutional Amendment that you are unable to be present to present this Bill at the time of the hearing, but I must also commend you for your selection of the gentleman who sort of was the designated hitter that morning, namely; the Minority Floorleader of the House to speak on your behalf, and it is my also assumption that he may be running for some higher office, and I must commend him because he has been for draft one, draft two, draft three, draft four, draft five, draft six, draft seven, and etc. and he is for the present draft.

It is also my understanding that some people have been sort of taken off the hook with response to any alterations or amendment of this particular constitution or amendment. It amazes me to know that the good Senator in the nearby community of mine, a very poor community, runs out toward Scarborough, I can't quite recall, but I recall so vividly as how upset the citizens of our community were as the good Senator from Aroostook, Senator Carpenter pointed out, is when we mandated the local communities exactly what they could spend and not a penny more, and it seems to me that as a Speaker of the House in those days and the very honorable gentleman who use to sit down here on my left, the Senator from the Cape, Senator Berry, were extremely annoyed by the fact that we weren't allowed or able to amend the so-called 1994 by providing local control. Taxpayers did it. They got the message home and today they can practically do anything they want until this document came before us.

There is no question in anyone's mind that this is not an emergency session of the Legislature; this is a political session of the Legislature, and I am going to try to prevail upon you to at least keep an open mind to an amendment to reduce this monster five and half pages being placed in the constitution of this state which may never be able to be changed. We are always able to do something in five minutes, but it may take us 25 years to correct the mistake.

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

Mr. KATZ: Mr. President, I'm a very nice person, I'm easy to get along with and when I left my house this morning my wife said to me are you going to be taking up school funding, and I said dear this is the first time in memory when I'm going to go and sit in my chair and listen to all the debate and not take up school funding and I want to tell you how much I have enjoyed listening to the discussion.

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

Mr. HUBER: Mr. President and Members of the Senate: To respond to various comments that have confused me. I'd like to point out again that the Appropriations Committee does not and cannot operate in a democrat manner unless the other 171 members of this Legislature are in attendance providing their input

whether the Legislature focuses on this concept.

This is not a regular session where many items are in process and the regular legislative session in and out is available essentially at all times. Hopefully it is a very limited session, limited only to one subject and also hopefully limited to a few days. I don't think anybody feels that the L. D. 2209 before you is the exact measure that will implement this question the question before this session, the variety of approaches to such limitation. The Appropriations Committee and 13 members will have input and will reflect the public input Legislative input and other input - at the public hearings on this Bill, and for that matter, hopefully the entire Legislature will in this manner provide the input that I can only assume has been going on all summer during the discussions of this concept.

The important thing is that the Legislature is here to address one question and one question only. The important thing is that the legislature is now discussing this concept and can provide in addition to the public input at the hearing on the Bill, can provide its input as representatives of the people to the Appropriations Committee in the continuing evolution of this Bill.

As I've said before I'm convinced that the Legislature can and will adopt an acceptable and effective Constitutional Amendment to limit governmental spending.

The PRESIDENT: The Chair recognizes the Senator from New York, Senator Lovell.

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate: I hadn't intended to speak on this Bill and I will speak very briefly.

I noted that all three of the Senators who are against this Bill either aren't running again this fall or don't have any competition. Now there is a lot of us that have competition. It is unfortunate that this Bill had to come up at this time, but the Governor brought it up and called the session in and I think that we should give the people a chance to express their opinion.

I don't mind seeing the Bill amended so that it will come out on the floor Senate partly, but I'm afraid that when we get into the other Body that we just are not going to get along or we're going to come to an impasse, but I'm very thankful and I will ask for a roll call and let's get this thing over with today for the first reading and anyone who wants to get up who is not running again, well okay, let them get up, but those that are running against this Bill.

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

Mr. LEVINE: Mr. President, I guess I believe this is the third time I'm on my feet, and the last time I stood up that many times on a piece of legislation it was on one of mine that sank very quickly. I hope that isn't the case here today.

I just have a few other comments. The good Senator from Cumberland, Senator Conley mentioned political bills and so on. While I have the greatest of respect for all the members of the Legislature, especially the 108th session which I am serving, as a matter of fact, much more respect than I had before I came here because I found out that they are indeed honest and dedicated people. When I first received word that we were being called into session I felt that we would be called into session to do something about that duck that is flying over head called state spending, and when I got down here I began to see in fact we are all really duck hunters. It seems that there are other bills that are introduced which I don't feel that we have time to deal with properly in this special session and now it seems that perhaps we are in the posture of a true duck hunter. We have a lot of camouflage around us and when it's all over perhaps everybody will be able to go home and say look ma, I took a shot.

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

Mr. MERRILL: Mr. President, I have been listening to the debate today with more than usual interest. Let me say first of all that there have been two references to the other body, appropriate or not according to our rules. Certainly it would be inappropriate for me to try to answer some of the innuendoes that were made but I think that it probably would expedite the session if we relieved ourselves of the desire to take sort of quick shots at what the other body might or might not do. The reason we are prohibited from talking about it in our rules I think is for that reason.

I think that we should give the people a chance. I haven't heard one good reason that I think is a good reason proposed here today why we can't do it on a statutory basis. I think I have made, at least to me, some persuasive arguments as to why that would be the most appropriate course of action, but I do think that we ought to give the people a chance and take a stand on whether or not they want to have an active or some sort of limitation on how much the state spends. I hope that comes out of the Session. I honestly and truly hope that that comes out of the session. I prefer to see it be statutory.

I would like to say something else on this whole question of spending. I have not been here as long as the Senator from Cumberland, Senator Hewes, but ever since I have been here I have been interested in this question and I've given it a great deal of thought. I've watched with interest what other states have done. I was very interested when this proposition, or essentially this proposition was put to the voters of California in proposition 8, and rejected by them and I was interested in the regular session of this Legislature when a similar sort of approach was put before the State Government Committee and rejected unanimously by them.

Now if we pass a limitation in this session be it statutory or constitutional, I think that the effects in the terms of the overall desires would be the same, I would maintain that the Senator from York, Senator Danton and others, that this is far from the solution to the problems. One of the problems that I have with this whole approach, very candidly, is that I think that it has all the markings of a sugar pill. Hopefully satisfy the patient for a brief time, not necessarily treat any of the illness. It would be a relatively easy matter for the Legislature to get around this if they wanted to in the future — bad will on the part of the Legislature on inability to deal with this constant growth that the Senator from York, Senator Danton points out. I think that it would be a relatively simple matter to get around this. There are a lot of tricks that could be developed, I think. Right now a great deal of money, for example, comes into AMHI by means of dedicated funds. Those funds go into the general fund and represent a substantial portion of money. I suppose that if those monies are dedicated those third party payments that money wouldn't go through the general fund anymore and we'd free up a few more million dollars to spend. I point that out as one small example.

I think, unlike the Senator from York, that the sunset approach, two sunset bills we've passed, one which was sponsored by a member of the other body; both of which were sponsored by members of the other body one my party and one member of the other party a good beginning at that process, and will accomplish a lot and I think that someday somebody is going to admit to the reality of what I think is a reality that if we really want to control spending we're going to have to cut out doing some of the things we do now. We have a whole new variation on the something for nothing game that politicians have played for so long. We used to play the game that we could give them new programs for nothing and Governor Longley came up here and in his first address to the Legislature told us that there was

no such thing as a free lunch, and now we have the idea that we are going to be able to continue doing as much as we have been doing for less which is sort of another variation of the something for nothing game, in my opinion, and I think there is going to have to be a point in time that when we recognize that if we are going to save money, we've got to cut out some of the things and we've got to take that honestly to the people. Sunsets are beginning at that and I might say also that I think what it is going to take whether we pass this limitation or not is some sort of process that forces the members of this Legislature to take public stands first of all on the total amount of money that they want to see spent every year, and secondly how they want that money divided up among the major spending areas that we spend it.

If there is a problem, an institutional problem, that has brought about this increase in the size of government beyond just the fact that maybe the people wanted it at one particular time, it's the problem that most of the Members of this Legislature never have to go on record in any meaningful way about how we're going to spend our money. Appropriations bill comes at the end of the session. It's a long worked out compromise dealing with the details, dealing with all the. Almost every Member of the Legislature votes for it and goes home. Every Member of the Legislature has been able to say I'm not in favor of spending as much as we spent, I'd be in favor of spending more money on the elderly, but I'm not in favor of spending money in the total amount of money that we've spent or if it isn't the elderly in his district he can say that he's in favor of spending more money on something else. Every member of the Legislature has that luxury. If this Constitutional Amendment passes, they'll have that luxury and there will be ways to a very substantial degree to get around it. I think some day we're going to have to face up to the fact that we're going to have to change our procedures at least so if you want to have representative democracy and if the people really want us to spend less money or stop spending more money but at least when we all go home that we will be on record in a meaningful way about what we think should be spent and in a broad category where we think it should be spent. But this isn't a new idea I recognize. It's something that I've pushed in this Legislature as has been referred to already by the Senator from York, Senator Danton, and has been rejected in this body several times.

So here we stand today a Legislature that rejected the idea of a constitutional spending limit just months ago. A Legislature which has refused to consider most previously and beyond and before that refused to pass legislation to even put us on the record about how we think money should be spent.

But today the same individuals that took those actions feel such a heart felt crisis here that we have to pass this Constitutional Amendment as quickly as possible and go home. I wonder what has changed in the last few months other than maybe the suggestion that was made by the Senator from York, Senator Lovell, and the people are running for re-election and the elections are getting close, and that I submit is probably not the best time to put a five page amendment into the constitution, and I really would like to hear an honest discussion of why people of this Body believe from a substantive point of view, if we can discuss substance and not just the political point of view in this particular period of time, and I would hope and I honestly believe even the members that have opposition will be capable of taking that approach, why we have to do this constitution. Is anybody prepared to maintain that if we pass this Legislatively and send it out to the people and they ratify it that future Legislatures wouldn't live with that spirit. I honestly think that they would. I think that history maintains that position and if we can do it that

way and continue to have the flexibility to deal with these unforeseen technical difficulties that will certainly arise, why is there a rush to put this into the constitution if it isn't simply the response to the political concerns that have already been mentioned.

All of us have different ideas, I guess, about what it means to be elected to a legislative body. To me at least it hasn't always meant that you have the luxury of doing what might seem to be the most popular thing at any given moment. That doesn't say that there isn't a need to respond to what the people want and the ends that the people want to reach. In this case the end of trying to get a limit on the amount of spending that we reach, but certainly if it is the judgement of us honestly on taking our own counsel that that end can be reached without amending the constitution, is it above our charge having had the great honor of being State Senators, is it above our charge to take what risks that are involved in that and take the appropriate action? I suggest that it isn't even to those who are running again.

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

Mr. HEWES: Mr. President and Members of the Senate: I'd like to respond to my good friend the Senator from Cumberland, my colleague Senator Merrill. I respect his logic and have all session but I arrive at a completely different conclusion than he does based on the same premises that he has.

He would like to as I understand it, force Legislators to curtail to the state spending. He agrees that the something for nothing syndrome is eventually going to fall into House of cards. He wants to choose priorities. He seems to think, apparently, that future Legislators are going to be different than we are, that they aren't going to be able to — they are going to be able to — curtail spending when we haven't been able to. He wants to change the procedure. I suggest that we don't have to change the procedure. We have this route we're going now, the Constitutional Amendment. If it doesn't work out as the prohibition amendment of the U. S. constitution was amended the change would deal so this can be altered or appealed. So I submit that human nature being what it is future Legislators are going to have similar weaknesses that we have and have had in the past, and I think that this Constitutional Amendment forces a greater barrier against spending. I think we'll have to choose priorities if our amount of income revenue is limited, and I hope that you will vote for the majority ought to pass report.

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

Mr. MERRILL: With all due respect to the analysis of the Senator from Cumberland, Senator Hewes. I just want to make sure that my position is clear. I am not opposed to a limitation of this kind and do not believe that it would not serve some purposes. I am opposed to putting it into the Constitution. I suggested another approach. I suggested somebody might point out what is wrong with that approach. All I meant to say in talking about other things that might be done is that even if we take these steps, anyone of those two steps, the one that I advocated, and the one he advocates, legislative or constitutional, that that isn't going to accomplish the end. The ultimate, the protection that the people have that the Legislature will act as a majority of the people want them to act is for the Legislature to adopt a process that makes it possible for them to know what their Legislators want to see happen and for the people to judge them by those votes, and all I meant to suggest was that if someone sees this alone as a Constitutional Legislative as a panacea, the solution to this problem, in my humble opinion they are naive.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley

Mr. FARLEY: Mr. President and Members

of the Senate: Before I speak on the bill before us, I would like to clear the air on one term that has been mentioned a few times in the debate today and that is the term local control. I view the term as probably the most abused word of the calloguy of the 70's, it's equal being the word viability of the 60's.

We heard many reasons why this Constitutional Amendment is before us today. I think all of us — it is not a curable thing. I think something that both parties have heard from people. The Senator — the good Senator from Cumberland, — Senator Merrill in his initial address here today touched upon, I guess some idealistic reasons for not adopting this here.

I think the basic problem of why this is here before us, is that the idealistic goals of all of us as Legislators. What we are trying to do since the early 60's is trying to do all things to all people. That has caused a huge bureaucracy not just here but in Washington also.

When this Uniform Property Tax issue was put before the voters, and all of you here understand Uniform Property Tax and its origin, it was deliberately written that two-thirds of this body and two-thirds of the other body would benefit at the price of the other third. Now two-thirds of the State of Maine people benefited from the Uniform Property Tax, yet they rejected it because of the term tax. Now under democratic form of government, and that's what we are, a certain number have put into the system. Since the early 60's and our goals were going to be all things to all men, what we've done, and the good Senator from York, Senator Danton touched upon it, is we have too large a percentage out there not doing anything and living off the system. That is what people reject and I think we better straighten out our House before we take on any new programs or any new spending. That is my reason for supporting this Constitutional Amendment before us. I have good faith in the people of Maine when that is done they shall see the need they always have to initial programs to take care of a particular problem. I would urge its support for the Committee Report of the ought to pass report.

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 Motion by the Senator from Cumberland, Senator Huber, that the Senate accept the Majority Ought to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Majority Ought to Pass Report.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

ROLL CALL

YEAS — Carpenter, Chapman, Collins, D.: Collins, S.; Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trozky, Usher, Wyman, Sewall

NAYS — Conley, Merrill

31 Senators having voted in the affirmative and 2 Senators in the negative, the Motion to accept the Majority Ought to Pass Report does prevail.

The Resolution Read Once and tomorrow assigned for Second Reading.

On Motion of Mr. Huber of Cumberland, Adjourned until ten o'clock tomorrow morning.