

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Second Legislature

State of Maine

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The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Bill "An Act To Encourage Cooperation between School Districts"
H.P. 328 L.D. 443

Tabled - February 1, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **REFERENCE**

(In House, January 27, 2005, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.)

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Allow the Legislature To Authorize a Growth Limitation on the Taxable Value of Homestead Land

H.P. 7 L.D. 2
(C "A" H-3)

Tabled - February 1, 2005, by Senator **BRENNAN** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, January 20, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-3)**, in concurrence.)

(In House, January 27, 2005, **FINALLY PASSED**.)

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. I rise in support of L.D. 2. L.D. 2 was a portion of a rather large conglomeration of issues that were dealt with by the Joint Select Committee on Property Tax Reform. We have had come before this body and have voted for L.D. 1, which did provide some property tax relief to the residents and businesses of the State of Maine. Now before us are proposed amendments to the Constitution which would, if passed, allow legislation to be written that will further help those residents of the State of Maine with their property tax burdens.

L.D. 2, and a subsequent proposal to the Constitution, would particularly help those areas where valuations are rising to such levels and with such rapidity that men and women and families are being forced from their homes because of their inability to pay their property taxes. I have talked with some who say the value of their property is such that they can reap from it substantial monetary rewards. I can't argue that point. In order to realize that monetary reward they, indeed, have to do something that I personally find repugnant. That is that they have to leave their home, not their house, but their home. This is a home that, in many instances, they have resided in not only all of their lives, but the lives of generations of their family before them. A home that now has escalated with such value that they can no longer afford to pay the property taxes on that home. If they were to cash in their chips and sell out their homestead, they, indeed, could live the rest of their lives in comfort in that the monies that they would have gained from the sale would allow them to purchase a place, in many instances away from the shore or away from their family land.

But what have we done? One of the things that we will have done is we will have homogenized a community. Homogenized a community because people who can afford to pay the taxes on that land, that land that has reached such value, will buy it. I know from personal experience and I know that you know too that many of those people who can afford that land, desire it, and come to buy it don't intend to live on it year-round. They tend to gain from it their personal pleasures. That's great, absolutely great. When the weather gets tough, not quite like today but we have had weather worst than today, and they leave, what's left in that community? Are there enough people left in that community to keep the store open? To keep the gas station open? To keep the barbershop open? Indeed, to keep the post office open? Are there enough people to warrant that for those businesses? So if there aren't, and let me answer the question for you, in many instances there aren't enough people left to stay there, that community dwindles. The fabric of that community, the warp and the woof, have been pulled from that blanket and that community changes. Is it our wish that we provide a tax structure that promotes that fraying of the blanket or is it, indeed, our wish and our intention to provide a tax structure that will keep that blanket and that fabric of that community whole? I know where I come on it and I really hope, men and women of the Senate, that you come to the same place.

I wanted to show you a picture that, for me, demonstrates everything that I'm trying to put into words, but our rules prohibit me from doing that. I'll try to show it to you anyways.

It's two people, both fishermen, standing on a wharf. The older man, a man probably in his early seventies, has oilskins on. He's come in from fishing. In his eyes you see a person who has seen a lot, who has looked at horizons, who has looked at waves, who has looked at life. On his lips you see a faint smile. It's a smile of pride. It's a smile of satisfaction. In his hands, you see the hands that have done more work than any of us in here have done, only because he's lived longer than we have. They are knurled. They are wrinkled. They don't even open all the way because they've hauled so many lines and lifted so many objects. One of those hands, and probably the reason for the smile, rests on the shoulder of the second person on that wharf. The second person on that wharf is a fisherman too, except he's probably six or seven years old. Since I know both people in this photograph, I know that this younger fisherman is the grandson. Actually, he's the great-grandson of the first fisherman. So you have a

generation with hand on shoulder and the younger fisherman who has a smile that beams. It's not just a satisfied smile, it's an enthusiastic smile, because his hands are firmly wrapped around the tail of a codfish. He's holding it in front of him. Now I can't tell from the picture, and I'll leave it up to you to decide as well, whether or not the younger fisherman caught the codfish or whether or not the older fisherman, the great-grandfather, brought it in for the young boy to hold. Doesn't really matter. It symbolizes what they do. It symbolizes what they are. It depicts for me better than anything else what we're trying to save. We're trying to save families. We're trying to save generations of people who have lived on this land, have grown up on this land, have worked this land and the sea, and want to continue to do that. We have saved, or we are looking to save, the warp and the woof of that community fabric.

If I might, I'll finish with one final thing. It was written by one of the other generations in that picture, one between the great-grandfather and the great-grandson. It says, 'The grandfather stands on the wharf. Spirits of ancestors walk the paths, the docks, the shores. The island wind whispers their names in the night while their voices still echo in the morning mist, marking the tide of time, the flow of generations. The eldest of a fisherman closes his eyes. He sees a childhood of little now gone; a boyhood of work near forgotten; one marriage, one house, one home still strong; and a life stubborn, proud, tireless that marches on. The grandfather stands on the wharf. The dock that he built and rebuilt after fall days on the ocean hauling traps, after summer nights on the sea watching same. Passed onto son, it reaches ever outwards, solid and secure. He watches the sun glint on the ageless rippling harbor. He sees grandsons, great-grandsons, and great-granddaughters, boats, skiffs, rowboats slip in and out, ever bigger, ever faster, ever changing. They flicker like decades through the mind. The grandfather stands on the wharf, stooped in the September of his life, the air chilled in a way of fall, but he does not shiver, he just stands and watches over what his life has wrought.'

Ladies and gentlemen of the Senate, we must also stand collectively and by our actions watch what our actions have wrought. I urge you to support passage of this amendment so that we can keep that community. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President, men and women of the Senate. It would be nice if it were that easy to fix this problem. I think what we just heard from the Senator from Hancock, Senator Damon, is the emotional argument about why we should pass this. Unfortunately, I don't think this kind of a fix is going to resolve the problem or we might say that the solution is worse than the fix. When you talk about somebody's home, about their family, about their heritage, all of those things that, apparently, are going to be impacted by this proposal, it would be nice if that were the case. The reality of this is that this is a shift. We're asking somebody else to pick up the burden from, in this case, a specific person that now owns a very valuable asset. It would be nice if things were more stable and we didn't have to face these kinds of problems. Having spent the last two years of the last session in the Taxation Committee, we spent two years looking for a fix for this. This shifting is not a fix.

I will attempt to use an emotional argument also, but it won't be about a home, and it won't be about the family. Well, maybe it

is a little bit about the same thing. This was something I heard last night on Antiques Roadshow. This was about a Tiffany lamp. A Tiffany lamp. Much highly regarded, valuable piece of furniture owned by an elderly lady. Reading between the lines, this was an important piece of furniture for her. Highly regarded, been in the family for a long time. Just looking at her you could tell it was time to sell it. If the price on this lamp had been \$2,000, still a lot more than she thought it was worth, it probably wouldn't have been worth it. It turned out the lamp was worth over \$30,000. I think it was \$37,000 when they finally did the auction. She sold the lamp. Was probably the right thing to do for her age and she was encouraged by her adult children who were also part of this piece, this analogy. She was encouraged by her adult children to do this because it was probably in her best interest. Again I don't know that, but surmising.

What we have here, I think, is partly the same situation. It doesn't do any good to shift the burden from somebody that obviously has a problem with taxes to somebody else who has less assets or less income, because that is where this is going to go, to help somebody with a very large asset. That doesn't seem to me to pass the fairness test, Madame President. This is not the solution. Shifting taxes around is not the solution. That's what this is. I ask you to vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. Let me take a completely, non-emotional, posture for a shift and just say that I agree, this is all about shifting burdens from one party to another. When you look at tax reform in an objective way, that's about what it is, unless you're talking about actually reducing spending or increasing spending. Reform is a rough synonym for shift. We've lived with the property tax under one set of rules since the Constitutional Convention of 1819, which adopted the general rule that all property should be assessed equally on the basis of its just value. That's a good rule. We have created certain exceptions over the years. We have made an exception for tree growth property and there is a great deal of tax shifting going on in this state right now in favor of people who own forestlands. I'm one of them. Frankly, the biggest shifts take place in those towns where there is the greatest degree of difference between certain forested property and other property. Those shifts are truly significant. We have adopted as a policy in this legislature the policy of reimbursing communities for some portion of that shift or that adjustment. In some towns, the reimbursement is a tiny fraction of that shift. We've also decided that land that is preserved for open space and certain forms of farmland should be treated in a different way. We have shifted taxes in favor of those uses of real estate.

This resolve really does nothing more than grant authority to some legislature, perhaps this one if it passes this coming November or some future legislature, to introduce a bill where we might have these very productive discussions about whether to make the shift, in what form, in what mode, how to control it, whether to give this authority to each municipality, and if so, under what conditions. All that this does, this raw language, is to say the legislature may have authority to begin conducting those discussions. What bothers me about the debate we're engaging today, and this applies to both sides, is that we're already making assumptions. We're already making assumptions about what a

future piece of legislation might look like if that legislature had this authority.

I need to stress, those of us on the committee that considered these measures, many of us felt very strongly that we should try to accomplish two things. We should try to increase the level of authority that the legislature has to deal with these awkward issues, these problems, these differences among various vested interests, but we should also take advantage of this opportunity to throw out to the public the opportunity to debate these issues. The discussions that have so far been framed for the public have been generated by people who have gone out to get 50,000 signatures underneath a bill that, in many cases, has been drafted very poorly or is inappropriate. We've seen this in the environmental area during the 1990's. Those clear cutting bills were awful in the form in which they were drafted. Yet the people were given them to vote on. The so-called tax reform stuff that has been generated for public referendum has been nothing suitable, frankly, for the public to vote on. These constitutional amendments, this one in particular, has been crafted and created in the crucible of this building. The work on this bill goes back at least a year or so, maybe a couple of years. A lot of work was done on it in the previous legislature. What you have before you is the distillation of a great deal of work by many, many people. Many eyes have read this. All I'm saying is isn't it time that we, in this building, started to create the opportunity for public discussion around rational alternatives and try to help the public structure its own thinking and its own opportunities for discussion and debate?

I might point out here that we thought it was important that there be a minimum required penalty for removing the land from this privileged status at the end and that is in this constitutional draft. As was true with tree growth, a legislature that chooses to make use of this authority might very well impose a higher penalty. We did that under tree growth for some number of years. I just think that we need to increase our flexibility in dealing with these awkward problems. This particular constitutional amendment is an opportunity to do that. It's an opportunity to get, to format, a more intelligent discussion of tax policy out in the public domain and it would give us, or some future legislature, greater flexibility in dealing with these awkward problems. For that reason, I'm going to vote for it, even without knowing what the impact may be in future years.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. This particular issue has been something that has been very important to me since I came up here to the legislature two years ago. As I traveled throughout my district, talking to the people who are struggling with property taxes, probably one of the biggest concerns that I heard was valuation. The concern with this particular bill is that it addresses the land portion of the valuation and doesn't address the entire piece of the valuation. For that reason, I will be unable to support it at this time.

I think we've heard some good points, one of them with regards to the Constitution and amending it. I think that amending the Constitution is such a solemn thing that we do, I think that what we really need to do is to come up with a completed plan that addresses valuation before we go out and say that we want them to pass this only to bring it back in to fix it.

I think that the people of Maine have the right to know that if we're going to change the Constitution they have the right to know how we're going to change it.

It is with great reluctance that I'm not able to support this because I think that this takes a step in the direction, albeit it's not far enough. I can't support it because it's a Constitutional Amendment and we'd have to go through this entire process again to change this, but it acknowledges what the people have been telling me, and I know what they've been telling all of you, that valuation is a major problem in this state. If we want to address tax reform in a real way we're not going to do it with a circuit breaker, we're not going to do it with a homestead exemption, we're going to have to address valuation concerns. If we fail to do this, as a legislature, and there are many avenues left in the pile of bills to do it with, if we fail to this we've going to do a disservice to the people and we are going to lose the face of the State of Maine. We're going to lose the people that have lived here for generations, as the good Senator has mentioned. It's not just a coastal issue. It's an issue that is moving inland. It's moving south. It's moving north. It's moving across the state. That's why, as we move forward and I trust this debate will be carried on throughout this session, I hope that we really look at providing valuation relief for everyone in the state. If we combine that with some of the things that we have tried to do with the spending caps in L.D. 1 and the commitments to control spending in all levels of government, I believe that some of the concerns that my good neighbor, the Senator from York, Senator Nass, mentioned can be reigned in and we can start to take property tax and move it into the realm of ability to pay. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I just wanted to provide a little perspective on what the steps are and where we need to go. Having served in Taxation for six years, I guess, in the past and having dealt with this issue many times, it's nice to see that we're finally at a point where we are doing something about property taxes in the State of Maine. I hope that we certainly do.

The Constitution prevents us from making adjustments in valuations. I hope that is clear to everybody. We can't pass a law. We can't go in and start dealing with the details, those intricate details, of where money shifts from, where it goes, or whether we're going to have money in the state budget to be able to fund that like we did with tree growth and other options. The Constitution prevents us from making those changes to residential property. The Constitution doesn't prevent us from doing it with tree growth, open land, and a few other things because there are exceptions in the Constitution. We have amended the Constitution to allow us to do that. While we have done that and the legislature, in its wisdom, has done that over the years to try to do that for open land and for trees in the State of Maine, we have not done that for homes. I would hope that we would see homes as important as trees, that homes are as important as fields in this state, and people's homes are as important as some of the other exemptions that are in current law within the Constitution.

There are stepping stones here. The first thing we need to do is to adjust the Constitution to allow the people of the State of Maine to say that they think it is a good idea for the legislature to

continue its work and come up with a process for our municipalities to provide some adjustments in valuations. It's not a matter of laying every little detail out on the table. That's not the way you build a house. You don't start with the roof and then work your way down to the basement. You start at the foundation. The foundation is that we have to adjust the Constitution. In fact, we don't just have to adjust the Constitution, the first step is that we have to ask the people of the State of Maine if they want us to adjust these changes and if they want to adjust the Constitution. If the people of the State of Maine, not us, not the Senate, not the House, not the Governor, but if the people of the State of Maine want to adjust the Constitution it would then permit us to come in and make the changes in the valuations and what the programs are going to be. It would also allow the people of the State of Maine, through the initiative process, to make the changes that they would like to have. Currently they can't do that. They can't initiate a bill. They can, but it would be deemed unconstitutional. They can't make a change to the way we value property. That was part of the problem with one of the initiated bills that we had last year. I hope that we will give the people of the State of Maine the opportunity to make this decision, not just keep it all within ourselves, but allow the people of the State of Maine and the way the Constitution is designed and how we amend the Constitution, that we let the people of the State of Maine have this ability, have this choice, on whether or not we move forward with this issue. Thank you.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#18)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, DAMON, DIAMOND, DOW, GAGNON, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NUTTING, PERRY, RAYE, ROSEN, ROTUNDO, SCHNEIDER, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, HASTINGS, NASS, PLOWMAN, SAVAGE, SNOWE-MELLO, STRIMLING, TURNER, WESTON, WOODCOCK

This being an Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 22 Members of the Senate, with 13 Senator having voted in the negative, and 22 being less than two-thirds of the Members present and voting, **FAILED FINAL PASSAGE, in NON-CONCURRENCE.**

On motion by Senator **STRIMLING** of Cumberland, the Senate **RECONSIDERED** whereby the RESOLUTION **FAILED FINAL PASSAGE.**

On further motion by same Senator, RESOLUTION **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/1/05) Assigned matter:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities

H.P. 224 L.D. 299

Tabled - February 1, 2005, by Senator **BRENNAN** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, January 20, 2005, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, January 27, 2005, **FINALLY PASSED.**)

On motion by Senator **DAMON** of Hancock, RESOLUTION and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 8, 2005, at 10:00 in the morning.