

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

The same Senator then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-355, to Committee Amendment "A" was Read and Adopted.

Mr. Johnston of Aroostook then presented Senate Amendment "B" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "B", Filing No. S-362, to Committee Amendment "A" was Read and Adopted.

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

Mr. COLLINS: Mr. President, I have not found in our books as yet any Senate Amendments "C" or "D" to Committee Amendment "A", so perhaps they have not been brought forward. I will therefore proceed with Senate Amendment "E" to Committee Amendment "A" and move its Adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "E" to Committee Amendment "A" and moves its adoption.

The Secretary will read the amendment.

Senate Amendment "E", Filing No. S-361, to Committee Amendment "A" was Read and Adopted.

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

Mr. COLLINS: Mr. President, there is one further amendment just handed to me which is not printed. This forthcoming amendment may be with us before I finish talking, but if not, I hope someone will table this matter for a few more minutes so that we can bring it all to a conclusion.

I would just like to comment on two or three things in this errors and inconsistencies bill. Our committee tried to stay within the parameters of those words, "errors and inconsistencies". Sometimes there is a little disagreement about how big those words are, and in two or three instances I feel that I should call to your attention areas where there could be some dispute as to whether we are within those parameters.

The first item I would mention is that we have included a provision which would extend the life of the Criminal Law Revision Commission. This is the commission that produced the original draft of the Maine Criminal Code that we have adopted and which has now been signed into law. That code becomes effective next March 1st. Even as we were finishing our work on that bill, the Supreme Court of the United States announced a decision that has some bearing on the definitional material in that act concerning manslaughter. There has also been some new definitional material with respect to the identification of different types of marijuana. It was felt that these new problems in our criminal law should not be hastily attacked, that they should be carefully studied and then that our law should be corrected. Fortunately, the commission still has a little money left, federal money, that it can use to study those two questions and also a few other questions about the application of the code in other areas of our criminal law that are not touched by the general code. For this reason, we felt it appropriate to continue the life of this commission until next March 1st so that it might work on these inconsistencies for us and, hopefully, submit to the special session those remedies that would bring the code up to its very best position.

On the first page of Committee Amendment "A" which appears in your notebooks, the filing number I think is S-351, there is a rewriting of certain sections of L. D. 1035 which had to do with public records and confidentiality. The first two paragraphs of that section do not change the meaning of it at all, as we understood it. The second and third provisions, however, were inserted at the request of the Attorney General's Office, and the justification of inserting those sections was that there are certain constitutional problems with regard to the lawyer's work product, particularly in criminal prosecution. There are certain papers that a lawyer works with in preparing the prosecution of a criminal case which may be discovered by the opposing party, the defendant accused of a crime. The Supreme Court of United States has developed a body of law indicating what papers may be reached and what may not be reached, and it is my understanding that the Attorney General's Office has attempted here to describe those papers that may not be reached under federal constitutional law. I do not claim to have the scholarship or to have spent the time to substantiate that, but that is in general what the Attorney General's Office thought.

The very last provision was changed so that the confidentiality of inter-intraoffice memoranda would not include public officials involved in the legislative process. This would mean that in the future, for example, if you file a bill for drafting, that it is not secret and confidential until you extract it from the files. It is a public record. I think that should be brought to your attention.

Section 44-A of the bill has to do with a minor adjustment regarding farm motor truck fees from September into October. I think is the way it works. I guess you would call that an Aroostook County type of correction.

Section 44-B has to do with pole carriers, tag-along vehicles. This is an area I know very little about. We did accept it as a committee item that we could recommend.

Section 51-K will probably receive considerable debate in the other body.

Section 80 was delayed until March 1st, again because of a constitutional question which arose after the adoption of what we call the long arm statute which gives our authorities greater scope in prosecution of cases. We felt justified in including this because we would not intend to pass something that might be unconstitutional and we did not realize that it was. It was only subsequent developments that have raised that question. And by postponing the effective date, we will have an opportunity to make a correction if one is required. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I have an amendment which has been typed and is being reproduced. I believe it is an amendment to Committee Amendment "A". I would appreciate it if someone would table this for later in today's session.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of Committee Amendment "A".

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

An Act Relating to Personnel Classification and Functions of the Review and Evaluation and Fraud Investigation Division of the Department of Audit. (H. P. 1122) (L. D. 1409)

Tabled — Earlier in Today's session by Mr. Conley of Cumberland.

Pending — Motion by Mr. Speers of Kennebec to Suspend the Rules for purpose of Reconsideration.

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

Mr. SPEERS: Mr. President, there is an amendment that is needed to this particular item and I now move the pending question.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, under suspension of the rules, the Senate voted to reconsider its former action whereby the Bill was Passed to be Enacted. Subsequently, under further suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-354, was Read.

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

Mr. BERRY: Mr. President and members of the Senate: This Senate Amendment "A" takes out of the bill any reference to the classified service provisions in the bill itself, and leaves only a schematic arrangement showing the relationship between the Bureau of Audit, the Legislature, the Legislative Council, and the Performance Audit Committee for the future conduct of the business of the Bureau and those three respective other entities.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

Thereupon, the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

The Committee of Conference Report: Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor. (H. P. 16) (L. D. 24)

Tabled — Earlier in today's session by Mr. Speers of Kennebec.

Pending — the motion by Mr. Curtis of Penobscot to reject the Committee of Conference Report.

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

Mr. BERRY: Mr. President and Members of the Senate: I want to speak against the motion of the Senator from Penobscot, Senator Curtis, to reject the Committee of Conference Report.

It has taken a long time to get this matter to a position where it has the remotest chance of passage. I think that probably describes the posture of the bill at the moment. I think we are fooling ourselves if we are going to try to settle for much else than we are going to vote on

here. Whether anybody is maneuvering to get the credit for passage of this constitutional change or whether they are maneuvering to take the blame for its defeat, I do not know, but I see the factors lined up here which can very easily kill this bill through a misunderstanding of its present posture.

We are all familiar with the various possibilities of replacing the Governor's Council. It might almost seem a waste of time to get into the matter of why we do need to replace the Governor's Council. I am sorely tempted to touch lightly on the subject, however, I think the Governor's Council is anachronism, I think it is a deterrent to proper functioning of state business. I think it was a millstone around Governor Curtis's neck, I think it is a millstone around Governor Longley's neck, and its continued existence will assure its similar role in the future. It is a hangover from colonial days when we had to protect ourselves from the prerogatives of royalty, and it long since has lapsed into merely an instrument of obstruction and no longer furnishes advice and council to the chief executive.

We charge all sorts of responsibilities to the Governor. We reorganized the government two and four years ago, and about the only thing left now to do is to perform an act of surgery as far as the Governor's Council is concerned.

I think if everybody will examine their, what I call legislative hearts, and evaluate the possibilities of the several alternatives, I feel sure that you will agree with my evaluation of the present situation that there are two possibilities of all those proposed that we face. I would hope that my previous rather terse remarks will dispose of Senator Wyman's little baby which would keep the council in existence.

The two viable alternatives are to put the confirming powers in the hands of the Legislative Council or to put it in the hands of a committee or commission. I think we are playing and toying with the impossible if we think that the Senate will end up as the confirming body, and I think adherence to this will only serve to quickly bring about the defeat of the measure, a situation I am sure that most of us deplore.

I recognize very plainly the pitfalls and the dangers of the committee of five and five so-called. But I think that we have to be pragmatic about the situation, which has been the thrust of my comments so far, and that is that if we are going to eliminate the council we are going to have to swallow some philosophical acid and go along with some things we don't like. I think this is what each of us is going to have to ask ourselves: do we want to get rid of the council, in the first place? And obviously the answer for some of us is, no, we don't want to get rid of it, we want to continue this anachronism, we want to continue inefficient state government. But to the vast majority of us in this room, we do want to get rid of the Governor's Council. And what price do we have to pay? I say that each of us is going to have to pay a price because the only one that perhaps all of us will be satisfied with is totally unacceptable to the other body.

The pitfalls of the five and five committee, I think, are the setting up of another group in the legislature which will have power, which will be able to wheel and deal, which can trade off approving appointments for certain favors of a legislative nature. But I think that another legislature can go through the soul searching, it can make changes that the

price to pay for the possible -- I will say probable -- problems to arise out of the five and five set-up that can be settled by the next legislature, that we will have crossed the bar when we have made the decision to abolish the council and have paid the price of perhaps accepting a method on which we don't agree.

So I would hope that you will very carefully evaluate the situation in which you find yourself at this moment, because I can assure you that you will not find yourself in this position again very soon. So I would hope that we would defeat the motion and accept the Committee of Conference Report.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: I rise in support of the motion which I made earlier today, and would suggest that I am concerned by the argument that the reason we should accept the Committee of Conference Report is because any other alternative is totally unacceptable to the other body. In addition to it being improper to debate what may or may not be thought of, discussed, debated and determined in the other body, I would suggest that what we ought to do, especially when we are talking about the Constitution of the State of Maine, is to build for the future and plan to do what is right and what is responsible.

The basic objection that I have and I think that most of our fellow citizens in the State of Maine have with the Executive Council is that it is not accountable. I would suggest that the proposal of five Senators and five representatives who would be chosen by their colleagues here in the legislature has the same problem of a lack of accountability, and that the most sensible method of providing for confirmation of important appointments is that which is used by about 38 other states and by the federal government. And that is that the Senate, totally elected directly by the people, requiring the facing of the people in the next election, be the confirming body.

While we are discussing the replacement of an anachronistic seven-member Executive Council, we should think in terms not of just a cosmetic change to a ten-member legislative council, but to the substantive issue that should be decided of who is going to be ultimately responsible for confirming the appointments made by the Governor. Again, I would suggest that confirming body ought to be one which is directly accountable to the people of the state. We should build for the future, and now is our opportunity.

The other body has yet to be faced squarely with the issue of the Senate as a confirming body, and I think that if they were faced they would give it due consideration, and that yes, that sensible proposal does have a chance of enactment.

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

Mr. KATZ: Mr. President and Members of the Senate: Every session that I have been here we have had a current services budget and every year I have been here we have had a question of abolishing the Governor's Council. And every year that I have been here the Senate has properly and righteously indicated that the Senate is the proper replacement. I hope that some of you remain along for another ten sessions and go through the same experience that every year there will be a bill to abolish the Governor's Council and

every year the Maine Senate will piously say we are the ones to do it. But I have a feeling that it is proper in every respect to take action now to make the kind of a change the people have said they want.

I would take strong issue with my good seatmate, the Senator from Penobscot, Senator Curtis, in some of the conclusions he draws. Each of us is elected by the people and we are accountable to the people every two years in an election. Were a legislative group to be selected to replace the Governor's Council, it would introduce accountability that presently does not exist, and the change would not be a contrived change, it would be a very real change indeed. I have a feeling that a legislative group, no matter what the group might be, is readily accessible to the views and the inputs of colleagues within both houses.

It has been suggested that the five and five suggested by the conference committee is a cosmetic change, it is a radical departure from the things we have been doing ever since the beginning of the state. It has been suggested that we build for the future, and I suggest that the future will stretch out endlessly unless this particular legislature takes action.

The other body has had two separate occasions, once in a non-concurrent bill, and the second in the Conference Committee Report, two separate whacks at the question of the Maine State Senate being the alternative to the Governor's Council, and both times it has said "No."

I would like to call to your attention the specifics of a conference committee report, which you will find actually in the Committee "B" Report, under Filing H-584. What does this proposed change do? It gives five members of a confirmation committee in each house, and it specifies that no more than three shall belong to any political party. It is flexible. If it turns out here some day that we have a third party or whig party or an independent group, it is flexible enough to accommodate whatever happens in the future.

There are many of us here who feel that leadership through the Legislative Council should have the option of acting for the legislature in this respect, and I call to your attention that the beauty of the conference committee report is that the constitutional amendment makes it possible for future legislatures to decide whether they want ten people at large from the two houses, five and five, or whether they want five leadership from both houses. And I am sure that nobody here knows what future legislatures are going to do.

So if you think it is a pretty good idea that the legislative leadership should be the confirming body, I would urge you to vote against the motion to reject the Committee of Conference Report because that is the way a subsequent legislature may decide to do it. If, on the other hand, you don't feel that legislative leadership should be the confirming body, but that there should be five members at large from both houses from the floor, I urge you on that basis to vote against the motion to reject Conference Committee, because the beauty of the Conference Committee Report is that it takes the Governor's Council out of the business, it puts the legislature in, but it leaves it to future legislatures to decide just on what basis.

I say that this Conference Committee Report is flexible, it is responsive, and it is responsible. It may not be exactly what the members of the Maine Senate want, but I

think it is a darn good alternative. And if ever, ever, ever you have had any notion of seeing the end of the Executive Council, I would say the time is now and the Conference Committee Report is an excellent option.

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

Mr. MERRILL: Mr. President and Members of the Senate: I have long been very interested in doing away with the Executive Council. I think that my interests in that is similar to most of the members of this body and most of the people of the public. It is really struck by the fact of how we envision the role of Governor and what we want our Governor to be able to do. I think the office of Governor is an important office, and I think that the Governor ought to be able to have his own people in his cabinet positions, and I think that he ought to be able to make these appointments free from the game playing and the trading process, and the you give me this and I give you that, that has gone on for the last how many years with the Executive Council. That is what upsets us about the Executive Council, and that is why I think it is important that we have a group of people who are elected directly by the people, a group of people that has some size in numbers, and a group of people that have enough other important things to do so they don't spend their time finding ways to erode the powers of the Governor.

This report does nothing to correct any of those wrongs. The only thing that can be said for this report is that it is sellable to some people. That is the argument that we have heard. It is a darn poor way, I submit, to write the Constitution of the State of Maine. I look at this report, it is supposed to be an excellent report, and going beyond my general objections to it and trying to look at it specifically as something that is going to be written into our constitution. I see there will be five members of the House and five members of the Senate, and that is an even number, but it is far from excellent thinking. I think. If I was going to have a group of people that would be making controversial decisions, I think I would try to have an odd number so that you wouldn't end up with ties.

But then we go on to find that there shall be five from each body and they are going to be elected, and that two will be from the minority party, and they will be elected by the majority of the body, I presume. So that means that — talking about the other end of the hall, so that it won't be too close to home — that if the makeup were the same next time around, the 90 Democrats would get together and they would elect two Republicans. Well, I hope the Republican Party would be satisfied with the type of representation they would get on this body with that election process. But if they were satisfied, I wouldn't be satisfied that the Democrats had done their job. And the same will go up here, minority representation, but the minority is chosen by the majority, or at least it would seem so in reading this amendment.

Now, the other question I have is that if we are going to have this group of people, and they are going to be elected at the beginning of the legislative session, who is going to serve on this committee? I think there is a very good chance that the people who would be elected to this committee would be the people who sought leadership

and lost. Frankly, thinking over the types of individuals that fall into that category over the last ten years, I don't feel that we would be doing much to improve the situation that the Governor is in, in terms of being able to run the executive branch of this state. And that is, I think, where the concern with doing something about the Executive Council comes from.

So I am not going to accept this report, for the general reasons and the specific reasons that I have stated here. And it is my hope, even though the hour is late, that we can come to a compromise that will be a real compromise, and that it will address the real objections that all of us have or most of us have to the Executive Council. I think that it is going to require some statesmanship, but I am not as convinced as some of my colleagues are that that won't be forthcoming.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, it is a rare occasion indeed and it gives me a great deal of pleasure to stand here and debate on the side of the Senator from Cumberland, Senator Berry, and the Senator from Kennebec, Senator Katz. I don't know that I have done that before this session. But I think they are right in this case.

What we have heard for different offers and what we are talking about with the Conference Committee Report may not be the ideal situation. We may never in the legislature of this state find the ideal situation, and if we wait for that day, by the same token, we will never abolish the Governor's Council.

The objection of the Senator from Cumberland, Senator Merrill, to the even numbered board I think works out very well. A tie vote means that the motion does not carry. It takes six to carry a motion, the same as though you had 11 members on the committee. I don't think that is a problem, by any means. I don't think it is poor planning and I don't see it as a problem.

Let's face it, the Conference Committee Report is a step in the right direction. It is an improvement over the system we have today, if we cannot achieve the ideal. And let's not kid ourselves, this session is not ready to let the Senate be the confirming body. That is my opinion, very firm opinion, and I expect that if we persist, that will go down in history too. Because we are heading in the right direction and because we have a saleable Conference Committee Report, I believe, saleable in this body and saleable in the other body, I think it is applying practical politics to a problem we have.

I don't think there is any question in anybody's mind that the large majority of the people in the State of Maine want the Executive Council abolished. I think the main reason they want it abolished is because it always has been, and under the existing rules remains to be, a partisan body. We need to change that, if nothing else. This Conference Committee Report would change that, to say nothing about — I am going to estimate — \$100,000 savings in expenses of running that Council.

So I just want to ask you right now what is important before this body. Are we really concerned about abolishing the Executive Council, or do we want to quibble about who is going to take over its duties? I say that the overriding argument here we are facing today is that

we should abolish the Executive Council and accept a reasonable substitute, which we have from the Conference Committee Report. So I urge you to reject the motion and accept the Conference Committee Report.

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

Mr. COLLINS: Mr. President and Members of the Senate: I am one of the signers of the Conference Committee Report. I thought about it a good deal before I signed. I went back to my files and drew out a work done in 1959 by then Professor of Government Vose at Bowdoin College, one of the more scholarly and accurate works about the Governor's Council. I think I have explored all of the possibilities probably as well as most of us and I haven't found any perfect solution.

I really haven't heard any very convincing arguments about why the Senate is a better confirming body than this sort of committee. The only reason that I think of is that the entire Senate does represent by direct election all of the people of the state. But we know that in any body of this type many decisions are made on a caucusing basis by the majority party in control at any particular time.

The value of having a body different than the present council, whether it be the Senate or this committee of five and five, as I see it, is that there is a value in bipartisan consideration. I think we know that there is a value in competition and in criticism, each party of the other. This is part of the genius of our own political system and process.

I may have missed something in the remarks of the good Senator from Cumberland, Senator Merrill, and if so I apologize, but I would certainly like to hear from him what his very best and most perfect solution would be to this problem.

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

Mr. MERRILL: Mr. President, the Senator from Knox, Senator Collins, in asking for a perfect solution, I am afraid, sets a standard to which even I can't attain, nor he, I am afraid. But I do think that we have to look at what the objections to the present council are and what this proposal would do to overcome those objections.

There is one objection that the Senator from Knox, Senator Collins, pointed to that this would overcome, and that is the objection that the present council is made up of members of all one party. Well, if that is the only objection that anybody has to the present council, and if they are concerned about doing away with that, then I suggest that they refer themselves to the document that is Committee Amendment "B", and ask themselves is it really the spirit of non-partisanship to have the majority elect two members from the minority, or to have that be possible as the constitution is written. That is not bipartisanship. Two members of the minority selected by the majority is to assure that voice, that important voice of two thoughts? It is a hoax.

Now, there are other reasons that I think we should be concerned about doing away with the Executive Council. One is that we should try to have a group that is elected by all the people of Maine and that is responsible to the people of Maine, and that has the job of confirming appointments because the people of Maine elected them and that is one of the jobs

they elected them to. This group won't be elected directly by the people of Maine. That isn't why these ten people will be in that position. They will be in that position because they are elected to be representatives or senators and then their colleagues choose them, one step removed from the people, to be on this board. That is the legitimate objection I have to the present council and to this plan.

Furthermore, I have the objection that the group is too small and that the group will be able to concentrate a great deal of its time on this, if it so wishes, and that I am afraid the same sort of trading process we have seen over the years would continue. That is my real objection.

I don't think the Senate is perfect. Somebody said to me earlier that there are 19 good reasons why the Senate shouldn't be the confirming body. But I do think, as a Democrat and as a person that is certainly, in listening to my constituents, in no way assured that I will be back here again, that the Senate is the logical place for this to reside. 30 some odd states have done it that way, the United States does it that way, and I think it has worked very well. The fundamental objections I have to the council aren't solved by this committee amendment, and I think they would be better solved by the Senate, and that is the reason I would accept and would urge, and have continued to urge, the imperfect solution of having we imperfect mortals that sit in this Senate, or our successors, be the people who advise and consent to the Governor's appointments.

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

Mr. CYR: Mr. President and Members of the Senate: I cannot buy this program of five from the other body and five from this body. My reason is that these ten people would be on the hotseat throughout the session. They would be bombarded by demands and requests of their colleagues, and if they didn't submit themselves to some of these demands, in many cases you would find that some of their colleagues would take reprisals on them on their legislation that they have introduced.

Also, I would like to bring your attention to the structure of this. Three from the majority party and two from the minority party. Well, the majority party has the chairmen of these legislative committees. And so far this year you haven't had enough Senators from the majority party to chair only one committee. We have seen throughout this session Senators chairing two and three committees and doing very poor justice to some of these committees. And they are the ones that will admit themselves that they have done a poor job. Probably on the major committee that they sit on, that they chair, they have devoted all of their time, but very little on some of the other committees that they are chairing. Now, if you give them some more responsibilities, what do you think is going to happen?

Our leadership, for the most part, do not introduce legislation because they haven't got time to shepherd it. Our leadership also, in most cases, do not introduce legislation because they do not want to put themselves in a bind in regard to their colleagues. Now, what do you think is going to happen to this committee here, when you have five members sitting on very important appointments, being requested by their colleagues to be either for or against this? I think this would be irresponsible on our part.

If we are going to eliminate the

Executive Council, let's look ahead and do it in a responsible way. And I think the responsible way is what 38 other states are doing in having the Senate as the confirming body. That is the way I am going to move. I would rather have the Executive Council as it is, with all the inequities and the drawbacks that we have had for years, I would rather accept that than to try to eliminate them and replace them with a body that we know will not serve the State of Maine properly.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: The Senator from Knox posed a question as to what might be the perfect solution for the problem of appointment and confirmation, and I would suggest that perhaps when we have a philosopher king seated on the second floor that it may be the perfect solution. Until that time we need some mechanism, and I would suggest that the proposal that was originally in Report "C" from the State Government Committee provides the simplicity, the existing mechanism of the State Senate, and is one which works for our federal government and for most of our fellow state governments.

We discussed this at some length in the committee as we analyzed the various possibilities. And the solution that I liked the best was the one in which the Senate would have been the ultimate confirming body, thereby providing the accountability which I think the people of the state so badly want, and that by joint rule the legislature could establish that there would be recommendations from the various joint standing committees, thereby giving an opportunity for the expertise which we are developing, and have been over the past few years, in our joint standing committees in specific areas of concern, to consider appointments and make recommendations to the Senate. For example, the Judiciary Committee might very well, and should I think, consider and make recommendations on the nominations of judges. The Agriculture Committee should consider and make recommendations on the matter of the nomination of the Commissioner of the Department of Agriculture, and so on for Marine Resources and the various other departments.

That is why I think, as I said before, when we are planning for the future we have to be very careful and not work for the easy to obtain compromise, but really write the constitution the way it should be written. When the vote is taken I request a roll call.

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

Mr. CONLEY: Mr. President and Members of the Senate: First of all, I want to commend particularly the good Senator from Cumberland, Senator Merrill, who has taken it on his own to give many hours of his time when not in session to try to work with members of the other body to bring about what we consider to be a fair solution to the abolishment of the Executive Council. I am sure that on the Committee of Conference Report before us today the good Senator has clearly stated what his position is relative to that and also shares the same viewpoint that I have. I think, at best, it is probably the worst solution that has been talked about in the legislative halls over the last several months.

There have been several alternatives that have been mentioned. And if there is one thing that I dislike about this particular proposal, it is cutting the thing down to five members of each branch. I would much rather see, and I was one of those that first, when the suggestion was made or the proposal was put forth, at least I sort of half-heartedly rejected it, but it certainly makes more sense to me today, far more sense to me today than this particular item, and that was for the confirmation powers to take place in both bodies. That makes much more sense.

It appears to me that the Committee of Conference Report is parochial in nature in the sense that what it is trying to do is give a voice in both houses. I can agree with that. But I cannot agree with it being in the numbers of five and five. I think we would be far better off, as some one has stated here this afternoon, to have the present Executive Council continue to exist under the present laws that they are operating under. This here, to me, is just ludicrous.

I would hope that the Senate would reject the Committee of Conference Report and ask for another Committee of Conference so that we can get down and possibly by tomorrow resolve this very important question. And I am certainly disturbed when people are concerned about their political image when they go back home for the fact that they didn't tackle the problem before them. I tell them to put their parochialism aside and to sit down and try to iron out this problem and we can get this resolution adopted.

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 until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion by the Senator from Penobscot, Senator Curtis, that the Senate reject the Committee of Conference Report and ask for a second Committee of Conference. A "Yes" vote will be in favor of rejecting the Committee of Conference Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLLCALL

YEAS: Senators Clifford, Conley, Corson, Curtis, Cyr, Gahagan, Graham, Hichens, Johnston, Merrill, O'Leary, Pray, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators R. Berry, Carbonneau, Cianchette, Collins, Cummings, Graffam, Greeley, Huber, Jackson, Katz, Marcotte, McNally, Reeves, Roberts.

ABSENT: Senators E. Berry, Danton.

A roll call was had. 16 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with two Senators being absent, the motion prevailed.

Thereupon, the President appointed the following Conferees on the part of the Senate to the second Committee of Conference:

Senators:

CURTIS of Penobscot
CORSON of Somerset
CLIFFORD of Androscoggin

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

Bill. "An Act to Correct Errors and

Inconsistencies in the Public Laws." (S. P. 480) (L. D. 1760)

Tabled — earlier in today's session by Mr. Speers of Kennebec.

Pending — Adoption of Committee Amendment "A"

Mr. Clifford of Androscoggin then presented Senate Amendment "F" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "F", Filing No. S-365, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendments "A", "B", "E" and "F", was Adopted and the Bill, as Amended, Passed to be Engrossed.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Speers of Kennebec, and under suspension of the rules, Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor. (H. P. 16) (L. D. 24), was sent down forthwith for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Joint Order — Relative to Joint Interim Committee to study laws pertaining to annual excise tax on railroads. (H. P. 1518)

Tabled — April 23, 1975 by Senator Speers of Kennebec.

(In the House — Read and Passed.)

Mr. Speers of Kennebec then moved the pending question.

Thereupon, the Joint Order received Passage in concurrence.

Reconsidered Matter

The following Bill was held at the request of the Senator from York, Senator Marcotte, pending Consideration:

Bill, "An Act Concerning the Office of Energy Resources." (S. P. 549) (L. D. 1913) Emergency

(Recalled from the Governor pursuant to Joint Order S. P. 603.)

On motion by Mr. Marcotte of York, and under suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Enacted.

On further motion by the same Senator, and under suspension of the rules, the Senate voted to reconsider its former action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "D" and moved its Adoption.

Senate Amendment "D", Filing No. S-363, was Read and Adopted.

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

Mr. BERRY: Mr. President, I wonder if the Secretary might read the title of the Bill.

The PRESIDENT: The Chair will read the title of the Bill: Bill, "An Act Concerning the Office of Energy Resources." (S. P. 549) (L. D. 1913)

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I don't want to delay things, but I noticed that the Senator from York, Senator Marcotte, had two amendments prepared, both on the qualifications of the director. And of the amendment that was just adopted, very clearly are narrow requirements requiring engineering, economics, energy

research. Could I have the thinking of why we are looking perhaps not so much for leadership as these technical qualifications from our leader?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair which the Senator from York, Senator Marcotte, may answer if he so desires.

The Chair recognizes that Senator.

Mr. MARCOTTE: Mr. President, this amendment is a compromise between the Office of the Governor and some of the members of the Legislature here. It is less restricting than the original bill because while it does state engineering, it also includes economics, energy research or the administration of energy programs. I think that this does take away some of the restrictions that the Governor opposed.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed?

Thereupon, the Bill was Passed to be Engrossed.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Greeley of Waldo, the Senate voted to take from the table the following unassigned matter:

Bill, "An Act to Make Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1976 and June 30, 1977." (S. P. 577) (L. D. 1928)

Tabled — June 12, 1975 by Senator Greeley of Waldo.

Pending — Passage to be Engrossed.

Mr. Greeley of Waldo then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-364, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

Bill, "An Act Increasing Motor Vehicle Registration Fees." (H. P. 1692) (L. D. 1930)

Tabled — earlier in today's session by Mrs. Cummings of Penobscot.

Pending — Acceptance of Either Committee Report.

Thereupon, on motion by Mr. Greeley of Waldo, the Majority Ought to Pass Report of the Committee was Accepted in non-concurrence and the Bill Read Once.

Under suspension of the rules, the Bill was Read a Second Time and Passed to be Engrossed in non-concurrence.

Thereupon, under further suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

Bill, "An Act Relating to Motor Vehicle Fees." (H. P. 730) (L. D. 907)

Tabled — earlier in today's session by Mrs. Cummings of Penobscot.

Pending — Acceptance of Either Committee Report.

On motion by Mr. Greeley of Waldo, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted.

Under suspension of the rules, the Bill was Read a Second Time.

Mr. Conley of Cumberland then

presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-358, was Read.

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

Mr. CONLEY: Mr. President and Members of the Senate: I offer this amendment because I really think the Senate should be concerned as to what might possibly happen in the event that this Senate Amendment is not adopted. It is my understanding that there are somewhere in the neighborhood of 130 to 140 truck-trailers that are registered in this state, and yet by increasing these fees from \$5 to \$10 there is a very strong possibility that some of these registrations may be lost to other states, such as the State of Tennessee, where it is my understanding they currently can register them at a price of \$3.50.

I have a letter here and I would like to read just a portion of it to try to clarify exactly what the problem is. It is from one of these tractor-trailer firms that operate out of Boston, or at least their organization is there, and it states, "To the normal leasing company the State of Maine is not a good place to register trailers because some important states, particularly California and Iowa, do not accept Maine registration. Several years ago we contested action in both states on their refusal to recognize our Maine plates. In both instances we convinced these states that "Xtra", which is the name of the company, "is a bona fide resident of the State of Maine. We were successful partially because we established ourselves in Maine during the early days of the company's organization."

They go on to state that they "take pride in the image of the stability which we have maintained over the years, and on these grounds alone we would prefer not to register our plates elsewhere. But as you can see, the economics of the Tennessee registration, particularly when related to the proposed Maine increases, are leading us to seriously consider such a movement, should the proposed increase go through." He says he does not see that they have any other alternative, that the cost savings would be substantial and they would not encounter the same recognition problems which have been encountered in their early days when they were fighting to stay in Maine. "Should we remain in Maine, the recognition problem may come up again, thus, we have another reason to reconsider our registration policy at this time."

It is my understanding, Mr. President, that were these large firms to vacate the state, it could cost the Highway Department a great number of dollars. I believe that the good Chairman of the Transportation Committee can relate as to what that cost is and how this particular amendment would affect the legislation before you.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: I think I have to oppose this amendment for the simple reason that this is part of the Governor's financing of the construction program. This involves about \$5,660,000, this L. D. 907. It also involves about 135,000 trailers