

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

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Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

Came from the Senate Indefinitely Postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe.

Mr. LaPOINTE: Mr. Speaker, if I may pose a question relative to the procedure of study orders. I recognize that this Order has been indefinitely postponed in the other Body. I was just curious as to how the legislative leadership council may, if they so desire to revive this order at a later date, is there any instrument or mechanism for doing that? The reason I raise the question, Mr. Speaker and men and women of the House, is that I consider this a rather significant order and I put it in primarily as the result of the medical school being defeated to attempt to act in a responsible fashion to deal with the question of developing or trying to create a mechanism for the legislature to more adequately plan for the development of health care services in rural areas in the State of Maine.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: Yes, the answer is yes to the gentleman from Portland. The council may revise and there are so many orders in right now dealing with other subjects and similar subjects that they wanted the opportunity to do that so it is not necessarily dead as of this moment.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe.

Mr. LaPOINTE: Mr. Speaker, if I may just pose another question, then what is the sense of putting the orders in? It is an exercise in futility?

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Well, let me say this to you, because you have a chance to have it studied, that's why, and there are so many orders in now and it's almost impossible in the closing days of legislature for leadership to go through all of these orders and try to ferret them out and see where there are overlying situations. Also we take into consideration the amount of work which a given committee has to perform in a given period of time. It just so happens I believe in Health and Institutions, among one, has a significant number and in instances sometimes, we take that into consideration, do they have the time to do the job and do it properly?

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe whom I assume is going to ask a question, therefore, may proceed.

Mr. LaPOINTE: Mr. Speaker, no I'm not going to ask a question. I would just like to make a point if I may and that is that I recall in the 106th Legislature, I presented an order relative to the delivery or distribution of human services programs in the State of Maine and it passed in both this Body and the other Body and then it was later indefinitely postponed by legislative leadership council, so I can't see the logic in indefinitely postponing these measures in this fashion if they simply go to legislative leadership council and then they can be indefinitely postponed at a later date. They would have an opportunity to ferret them out. I just don't think this is the proper way. I'm going to ask that we insist.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I would move that we recede and concur.

Mr. LaPointe of Portland requested a roll call.

The SPEAKER: In order for the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and obviously more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion to recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Burns, Bustin, Call, Carey, Carter, Chonko, Churchill, Connors, Cox, Curtis, Dam, Doak, Drigotas, Dudley, Durgin, Farnham, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Gould, Hall, Hennessey, Hewes, Higgins, Hinds, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kelley, Laffin, Leonard, Lewin, Lewis, Littlefield, Lovell, Lynch, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; McBrairty, McKernan, Miskavage, Mitchell, Morton, Nadeau, Najarian, Palmer, Peakes, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Quinn, Raymond, Rolde, Rollins, Silverman, Smith, Snowe, Sprowl, Strout, Stubbs, Theriault, Torrey, Tozier, Tyndale, Usher, Webber, Winship, The Speaker.

NAY — Bachrach, Berry, P. P.; Boudreau, Carpenter, Clark, Connolly, Cooney, Davies, DeVane, Dow, Fraser, Goodwin, H.; Greenlaw, Henderson, Hobbins, Kany, Kelleher, LaPointe, Laverty, LeBlanc, Lizotte, MacEachern, Maxwell, Norris, Pearson, Peterson, T.; Powell, Rideout, Saunders, Shute, Snow, Spencer, Talbot, Tarr, Twitchell, Wagner, Walker, Wilfong.

ABSENT — Blodgett, Byers, Carroll, Cote, Curran, P.; Curran, R.; Dyer, Farley, Gauthier, Goodwin, K.; Gray, Hughes, Jacques, Jalbert, Kauffman, Kennedy, Lunt, McMahan, Mills, Morin, Mulkern, Post, Susi, Teague, Tierney, Truman.

Yes, 87; No, 38, Absent, 26.

The SPEAKER: Eighty-seven having voted in the affirmative and thirty-eight in the negative with twenty-six being absent, the motion does prevail.

From the Senate: The following Joint Order: (S. P. 605)

WHEREAS, the statutes concerning divorce have been of great concern to recent Legislatures and to the people of this State; and

WHEREAS, much of this concern centers on the statutory grounds for divorce in this State; and

WHEREAS, the recent legislative decision to permit divorce on the grounds of irreconcilable differences has been a controversial one; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council, through the Joint Standing Committee on the Judiciary, be authorized to study the statutes of this State relating to divorce, with special emphasis on the present grounds for divorce and procedures for obtaining divorce, to compare these statutes with comparable statutes from other states, to

determine whether the present Maine statutes concerning divorce operate clearly and equitably, and if not, to recommend necessary changes to those statutes; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this order be transmitted forthwith to said agencies as notice of this directive.

Comes from the Senate read and passed.

In the House: the Order was read and passed in concurrence.

The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

An Act Creating the Post-secondary Education Commission of Maine (S. P. 344) (L. D. 1160) which was enacted in the House on June 10 and passed to be engrossed as amended by Committee Amendment "A" (S-134) as amended by Senate Amendment "A" (S-248) thereto on June 5.

Came from the Senate with engrossment reconsidered and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-134) as amended by Senate Amendment "A" (S-248) thereto; and Senate Amendment "A" (S-379) in non-concurrence.

In the House: The House voted to recede and concur.

The following papers appearing on Supplement No. 13 was taken up out of order by unanimous consent:

An Act to Create the Maine Fishing Gear Damage Fund (H. P. 1489) (L. D. 1681) which was enacted in the House on April 23 and passed to be engrossed on April 15.

Came from the Senate with Engrossment reconsidered and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-374) in non-concurrence.

In the House: The House voted to recede and concur.

The following paper appearing on Supplement No. 14 was taken up out of order by unanimous consent:

An Act Relating to School Dropouts and to Potential School Dropouts (H. P. 1442) (L. D. 1702) which was enacted in the House on June 10 and passed to be engrossed as amended by House Amendment "A" (H-571) on May 30.

Came from the Senate with Engrossment reconsidered and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-377) in non-concurrence.

In the House: The House voted to recede and concur.

The following paper on Supplement No. 12 was taken up out of order by unanimous consent:

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 reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, will we get

a report from a member of the Conference Committee?

The SPEAKER: The gentleman from Ellsworth, Mr. DeVane, has requested that a member of the Conference Committee explain the contents of the bill.

The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The second Conference Committee met last night and again early this morning and finally this afternoon in order to work out what we feel is a reasonable and decent compromise to achieve a long sought goal of both political parties of the abolition of the Executive Council. The controversy has been basically revolving around who would be the confirming body for such appointments that the legislature deems should indeed be confirmed.

The compromise, and what I think is more than a compromise, the proposal, which I think is best for the people of Maine is one where a legislative committee, is defined by statute, or committees bearing a reasonable proportion between the House and the Senate would hold a hearing and make a decision as to whether or not the individual appointed by the Governor would be confirmed. At such time, the committee would take a vote. The majority decision of that committee is subject to review by the Maine Senate. If the Senate disagrees with the recommendation of the majority of that committee and overturns it by a two-thirds vote, then the recommendation is overruled. If the Senate fails to overturn said recommendation, it becomes final.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, in that this is a momentous vote, and I am sure we would all like to be recorded in the affirmative, I ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't try to deceive the people of the State of Maine and try to tell them you are doing away with the Executive Council when you really are further complicating the matter of appointments, you are not doing them any favor. If you wanted to do something, I think the thing to do is to try to start by degrees.

First, you should eliminate the duties of the council given to them by this House and then, after that has been done, we will see what we can do with what is given to them by the Constitution.

I would like to see something done about the Executive Council, I am not satisfied either, but I am not satisfied with what we have before us, it is even worse than what we have now. Just because it was written in a certain political platform or two political platforms, they think something has to be done about it, hastily. That is not the way to do business.

I am sure you would be doing the people in the State of Maine a disfavor in sending this type of legislation out of them. We couldn't agree on anything and now a few men have a conference last night and this morning and come up with something they think we can support. I can't support anything like that, the people in Maine don't support it either, at least the people where I come from. They are not easily fooled. You are not going to deceive them by doing this and you are going to make people like Longley even stronger. So if you decided to pass a bill like this, don't

count on my vote and I think you would be wise if you didn't vote for it yourself.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, the supplemental sheet does not say that Amendment S-381 has been put on the bill, it has hasn't it?

The SPEAKER: The Chair would answer that it has and is part of the bill.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Carpenter.

Mr. CARPENTER: Mr. Speaker, I want to clarify one thing regarding — that is what I thought Mr. Burns was getting at. If you read that enactor, you may have some questions. This is L. D. 24, originally submitted by the gentleman from Gorham, Mr. Quinn, I believe. We had a number of bills before State Government and we decided to put this one out and that is why it says, "and reassign his constitutional powers to the Governor." Don't be deceived by that. The constitutional powers are not going anywhere except exactly where Mr. Tierney has told you.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: This made my second term on the State Government Committee. We wrestled with this all through the 106th. We thought we presented a good bill but we had very intensive lobbying against the bill by the then Executive Council. I think they can take credit for killing the bill last year.

We have labored over this this year, we have worked in a spirit of compromise. Some of us are dedicated to the Constitution to the State of Maine and the Constitution of the United States and I am one of them, and I do think this is a step forward and I would urge you to vote for it.

Mr. Dudley raises the question that there should be some statutory changes made. It is very unwise to make the statutory changes prior to the citizens of the State of Maine having accepted the constitutional amendment. Once the amendment is accepted, and I hope it is, then the statutory changes can be made and those statutory changes must be approved by a two-thirds vote of the House and the Senate.

I would advise you that in the four year study that we have had, we have collected a tremendous amount of data as to what changes must be made throughout the statutes that now exist. So, if the public does accept this amendment, it is not going to be as difficult a job as you would realize because of the great length of time and effort that has been put into the work necessary to present you with the proper statutory changes.

I would urge and plead with you to take this step forward today.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I am a little disturbed over the rapidity, the speed, that this is being moved through the legislature. We have had this amendment for about an hour and, frankly, I guess I have spent some time going over the Constitution and it has been a subject and an area that I have been quite interested in, and to move this quickly bothers me somewhat.

I have tried to compare this amendment to some of the language presently in the

Constitution and there are two or three areas that are of minor importance that probably don't bother me too much that I can accept. I think I would have to have the answer to one question though and that is Article 6, Section 6, relative to judges and registrar of probate, in which they are not subject to confirmation. They presently are subject to the confirmation of the Governor with the advice and consent of the Council, but that language is all taken out and if a justice or judge of probate should die or resign, immediately after his being sworn into office, a Governor would have the right of appointment to either the judge or registrar of probate, or at least this is the way it appears to me, without any form of confirmation, and I would inquire as to why that decision was made?

The SPEAKER: The gentleman from East Millinocket, Mr. Birt, has posed a question through the Chair to anyone who may answer if they so desire.

The Chair recognizes the gentleman from Houlton, Mr. Carpenter.

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to be able to answer all the questions and I hope my friend from Durham, Mr. Tierney, being an attorney, can answer. But as you will notice in both the Statement of Facts and in the question which will be put to the voters, at the bottom of Page 7, there is some question as to what will the question look like. The fact that Notary Public was dropped from the Constitution, we have made provisions in the law to take care of the reappointment of Notaries Public and the State Government Committee, this year, passed out a bill giving the reappointment. We don't feel that it is necessary. We have thousands and thousands of them in the State of Maine, and I don't feel it necessary that they should be confirmed by either the Council as it now exists or the new proposal that we are offering. On the judges of probate, I was under the impression that these were already dropped from the existing Constitution. I may be wrong.

I would ask the constitutional attorney to help me.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise with some trepidation after such a glowing account of my very brief legal career.

I will try to answer my good friend from East Millinocket. As he so well knows, Article 5, Section 8, does exempt from the judicial officers which must be confirmed, judges of probate and then in Article 6, as he so well again points out, such judges and registrars of probate elected by the members of the county, if they do die, that the Governor can make an appointment without confirmation as far as the Constitution requires.

I think the feeling behind the Conference Committee was that there was no need to encumber the Constitution with this necessary requirement but at the same time, we in no way preclude the requirements of such confirmation through statutory change.

I hope that answers the good gentleman's questions.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, I am not sure that it answers my question because at the present time the confirmation is required

in the Constitution and with this, it is true, we can make it statutory but I guess I am at a loss to understand as to why the confirmation is taken out of the Constitution?

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, I would like to direct to the members of the Conference Committee two questions. First, if an appointee has a hearing before the appropriate — I think that is the word that was used — joint committee of the legislature, who is the final arbiter of which committee is appropriate? I would like to know who decides which committee is appropriate because we see a great deal of jockeying, if you will, in terms of what bill goes where, and we all know why, and I think that the jockeying would be even more severe in terms of who goes where, so I would ask that one question. Who is the final arbiter of which is the appropriate committee?

The second question, if I understand the proposal correctly, a majority of the Senators — I think in this context, sir, it is necessary to mention the other body can sustain the opinion of a majority of the committee, is that incorrect? No, no, the question, sir, as I understand it, is this. The nominee has a hearing before the committee, the committee report is 7 to 6 ought to be approved, a simple majority of the Senate — two-thirds? I stand corrected and I thank you.

May two thirds of the Senate override a unanimous report of a joint standing legislative committee after it has been selected as appropriate?

The SPEAKER: The gentleman from Ellsworth, Mr. DeVane has posed a question through the Chair to anyone who may answer if they so desire.

The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the gentleman's first question as to the final arbiter of the appropriate committee is that the Legislature itself is the final arbiter of the appropriate committee, because all of this constitutional provision would have to be supplemented by enabling legislation which, under the terms of this section of the Constitution, must be passed by a two-thirds vote of both Houses of the Legislature. Again, the final arbiter of which appropriate committee would hear which particular nominee shall be set by statutes by a two-thirds vote of both Houses of the legislature.

The answer to the second question, may two thirds of the Senate override an unanimous committee report? The answer is yes, it can, and in doing so, obviously it would have to be overriding the unanimous report of the three Senate members on that committee which I, at least as one semi-experienced legislator, feels would not happen too often.

To return to the question of Mr. Birt again just momentarily, I would, of course, reiterate that there is nothing in the statutes which precludes confirmation by any system which we deem necessary for a registrar of probate who dies in office, but I would like to remind the good gentleman from East Millinocket that such an appointment by the Governor is only an interim appointment until another election can be held and so this is one more reason since it was only a brief appointment that we didn't want a temporary one until the next election was

held. We do not feel that we would like to encumber this election by Governor with the confirmation problem.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, I have been on this a couple of times but I still think I would have objections to that particular point. The appointment, once established, gives whoever the candidate is, if he has a desire to continue, a built-in advantage. I guess I am still bothered to the extent that I am afraid that I might not be able to support this particular provision unless there are those changes.

I am probably a strong supporter, at the present time, of abolition of the council, but I guess I also am a strong devotee of the provisions of the Constitution. I think I always have been and I think if we are going to do this, we should do it right and the holding up of one day to correct this I don't think is going to make that much difference. I do think we would be making a mistake if we make this move and if we do vote for enactment on this, I am afraid I will vote against it.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I think to just clarify again Representative Birt's concern, in respect to judges of probate, as Mr. Tierney has mentioned, they are elected and they are not subject to confirmation under the present Maine Constitution. Neither, under the Maine Constitution, are Notaries Public, they are confirmable by the Council, but in terms of the question of the judges of probate, they aren't subject to confirmation presently under the Maine Constitution.

Mr. Birt of East Millinocket was granted unanimous consent to speak a third time.

Mr. BIRT: Mr. Speaker, to reply to the comments that have been made by the gentleman from South Portland, Mr. Perkins, if I understood him correctly, it is true, they are not subject to confirmation, but the point that I am working on is that the vacancy, if created by death or resignation, presently is subject to confirmation and as I understand this particular provision, it would not be subject to confirmation and I think that is the point that is bothering me.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I would simply say that we are always so near and yet so far. I have been here several semesters and I have seen this come before this Body and I have seen everyone arranged and all agreed and then, at the last moment, for some small reason, this Constitutional Amendment would be defeated. I have heard it debated many, many hours, I have heard all the things discussed, hashed, rehashed, but I think, today, through the tremendous efforts of the State Government Committee who have labored hard this session with this most important change and most important to the people, and to this Conference Committee and the hard work and the astuteness and the intelligence of all of the members of this committee and have come up with an answer to this problem, and of course we do have a further safeguard, because it is going to go to the people and they will make the final determination. I hope after

the several years that I have been here and listened, I hope that we can move ahead this evening and adopt this resolution to the Constitution.

Mr. Birt of East Millinocket, was granted unanimous consent to address the House a fourth time.

Mr. BIRT: Mr. Speaker, I am going to take very violent objection to the statement that was just made because that is not a small statement that I am working on, a small point. I think I am just as sincere and honest in wanting to abolish the Council as anybody on the floor of this body, but I object very strongly that the inference that I am picking on a small point to try to cloud this issue and stop it. I think the gentleman from Brewer is completely wrong in his statement. If we want to do this job, let's do it right and to put this off until tomorrow morning, if I have a valid point to correct it, is not altogether wrong.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: If the gentleman from East Millinocket, Mr. Birt, thinks I was inferring that he was dragging any red herrings across this thing, I apologize because I did not. I was simply reiterating that over the past 8 years, this measure has come right to the barn door, and every time it gets to the barn door, for one reason or another it is killed, it doesn't pass. And by no means do I mean to attack the integrity of my good friend from East Millinocket. I am sure he is very sincere. I do think, however, that this is thing, from the explanation that we have had on the question, I do think it is a matter that can be resolved by statute. I don't think really that it would be all that harmful.

I don't begrudge the good gentleman his opinion on it, but I think it is a matter that can be resolved very easily by statute.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, we have been here since January, this is now June 26th and we come to the zero hour, the last hours, with a bill that goes to conference and back to another conference, and so forth, when the people really want it. I would like to see something done about the Council, I can't buy something as hasty as that when we have had all winter and they couldn't agree and now they still can't agree to any great extent without these Committee of Conferences and you know, I am sure that the people of Maine, from what I hear and see, they don't want a weaker Governor, they want a stronger Governor. We have had some good ones since I have been in this House. We had Senator Muskie, Clauson, Curtis and we have this man in the front office now, and every one of them was elected by quite a majority of the people and they want them to have some strength and they think we are down here trying to tie his hands behind his back. This is what the public thinks right now. I noticed in the Kennebec Journal this morning — the chuckle for the day, I hope you read it — this is the thoughts of the people and this is what the press is conveying. Now, in the waning hours of this legislature, we want to further try to tie his hands so he can't appoint anybody without dragging it on for six months or a year.

I hope we use good judgment and have something that we can have a little bit more time on and don't try to confront the

people of the State of Maine with this with so many uncertainties in it.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I concur with part of what the gentleman from Enfield said. I think it is moving a little too fast and it certainly is for me. This is not a complete package, it is part of a package and the rest of it will be along later and Lord only knows what the rest of it is going to be. I most certainly am not trying to cloud the issue, I am dead set against the issue, this particular issue.

There was a proposition that was here a week or so ago that I could have gone along with and would have gone along with. Since then, two or three Conference Committees have met and we get a whole batch of scrambled eggs and I am not really too fond of scrambled eggs, and I think probably I could suggest a proposal that might be even better than this one. I would like to just try it to see how it sounds.

Now, supposing that we came up with a seven-member council and supposing from each council district, we elected one person, the legislative delegation from that district elected one person and these people were given certain powers, such as confirming people that has been posted by the Governor, dispersing funds, etc., when we are not in session. That sounds like a pretty easy arrangement to me and I think it is probably quite a lot similar to one that we have had around here because that is just exactly what I am describing and I think if you hadn't had it and had something like this, you most certainly would like something that is as simple as I have just described.

I can't really sit down without mentioning the fact that three or four people on the floor of the House today and a couple up back, and these people were people from the opposition party, have all stated how eager they are to get rid of the Executive Council. You know, that is really fantastic, because in all their eagerness in the last four or five sessions, why didn't they do it? They could have done it, very simply, they were the majority party and they could have done it, they didn't elect to do it. Now all of a sudden, as Mr. Dudley says, the waning hours, everybody is hot to go on a half-baked package like this.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would remind the gentleman from Buxton, Mr. Berry, that even though the present minority group in this House was the majority two years ago, a majority does not pass a Constitutional change, it takes a two-thirds vote. There certainly were Republican defectors, I was not one of them. There was certainly Democrats who felt the same as Mr. Dudley did that did not go along with this. We could not get two thirds, a simple majority was easy to obtain.

The gentleman from Buxton, Mr. Berry, refers to another bill which was before us, and which I signed and which had the same procedure that he has just spoken about, the delegates from that district would elect the councilor, if the majority of the members in that district were Democrats, they would elect a Democratic councilor, if they were Republicans, they would elect a Republican councilor. That bill was reported out with two "Ought to pass" signatures. It got one or two votes in the other body and probably wouldn't have

had any more in here than a half a dozen more and it died, as many other bills do. If we spend all our time crying over the bills that never came to fruition, we will be here a long, long time.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: In the 16 years that I have been in these hallowed halls, I don't know of any bill that has had more discussion, more polls taken, than the abolition of the Governor's Council.

I want to commend the members of the State Government Committee for the work that they had done on this bill, but I would remind you that no bill is perfect and this has been the cry in every legislature that I have served — there is something wrong with the bill. I don't say that on the record or off the record or in any other way, that any particular member of the House was delaying the tactics and the passage of the bill. Nevertheless, we never seem to get anywhere. The people in the State of Maine have demanded that we abolish the Governor's Council as long as I can remember. Now we have the opportunity with a vehicle that I am sure can do the job. I hope that in this hour of decision, we can make up our minds and do something that the people of Maine want us to do, and that is to abolish the Governor's Council.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: On every occasion that I have spoken in this House, I have spoken of the membership. On this one occasion, I would like to say something strictly for the record because I am a Democrat, who in the course of campaigning opposed the reduction of the size of this House and was opposed to the abolition of the Executive Council. I am going to vote for this proposition because Mr. Tierney and Mrs. Snowe and Mr. Carpenter and the Senate conferees have done everything that they can do. It is not perfect, but I suspect that if the Republican Party over the years has finally seen the light, then maybe even I can, but I have great misgivings. If any of you are not tired and would like to hear them, I would be glad to tell you.

I am going to vote for this, but I would like to say on the record that there is more mischief here than what there is there. But if the consensus of this House in 25 years experience for some of you people in this House say it is better, I am willing to go along and if I ever come back, I will point it out.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I, too, feel a lot like the gentleman from Enfield, Mr. Dudley. I can't go along with this. I think that a bill that has been filed on December 9, 1974, has been around the legislative mill quite a while and to surface in the matter it surfaced today on June 26, with a lot of questions still unanswered, nothing shown, only what is proposed to be done to take the place of the council. I think we are going to have a lot more problems, if this goes this way, than we have with the present council.

I am not sure that really the people will ever understand when this goes to them in a question just what they are going to buy. This is another one of those worded questions where they are going to vote not understanding what they are voting on.

I have never been willing to vote for a bill that is only a supposition of what can happen. I would like to see something in writing, I would like to be a little assured of what I am voting, although I know that there is always the matter that it can be changed even after you leave here at night and you get back the next morning.

I think the vote today for this is not being responsible, I think it's irresponsible legislation when you vote for something and no one knows only what is presented as a proposition with nothing concrete.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The hour is late. I had every intention of not being here this late this evening but I feel that this bill is very important. I have watched the Council in operation and of course, as you all know, I am the only living alumnus of the Council that is a member of this body. I have certain nostalgia for the Council, it has been in the Constitution for a great many years, but the people of the State of Maine have said many times that they want the Council removed.

The proposition that we have before us tonight speaks to the problem that has been the greatest problem the Council has faced and that is, participation by an elected body, elected by the people, and you will have that very thing. You will have here confirmation by a standing committee which is subject to confirmation by the Senate. You have good control here. I am going to vote for this proposition, I urge all of you to. I don't think there is any chicanery. I don't think there is anything that is fooling around, we all know what is going on, the people know what is going on and I urge you to vote for it.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: In efforts to try to allay again Representative Birt's questions, I have just checked out the problem in respect to the Judges of Probate. The Constitution specifically exempts the Judges of Probate from nomination and confirmation because they are elected individuals and the only elected individuals in the judicial system; consequently, they had to make specific reference to an exception and that has been carried over into the proposed amendment.

Under Article VI, Section 6 the reference is the same for procedures involving vacancies wherever there is a confirmation of those that may be filling a vacancy. In the case of Judge of Probate, under the present system if there is a death, until the next election, he will be appointed by the Governor and confirmed by the Council. The confirmation powers, because of this proposed amendment, will be dealt with through the procedures involved on Page 2, just as with any other confirmation and would go to the appropriate joint standing committee. Consequently, it is no different under this proposed amendment other than for who would actually do the confirming and that is the joint standing committee. That exception as to Probate Judges is misleading only because they have to put it in there because they are elected individuals. I hope in some way that may be satisfactory.

The SPEAKER: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: Let us not be too hasty in fooling around with our Constitution. Let us bend our efforts towards searching out and producing for the capital scrutiny for the people the detailed plan for an ideal group to aid and advise the Governor. If the people like it, they will support it, but I feel we should never make changes just for the sake of change and until someone does produce an acceptable alternative, I shall continue to believe our Executive Council is performing a very important function in our state government.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I realize that there are a lot of doubts with many people concerning the bill in front of us and I think that perhaps we are over anxious in assuming that by our vote here tonight, we are, carte blanche, just changing the whole situation. I don't think that is the situation at all, I think we have many, many hurdles to pass even if we pass this tonight and we should consider those and, therefore, I think there are obstacles in the way of this to give ample time for all people to think about the pros and cons.

If you will notice especially the conference committee recommendations for abolishing the Executive Council, the white sheet of paper passed out here; notice the very bottom first. There is a study order to, the joint order will direct the State Government Committee to prepare the draft of the statutes over the summer. Then these statutes have to be passed by a two-thirds vote of the members of both branches. It seems to me there will be a great deal of debate, a great deal of discussion as to the validity of the things we are trying to do.

I don't think we are taking a giant leap now into a pool and coming up with a bloody head like our good friend from Kittery did the other day. There is still a lot of deliberating to do on the measure and I don't think it is of that consequence at the moment.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: One thing that concerns me, are the people who have written this bill assuming the legislature will always be in session? If not, we are going to have one committee after another meeting in Augusta and I expect they will get mileage and expect to get paid. It seems to me this is going to be a much more expensive proposition to the taxpayer of Maine. That is all right when we are in session, but I'm still going along with not regular sessions, annual sessions, even if we were in annual sessions, I hope we wouldn't be here the whole year.

It looks to me like if we pass this we are going to have first one standing committee and then another one in here to confirm an appointment. That means certain members of that committee coming from Fort Kent and the next one coming from Kittery, a lot of mileage involved and probably nice lodging and so forth. It seems to me this is going to run into a lot more money for the taxpayer if it is carried in this manner unless they are assuming we are going to be in session the year round every year.

The SPEAKER: The chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. Tierney: Mr. Speaker and men and Women of the house; to respond briefly to the good question from my good friend Mr. Dudley, I guess the way to start would be say that we have taken every effort possible to make major positions coterminous with the governor's term, so the appointments he would make would be in the six months after he takes office and the vast bulk of these appointments would therefore take place while we were in session, that is point number one.

Point number two, I think the good gentleman from Enfield realizes that our current executive councilors, all seven of them, are paid the same salary we are. when they are not here, they won't be paid; when they don't exist, they won't be paid. I feel this is a substantial financial savings, something that the people in Mr. Dudley's district will probably be quite pleased about.

I guess the real substantial question raised was the question raised by Mr. Berry when he said "well, I have another idea, perhaps seven members elected by delegations, etc." and the answer to that question, I was really thinking about which way we ought to go last night as I was driving home and I stopped for gas and the kid who decided to put some gas in my tank, I asked him and I said, have you ever heard of the Executive Council? He said, no. I said, well, what do you think ought to happen when the Governor appoints a Judge, and he said, well, somebody had better check on the Governor because he might have appointed somebody who is prejudiced or something like that. I said, well, who should it be, should it be an Executive Council, who should do that confirmation? He said, I think the legislature ought to do it because I think, you know, we had something to do with choosing them. I think that conversation I had with that gas station attendant really sums up the whole issue because what we are looking for is a more responsive means of confirming our public officials. The confirmation must be done by someone who is accountable to the electors and if you believe in democracy, in the integrity of the voters, logic inescapably moves you to that position.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is easy to stand up here and debate when you know you have 100 votes with you. It is most difficult to stand up and debate when you know that you don't have those votes with you. But I think when we take a major constitutional change such as this, that we have watched over 150 years and we have seen the pressure of the news media say that this is the answer to better government in Maine and we have seen parties put in their platform, that this is what the people want, I think we also should ask something a little deeper. This nation or this state was born and stood for a very fundamental concept and that was, there should be a balance of power, a check and balance system between the Executive and the Legislature and the Judicial. In Maine, we have been very strongly for this balance of power and all through our years there has always been the proponents who said "we could have better government if we gave more power to the Executive and less check and balance over the Executive's role in government."

Today, when you vote on the Executive Council, this happens to be the major issue you are voting on, it is not how many people are for it and how many people are against it and what parties, both parties evidently are for it, it is saying, should the leadership of this state whoever he is, should he have seven men to balance his power and making his decisions on who shall be the bureau heads, and they are the men who run the state after we put in the money or the appropriations which they will use, or should those seven men have a say over this? Also, should those seven men have a say on all transfers of funds and when our appropriations bill goes through and all those funds which are over a billion dollars biennially now are spent, there is a legislative checking balance on how those funds should be spent by us appointing an Executive Council. Also, with many people this has been their arch enemy for years, should the emergency funds, the million dollar contingency fund, be allowed to be spent by the Executive Council and the Governor? These are the major points of what you are voting on.

As I said before, it is most difficult to stand up when the votes are not there, but I think any legislator who believes in something should stand up for what he believes in and should speak out because it is the tradition in Maine, which he was born in, which he was raised in and which he believes in, that in government there should be a check and balance system.

If the Executive Council is defeated here tonight, one would only hope that that check and balance system exists in another way, even though I would say in a much weaker way. And from there, I should not say any more.

The pressure is heavy, leadership is putting the pressure on that much heavier, it has meant so much that we have stayed here to this late hour.

I will say this when you see news media, you see controversy, because that is what the public likes and that is what sells news media, and I wonder if the Executive Council is eliminated and the Executive and the Legislators don't have someone to pick on and someone to abuse and say someone we have to get rid of to have better government, who they will turn to next, because I guarantee you, they will turn next to somebody else.

With that, I only hope that the good strong government we have known in Maine, we have been raised by in Maine, can be retained in Maine and if it is not retained, may what we have in the future not be at a less advantage to a check and balance system that means each individual under the Constitution has a right to his rights regardless of what position in government or what position in the economy he may attain.

At this point, by unanimous consent, Rule 22 was suspended.

The SPEAKER: A roll call has been ordered. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on passage to be enacted of Resolution Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor, House Paper 16.

L. D. 21. This requires the affirmative vote of two thirds of those present and voting. All this in favor of this Resolution being passed to be enacted will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Bagley, Bennett, Berry, G. W.; Berube, Boudreau, Burns, Bustin, Carey, Carpenter, Carter, Chonko, Churchill, Clark, Cooney, Cox, Curtis, Davies, DeVane, Doak, Dow, Drigotas, Durgin, Farnham, Faucher, Fenlason, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hobbins, Ingegneri, Jackson, Jalbert, Jensen, Joyce, Kany, LaPointe, Lavery, LeBlanc, Leonard, Lewin, Lewis, Lizotte, Lynch, MacEachern, MacLeod, Martin, R.; Maxwell, McBreaarty, McKernan, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Powell, Quinn, Raymond, Rolde, Saunders, Shute, Smith, Snow, Snowe, Spencer, Sprowl, Stubbs, Tarr, Theriault, Tierney, Torrey, Tozier, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

NAY — Albert, Ault, Berry, P. P.; Birt, Bowie, Call, Connors, Connolly, Dam, Dudley, Finemore, Gould, Gray, Hunter, Hutchings, Immonen, Kelleher, Kelley, Littlefield, Lovell, Mackel, Mahany, Perkins, T.; Post, Rideout, Rollins, Silverman, Strout, Twitchell, Walker, Webber.

ABSENT — Blodgett, Byers, Carroll, Cote, Curran, P.; Curran, R.; Dyer, Farley, Hughes, Jacques, Kauffman, Kennedy, Laffin, Lunt, Martin, A.; McMahon, Mills, Morin, Mulkern, Susi, Talbot, Teague, Truman.

Yes, 97; No, 31; Absent, 23.

The SPEAKER: Ninety-seven having voted in the affirmative and thirty-one having voted in the negative, with twenty-three being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

By unanimous consent, all matters acted upon in concurrence and all matters requiring Senate concurrence were ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 15 were taken up out of order by unanimous consent:

Senate Reports

An Act Extending Collective Bargaining Rights to University of Maine Employees (S. P. 243) (L. D. 827) which was enacted in the House on June 18 and passed to be engrossed as amended by Committee Amendment "A" (S-288) as amended by Senate Amendment "A" (S-311) thereto on June 17.

Came from the Senate with Engrossment reconsidered and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-288) as amended by Senate Amendment "A" (S-311) thereto and Senate Amendment "C" (S-383) in non-concurrence.

In the House: The House voted to recede and concur.

An Act to Establish the Maine Vocational Development Commission (Emergency) (H. P. 1458) (L. D. 1785) which was enacted in the House on June 6 and passed to be engrossed as amended by

Committee Amendment "A" (H-533) on May 30.

Came from the Senate with Engrossment reconsidered and the Bill passed to be engrossed as amended by Committed Amendment "A" (H-533) and Senate Amendment "A" (S-380) in non-concurrence.

In the House: The House voted to recede and concur.

By unanimous consent, the preceding two matters were ordered sent forthwith to the Senate.

On motion of Mr. Rolde of York, Adjourned until ten o'clock tomorrow morning.