

MAINE STATE LEGISLATURE

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OF THE

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the Senate that this bill be passed to be engrossed and sent down for concurrence?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move when the vote is taken that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will those Senators in favor of a roll call please rise in their places until counted.

One-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The question is now clearly before us and it includes the Hay Report. I just want to point out to the members of the Senate and to anyone else who has witnessed this debate today that in the face of attack not only on the result of the Hay Report but on the methodology, and the suggestion that it isn't even consistent with the writings of the most conservative scholars of economics, the sense of the Hay Report has not been forthcoming. This seems to be a report that people would rather not talk about, and I think that they have good reason.

I think that the report is an outrage in the fact that it fails to recognize what the most conservative economic scholar in the history of our country, writing in the year of the birth of this country, laid down as the No. 1 criteria for determining what a person gets paid, and that is whether or not the job he is doing is desirable or undesirable. And the people that we are talking about here are people who are doing very undesirable work. It is not much fun pushing a broom around these halls cleaning up the dirt that the legislature leaves behind, and what the Hay Report gives them is not much better than that.

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

Mr. SPEERS: Mr. President, I am very sorry that those Senators that feel so adamantly opposed to the Hay Report did not take advantage of the opportunity that was presented several moments ago to vote for an amendment which would remove the Hay Report from this particular report of the Appropriations Committee. As the good minority leader of this body mentioned, however, I dare say that we have not seen the last of this particular issue and we have not seen the last of this particular bill. It will be returned to us in all probability for further consideration.

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

Mr. CONLEY: Mr. President, I would urge the members of this Senate to vote against engrossment. I am sure it is going to be engrossed, but it is my hope that wisdom will prevail down in the other branch.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: I find it ironic, as we sit here this afternoon deciding who will get whatever scarce resources are left, to recall the education funding debate and the subsequent tax increase to fund education when there were other needs so great in state government, yet we did not as a body choose to set priorities then and consider just one tax increase, if necessary, to fund programs on a priority basis. Education got 18 million. It is real tough on state employees, mental health and corrections, and even AFDC. What a disappointment we didn't help them when we had the opportunity.

Report "B" may not provide satisfaction for everyone who has a need, but it does provide us with the opportunity to vote for a fair measure

which enables us to live within our current income, no new programs, and no program expansion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the passage to be engrossed of L. D. 2342. A "Yes" vote will be in favor of passage to be engrossed; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators R. Berry; Collins, Corson, Cummings, Curtis, Gahagan, Graffam, Greeley, Huber, Jackson, McNally, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators E. Berry; Carboneau, Cianchette, Clifford, Conley, Cyr, Danton, Graham, Johnston, Katz, Marcotte, Merrill, Pray.

ABSENT: Senators Hichens, O'Leary, Reeves.

A roll call was had, 16 Senators having voted in the affirmative, and 13 Senators having voted in the negative, with three Senators being absent. The Bill was Passed to be Engrossed.

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

Mr. SPEERS: Mr. President, having voted with the majority, I move the Senate reconsider its action whereby this bill was passed to be engrossed and urge the Senate to vote against the motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby this bill was passed to be engrossed. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will say "No".

A viva voce vote being taken, the motion did not prevail.

Sent down for concurrence.

The PRESIDENT: The Chair will ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum where he may preside as President pro tem for the remainder of the afternoon. The Chair would like to thank the Senator in advance.

Thereupon, the Sergeant-at-Arms escorted Senator Berry to the rostrum where he assumed the duties of President pro tem, and the President retired from the Senate Chambers.

On motion by Mr. Conley of Cumberland, and under suspension of the rules, L. D. 2342 was sent forthwith to the House for concurrence.

Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

Joint Order

ORDERED, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill "An Act Relating to the Formation of Political Parties and to Political Designations" (H. P. 1960, L. D. 2140) (H. P. 2288)

Comes from the House. Read and Passed.

Which was Read and Passed in concurrence.

The President pro tem laid before the Senate the matter tabled earlier in today's session by Mr. Graffam of Cumberland:

Bill, "An Act to Revise the Liquor Laws of Maine" (H. P. 2024) (L. D. 2199)

Pending — Passage to be Engrossed.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

The President pro tem laid before the Senate the matter tabled earlier in today's session by Mr. Conley of Cumberland:

Bill, "An Act Redistributing the Powers of the Executive Council" (H. P. 1997) (L. D. 2197)

Pending — Adoption of Committee Amendment "A".

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

Senate Amendment "B", Filing No. S-530, to Committee Amendment "A" was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. CIANCHETTE: Mr. President and Members of the Senate: This amendment changes the bill before you and says that the approximately ten commissioners under the bill who serve at the governor's will and pleasure shall instead serve a term coterminous with the governor and provides that the governor may remove the commissioner for cause.

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

Mr. CURTIS: Mr. President, there are a number of amendments to this rather important bill and, in an attempt to provide some order for the Senate to understand what might be transpiring, earlier in the day I distributed a two-page memorandum regarding amendments to L. D. 2197. If the Senators might be interested in following this debate rather closely, I think the memorandum might help. If somebody doesn't have a copy of the memorandum, I have some additional ones.

On page 2, under "Other Senate Amendments Expected", you will find a brief description of the amendment which was just offered under Filing No. S-530. The State Government Committee considered this proposal very carefully — as a matter of fact, we considered it for many months, as to whether or not there should be any restrictions on the governor when he may decide to fire one of his department heads. It was the determination of the committee in its final report that there should be no restrictions upon the governor. There were some members of the committee, myself initially, who felt that we were taking a very extensive step in one direction towards greater gubernatorial power and we ought to do so very carefully if we give the governor the power to fire his department heads.

In recent years we have seen the evolution of state government, from the point where department heads were pretty independent people who served terms of offices for terms of years which frequently overlapped the term of office of the governor, to the change in the last few years in which almost all department heads, I believe all now, serve terms coterminous with the chief executive, terms, in other words, of four years duration from the time the governor appoints them to the end of the gubernatorial term.

The amendment that we have before us now I think is not an unreasonable amendment. I do, however, oppose it, and I do this for several reasons. First of all, it seems to me that if we are to expect the chief executive to carry out the duties that we give to him to run the executive branch of state government, we need to give him the authority to exercise jurisdiction over his major department heads, the people who serve in his cabinet.

Secondly, we could not find any good solid description of what "cause" meant in Maine law. As a consequence, the adoption of this amendment would almost certainly at some point in the future lead to a crisis of some magnitude, because a commissioner who was fired by the chief executive would almost certainly appeal that firing and indicate that the reasons given would not be sufficient to fire him for cause. In the interim, while a decision was being made by a court, that department would be leaderless.

So, for these reasons, I move the indefinite

postponement of Senate Amendment "B" to Committee Amendment "A".

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to say that I am in favor of the indefinite postponement of this measure, but not because I have trouble with the definition of "cause". I think the word is of sufficient clarity so the courts will be able to know, if we did accept this amendment, what the intent of the legislature was. And that intention seems to me to be pretty clear in this amendment, which is essentially saying to the governor that he cannot remove these people for a pure political reason, but that it has to do with the performance of his office separate from the question of policy and politics.

My reason for opposing the amendment then is because I think that the governor ought to be able to remove people for the pure purpose of political disagreement with a commissioner. I think we ask the governor to run a vast bureaucracy, and it is very difficult, I think, with the bureaucracy as big and as entrenched as it is, for the governor to get control of it. Just last week there was a difference of opinion between myself and the majority of this Senate as to whether or not the governor was being given what I thought was an extraordinary expansion of his legislative powers, and I opposed that. This is simply a small expansion, which is really a continuation of the trend that has been referred to by the Senator from Penobscot, Senator Curtis, to give the governor new and growing power over the executive branch, and I am in favor of giving him that power and let the people temper it as they will.

However, I must say in defense of the amendment that I think the amendment is perfectly drawn by the Senator from Somerset, Senator Cianchette, to accomplish his purpose and, if adopted by the Senate, I think the courts would have a pretty clear understanding of what our purpose was in doing so.

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

Mr. CIANCHETTE: Mr. President, I will be brief. First, I want to make it very clear that we are not addressing the problems that we may be facing with our current governor. When and if this bill becomes law, I am sure that the present governor won't be very concerned about this with his own actions. That is down the road a piece. But I think it is time to say whoa on giving the governor undue powers, and we have, as you have heard, given the office of governor much more authority and power, which I approve of. But I think there is a limit and I think we better try some of those things and see how they work first.

You know, the argument is that if you were running a business you would want the authority to hire and fire your key people, and I say that is right. If I were running a business and I fired a person, and it was detrimental to my business, then it is detrimental to me. If the governor fires a commissioner, then it is detrimental not to the governor but to the State of Maine. And there lies the difference between running a business and running the government of the state.

Under this bill, the governor appoints his man with a coterminous appointment. It is confirmed by this law, legislative committees and the Senate. I guess it is. The governor by nature is a very persuasive type of person, and once he has appointed a commissioner, I believe in most all cases that he is going to be able to convince the commissioner to see things, partially at least, his way. Therefore, the governor who is working well certainly doesn't need this law, and on the other hand, if a governor should slip

within the four years and not be the man that the people thought they had elected, they wouldn't be altogether in the soup; they would still have a group of commissioners that had been appointed and confirmed to help run the state, and I say it is little enough protection for the people of the State of Maine. A good governor doesn't need this law, and the people need the law if we don't have a good governor. So I say let's go a little bit slower and not put all our eggs in one basket at one time, and pass this amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would support the motion to postpone this amendment for the reason, it seems to me, that the biggest problem we face in government today at both the federal and at the state level is bureaucratic lethargy and bureaucratic inaction in carrying out the will of the people. It seems to me that the most resistance to carrying out the will of the people has traditionally, especially in recent years as government has grown, has come from the bureaucracy in the executive branch, and I think the State Government Committee wisely allowed the governor to remove the top people at his pleasure. It seems to me it makes sense that the top people who are appointed by the governor and who go through initially the confirmation process should be removed at the governor's pleasure. Otherwise, bureaucratic lethargy is going to win again and the governor is going to have less power to carry out the will of the people as opposed to the will of the bureaucracy.

So I hope that you would support the motion of the Senator from Penobscot, Senator Curtis, and go along with the State Government Committee and oppose this amendment of Senator Cianchette's. Thank you, Mr. President.

The PRESIDENT pro tem: The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that Senate Amendment "B" to Committee Amendment "A" be indefinitely postponed. All those in favor of indefinite postponement will say "Yes"; those opposed will say "No".

A viva voce vote being taken, the motion did not prevail.

Thereupon, on motion by Mr. Speers of Kennebec, a division was had, 17 having voted in the affirmative, and six having voted in the negative. Senate Amendment "B" to Committee Amendment "A" was Indefinitely Postponed.

Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted. House Amendment "A" was Read.

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

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I rise very briefly to explain that I think this is a logical amendment. It provides that a position, two positions really, which have substantial power would be subject to confirmation. And although the committee tried very diligently to restrict the number of positions which would require confirmation, it would seem to me if we are going to have the Superintendent of Banking subject to confirmation that the Superintendents of Insurance and Consumer Protection ought to be in the same boat.

The PRESIDENT pro tem: Is the Senate ready for the question? Is it now the pleasure of the Senate that House Amendment "A" to L. D. 2197 be adopted?

It is a vote.

House Amendment "B" was Read.

The PRESIDENT pro tem: The Chair

recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I move indefinite postponement of House Amendment "B", for the reasons that should be fairly clear. I think, from looking at the memorandum which I distributed, in this instance, the Committee on Aging and the Human Services Council have 15 members and 17 members respectively, and I think that these committees, although important, are not of sufficient import to require the attention of a committee of the legislature and the full attention of the Senate before a position is determined and an appointment is made.

The PRESIDENT pro tem: The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "B" to L. D. 2197 be indefinitely postponed. Is this the pleasure of the Senate?

It is a vote.

House Amendment "C" was Read and Adopted in concurrence, and House Amendment "E" was Read.

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

Mr. CURTIS: Mr. President, with a considerable amount of reluctance, I am going to move indefinite postponement of House Amendment "E". I think that this is one of those proposals in one of those areas that the State Government Committee gave consideration to and that there is some value to considering confirmation of the public members of the trustees of the Retirement System. We decided against this primarily because we felt that the existing statutory restrictions were sufficient to provide protection for this fund and that a majority of the members are already provided for under other provisions of the statute and they serve ex-officio.

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

Mr. KATZ: Mr. President, the committee has done such a great job so far that I hesitate to raise a shadow on their performance, but the state retirement fund is something very, very special. We put it into the Maine Constitution, and any time we even look at it, it makes people very nervous all over the state. And I wonder, because it is so special, and because of the size of the fund, which I understand is approaching 200 million dollars, or getting up there pretty quickly, whether or not the opposition of the committee is not a modest opposition and whether justice would not be served were we to defeat the motion to indefinitely postpone.

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

Mr. CURTIS: Mr. President, the opposition is indeed modest and, with the leave of the Senate, I will withdraw my motion.

The PRESIDENT pro tem: The Chair recognizes the Senator from Aroostook, Senator Gahagan.

Mr. GAHAGAN: Mr. President and Members of the Senate: I also would like to take this opportunity to encourage you to support House Amendment "E". I take this opportunity, as a past member of the Committee on Veterans and Retirement in the 106th Legislature, to officially suggest to the trustees of the State Retirement System and perhaps to the executive and legislative branches that we might consider that 200 million dollar fund which is in the State Retirement System as a possible source of revenue for the State of Maine itself.

I think it would be quite appropriate for the trustees to consider floating secondary issues against that Retirement System as a means to lend money to the State of Maine. The money presently is invested in Boston and New York banks by money managers who work for the

Retirement System. I am in no way casting any doubt on their ability to invest money, but I am saying that we could avoid many of the fees that are paid in money management firms, we could avoid having to deposit this great amount of money in out-of-state banks.

I would suggest, Mr. President and Members of the Senate, that it would be appropriate for perhaps the Veterans and Retirement Committee of the Legislature or the Retirement System to consider this suggestion that I offer today. The state might be able to benefit in borrowing money from the State Retirement System and paying them a fair rate of return for their investment in the State of Maine.

The PRESIDENT pro tem: Is there objection to the Senator from Penobscot, Senator Curtis, withdrawing his motion to indefinitely postpone House Amendment "E"?

The Chair hears no objection.

House Amendment "E" was Adopted in concurrence, and House Amendment "F" was Read.

Mr. Merrill of Cumberland then presented Senate Amendment "A" to House Amendment "F" and moved its Adoption.

Senate Amendment "A", Filing No. S-518, to House Amendment "F" was Read.

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

Mr. CURTIS: Mr. President, I hope that the pending motion is adopted because the amendment that is offered by the Senator from Cumberland, Senator Merrill, corrects some errors in an amendment that was sent to us from the other body, and then I will move to indefinitely postpone the amendment from the other body and explain the reason.

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

The motion prevailed.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that House Amendment "F", as amended by Senate Amendment "A", be adopted?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, this is an amendment which provides that an additional 22 positions would be subject to confirmation. Because of the number of positions and the studious attempt by the committee to reduce the some 650 positions that are now subject to confirmation by the executive council down to the approximately 150 which we reached, I am going to move that this amendment be indefinitely postponed. I think that the position of the Criminal Justice Planning and Assistance Agency and the Board of Trustees of the Criminal Justice Academy, given the existing statutory restrictions on those positions, they are sufficient to provide protection to the public and the people of the state.

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

Mr. MERRILL: Mr. President and Members of the Senate: I urge the Senate to defeat the motion to indefinitely postpone and ask that there be a division when the vote is taken.

I would like to point out that this amendment, House Amendment "F" now as amended by Senate Amendment "A", deals with two separate boards. One is the board that spends the monies that come from the federal government in the form of what is commonly referred to as LEAA, and this board expends many millions of dollars. The only legislature, in essence, and the executive in charge of this expenditure is this board, and in the expenditure of these monies important policy decisions are made.

It is no secret to any of us who are familiar

with what is going on in county and local government, for example, that the expenditures of these LEAA monies have created the need for local towns to make great new additional expenditures where, for example, these policemen have been funded for one or two years with LEAA money and then the towns have had to pick up the difference. It is also I think probably well known to the members of the Senate that much of the LEAA money is used to pay for positions within the state's own departments, positions in the Department of Mental Health and Corrections, for example, many of which are funded with LEAA monies. I suggest that, for the very reasons that were raised by the Senator from Cumberland, Senator Jackson, in discussing another bill last week, if there is one area where one man can have control over a heck of a lot of money, it is this specific one. The other area that is dealt with by House Amendment "F", as amended by Senate Amendment "A", is the board of trustees of the Criminal Justice Academy. Now, as I understand the state of the law as it would be amended if we follow all the suggestions of the State Government Committee, the University of Maine trustees will be subject to approval, the trustees of the Maine Maritime Academy will be subject to approval, but the trustees of the Criminal Justice Academy will not. Well, I suggest that it is as important for the legislature to keep its eye on the Criminal Justice Academy as it is these others, at least in the sense that important public policy is really being implemented here. When we train our policemen and tell them the guidelines and show them the expectations of society as they perform their duties of the 20 or 25 years that they serve the state, this is a very important function, and I think that it is important for the legislature to make sure and see to it that the people that sit on this board and administer this school are the types of people who have the types of moral background necessary to do the job and, with this sort of a trustee position, that they represent the sort of philosophy that we want our policemen to be imbued with in their early years.

So these are important. They are not trivial. I commend the State Government Committee for taking 650 positions and reducing them to 150, and I submit to the Senate that to make that 172 will not be any great burden to the legislature and may just head off potential problems.

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

Mr. SPEERS: Mr. President and Members of the Senate: I rise to join the good Senator from Cumberland, Senator Merrill, in opposition to the pending motion. During my first term as a member of this body I had the privilege of serving on the Committee on Judiciary and, because of that, had the further privilege of serving as a member of the board of the LEAA. Though that experience, I think I found that it was very important and extremely useful to both the legislature and LEAA to have the liaison between the two branches, between that body and the legislature, primarily because that body is of course considering on a continuing basis the extension of grants or the making of grants which could indeed involve state funds in future years. And it is very helpful for that body to realize though the member of the legislature serving on that board that the legislature does have a very real concern in the continuing of grants, and also very helpful to the legislature, in determining whether or not to accept the continuing funding of grants that have been made by LEAA, as to whether or not those grants were indeed necessary and the reasons behind them. So I think it is very important for the liaison to be there.

Now, there did occur some constitutional

problems with the fact that a member of the legislature served on an executive board, and I think by designating these members as ex-officio members that that constitutional problem will be resolved. So I urgently hope that the Senate will defeat the pending motion to indefinitely postpone House Amendment "F".

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

Mr. CURTIS: Mr. President, I think it would be helpful because it is not entirely clear from the bill, since all the language is not printed there, to read what are the jobs in the legislative description in the statute for the directors of the Criminal Justice Planning and Assistance Agency. And I would appreciate it while I read these several paragraphs if you would think about whether or not we desire to burden the Judiciary Committee of this legislature and the full Senate in what will amount to every two years with the job of confirming the people who are appointed to these positions.

Section 3351 of Title 5, "Directors. The agency" — and here I am describing the Criminal Justice Planning and Assistance Agency — "shall have no less than 12 nor more than 30 members appointed by the Governor, including ex-officio the Attorney General, the Chief of the Maine State Police, the Director of the Bureau of Corrections of the Department of Mental Health and Corrections, the State Planning Director, and the Chief Medical Examiner. The remaining members shall include representatives of units of local government, including elected officials, appointed executives and law enforcement officers, sheriffs, representatives of groups dealing with juvenile delinquency, representatives of the community generally. Agency membership shall reflect to the degree possible a reasonable geographical and urban-rural balance. Directors shall serve a term of two years. Directors shall receive their actual expenses incurred in the performance of their official duties."

Under the next section of Meetings, "Directors shall meet at the call of the Governor, the chairman, the executive director upon petition of any six members. Directors shall have the power to set policy and promulgate rules for the operation and administration of the agency consistent with the applicable federal legislation."

I think it is important that we consider the substance and the significance of each of these agencies under consideration, and I would suggest that we will be burdening the Judiciary Committee and this Senate unnecessarily if we require confirmation for those positions. I would also like to point out that presently under this statute there is no confirmation.

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

Mr. CLIFFORD: Mr. President, I just want to make one point. It seems to me that if the process of confirmation is going to work and going to be meaningful that it should not be written into the law that it be used too often. It seems to me that we ought to be subjecting this process, which is rather a complicated process of the legislative committee hearing the testimony, making a recommendation, and then the Maine Senate voting on these positions, it seems to me that we ought to be careful in the amount of positions we put into this confirmation process, because if we put too much in I think it is going to take away from the meaning of the important positions, such as the commissioners, and I really think that it is important to have this confirmation process meaningful for the important positions.

I would agree with the Senator from Penobscot, Senator Curtis, that these positions are so many in number, and for the most part they are

taken from categories named in the statutes. that if we extended this thinking to its logical conclusion, we might as well go back to close to 650 confirmations. Thank you, Mr. President.

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

Mr. SPEERS: Mr. President and Members of the Senate: I thank the Senate for indulging. I think that I would revise my thinking on this particular item. My basic concern is that there be a member of the legislature — and in the past it has been the chairman of the Joint Standing Committee on Judiciary or his designee, as is the case in House Amendment "F" — my basic concern is that there be that member appointed to the board of the Criminal Justice Planning Agency. I don't believe, however, that it would be necessary for all 22 of these individuals to have their names submitted to the legislative process of confirmation. I do agree that that does seem to be somewhat burdensome.

Therefore, I would join with the Senator from Penobscot, Senator Curtis, in supporting his motion to indefinitely postpone this amendment. And I would hope that at some point in the future, either in another bill — I don't want to hold this bill up — but at some point in the future either in this legislature or in a following session that there could be provided that the chairman of the Joint Standing Committee on Judiciary be also a member of that board.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just point out that many of the people read off in that list don't have to be approved by this amendment. The amendment would have those who are appointed from the public, and not those who serve by virtue of their position, approved. And I suppose where we draw the line as to what is important enough to be confirmed is an important question, as suggested by the Senator from Androscoggin, Senator Clifford. I just think that to allow the chief executive to appoint a board, without confirmation by the Senate or by the legislature, that by itself expends 3.4 million dollars, many of them on local and state efforts that are going to have future consequences to the state and to the localities, is asking for trouble in the future. 3.4 million dollars is a lot of money. We have been arguing about a lot less here this afternoon for a considerable amount of time, and yet we are told the legislature can't deem to take a few hours to look into the people that are going to expend all this money unchecked. And as the governor so properly reminds us from time to time, federal money is taxpayers' money just like state money.

As far as the removal of confirmation of the people who run the Criminal Justice Academy, I don't think that that is a trivial matter. I really don't. As a matter of fact, I am as concerned about what is taught at the Criminal Justice Academy as I am at what is taught at the University of Maine. The number of people that go there are fewer, but the effect of what they learn there on our lives is as great. And I am concerned that the philosophy of the governor would be the only thing making up the selection of these people, even though it might be that that philosophy on this matter would be entirely out of sync with what the basic members of Maine citizenry feel. As a matter of fact, I understand that one of the things that prompted this amendment originally was concern by policemen about what might be offered at the Criminal Academy and that there be some check on this, because they recognize what a terrific power this is when you take people who essentially are complete novices in the area of police work and you give them the education on

which they are going to base their career as police officers.

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

Mr. CURTIS: Mr. President, I would like to just respond to one comment made by the Senator from Cumberland, Senator Merrill, regarding the number of people who are serving ex-officio on the Criminal Justice Planning and Assistance Agency. If the amendment is adopted, there would be six people who would serve ex-officio. There would be the Attorney General, the Chief of the Maine State Police, the Director of the Bureau of Corrections of the Department of Mental Health and Corrections, the State Planning Director, the Chief Medical Examiner, and the Chairman of the Judiciary Committee. Of the total number of people who might be appointed to this board, namely 30, six would be ex-officio. That would leave the prospect of 24 other people who would be subject to confirmation every two years.

The PRESIDENT pro tem: Is the Senate ready for the question? The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "F", as amended by Senate Amendment "A", be indefinitely postponed. All those in favor of indefinite postponement will say "Yes"; those opposed "No".

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would remind the Chair that I have already requested a division.

The PRESIDENT pro tem: The Senator is correct. A division has been requested. The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "F", as amended by Senator Amendment "A", be indefinitely postponed. Those in favor of indefinite postponement will rise and remain standing until counted. Those opposed?

A division was had, 16 having voted in the affirmative, and seven having voted in the negative, the motion prevailed.

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

Mr. CLIFFORD: Mr. President, I have an amendment to offer but I don't want to offer it out of order. I noticed there was one that had a prior number, but I have an amendment to the bill itself, if it is in order to offer it now.

The PRESIDENT pro tem: It is not in order, if the Senator would defer.

Thereupon, under suspension of the rules, the Bill, as Amended was Read a Second Time.

Mr. Clifford of Androscoggin then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-524, was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. CLIFFORD: Mr. President and Members of the Senate: We had a debate earlier today in which we rejected a provision which would have allowed the governor to remove those commissioners only for cause, so now the bill allows the governor to remove at his pleasure these positions.

Now, one of those positions happens to be the Commissioner of Environmental Protection. The purpose of this amendment is to allow that commissioner, who is presently a member of the Board of Environmental Protection and a voting member, or at least a voting member in case of a tie, to make him a non-voting member only. And this is because, it seems to me, of some concern that if the governor has the power to remove that commissioner without cause, it seems to me that to allow him to re-

main a voting member on a board as important as the Board of Environmental Protection is somewhat dangerous, and I think that we ought to keep him on the board but remove his power to vote so that he will not be subjected to the kinds of pressure I think that a governor could subject him to in a vote on a small board such as the Board of Environmental Protection. So I hope that you would adopt Senate Amendment "B". Thank you, Mr. President.

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

Mr. CURTIS: Mr. President, the State Government Committee considered this matter at some length. I think that perhaps the amendment which has been offered here provides a solution that we should have recommended and, for that reason, I support it. There was some disagreement in the committee and we may hear further about this in the future.

The PRESIDENT pro tem: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: I see a problem with this amendment in that there are ten members on the Board of Environmental Protection, I believe, and that means there can be a tie 5-5, and who is going to break that tie?

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

Mr. CLIFFORD: Mr. President, I don't think that is any more of a problem than we have in the Maine Senate when there are 32 members. If there is a tie vote, whatever the motion would be would not prevail.

The PRESIDENT pro tem: The Question before the Senate is the adoption of Senate Amendment "B". Is it now the pleasure of the Senate to adopt Senate Amendment "B"?

The motion prevailed.

Mr. Merrill of Cumberland then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-526, was Read.

The PRESIDENT pro tem: The Chair recognizes that same Senator.

Mr. MERRILL: Mr. President and Members of the Senate: With the doing away with the executive council, there is some recognition that has to be given to the governor's powers to temporarily curtail allotments. Now, what this amendment does is that it recognizes that with the loss of the executive council there is probably no appropriate body to be a before-the-fact check on the governor's power in this area, but it does provide — in the first paragraph it really pretty much follows the appropriations bill that we passed, that if there is a shortfall that the commissioner of finance can alert the governor to that. At this point the governor, as the bill is presently drafted, is to alert the president of the senate, the speaker of the house, and then the governor has the power to temporarily curtail the expenditures so as to bring the budget into balance.

What this amendment requires is that it be done equitably, which is traditional language in appropriations bills, and it requires that if be done in such a way as to be consistent, so far as is possible and practical, with the intent of the legislature in passing the appropriations bills.

The thing that is really somewhat new, and I think is a very minor step, is that it provides that once the governor has made this curtailment he will notify the president of the Senate and the Speaker of the House of the cuts that he had made, in essence so to give those people an impact statement of what the impact of his actions will be. The obvious remedy, if this is grossly unacceptable to the President and to the Speaker and to the constituents that they represent,

namely, the members of the legislature, that the legislature can call itself into session or, if it is in session, take some action to change this result.

Obviously, also, if the governor doesn't act consistently with the legal requirements laid out here in that he do it equitably and that he do it pursuant, insofar as is practical, with the intent of the legislature, there is obviously also created, by inference, a remedy to the courts on the part of anybody who would be aggrieved and thus have standing.

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

Mr. Speers of Kennebec presented Senate Amendment "A" to Senate Amendment "C" and moved its Adoption.

Senate Amendment "A", Filing No. S-532, to Senate Amendment "C" was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. SPEERS: Mr. President and Members of the Senate: As the good Senator from Cumberland, Senator Merrill, has expressed in Senate Amendment "C", that the governor would have to inform the Speaker and the President with regard to allotments that he wishes to cut back upon, the amendment which I am offering would broaden the number of individuals in the legislature who would have to be informed so that it would not be limited just to those two. The amendment would broaden the individuals to be informed to the minority and majority leaders in both of the houses as well.

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

Mr. MERRILL: Mr. President and Members of the Senate: I view this as a friendly amendment. I might just point out to those who are concerned about the rights of the minority particularly that it is my understanding that the communication called for in Senate Amendment "C" is public under Maine's Right to Know Law and, therefore, would be available to every member of the legislature, as well as to the people specified in Senate Amendment "A" to Senate Amendment "C".

The PRESIDENT pro tem: The question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "C". Is it now the pleasure of the Senate that Senate Amendment "A" to Senate Amendment "C" be adopted?

The motion prevailed.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "C", as amended by Senate Amendment "A", be adopted?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I support the pending motion for the adoption of this amendment as it has been amended. I only rise to point out to the Senate the importance in the future of very carefully reviewing the fiscal duties which are given to the governor. It was the intent of the State Government Committee that the appropriations bill preamble be very, very carefully written, as it has been in the past, and I am glad to see that this improvement on our recommendation has been made.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "C", as amended by Senate Amendment "A" be adopted?

The motion prevailed.

Mr. Curtis of Penobscot then presented Senate Amendment "D" and moved its Adoption.

Senate Amendment "D", Filing No. S-529, was Read.

Mr. CURTIS: Mr. President, this is strictly a technical amendment. It deletes some language from the bill which was inadvertently left in. In any piece of legislation of this magnitude there are bound to be a few mistakes, and if anybody

finds any more, we will try to correct them in the errors and inconsistencies bill.

I would like to, while I am on my feet, Mr. President, thank the members of my committee and the staff who have worked so diligently now for almost a year on this piece of legislation so that we would be prepared next January when the executive council finally takes its departure to replace its power.

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

Mr. KATZ: Mr. President, may I extend my congratulations to the Chairman of the Committee, who at this late hour has done a faultless job. He had so much material that there was scarcely room for it on my desk.

Th PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "D" be adopted?

The motion prevailed.

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

Sent down for concurrence.

On motion by Mrs. Cummings,
Adjourned until 10 o'clock tomorrow morning.