

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

The SPEAKER: The pending question is on the motion of the gentleman from Stockton Springs, Mr. Shute, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Curtis, Gould, Gray, Hutchings, McBreaarty, Mills, Palmer, Pearson, Perkins, T.; Peterson, P.; Rollins, Shute, Sprowl, Stubbs, Tozier.

NAY — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Call, Carey, Carpenter, Carroll, Carter, Chonko, Clark, Conners, Connolly, Cooney, Cote, Cox, Curran, R.; Dam, Davies, Doak, Dow, Drigotas, Durgin, Dyer, Farley, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, K.; Greenlaw, Hall, Henderson, Hewes, Higgins, Hobbins, Hughes, Hunter, Immonen, Ingegneri, Jackson, Jacques, Jalbert, Jensen, Joyce, Kany, Kauffman, Kelleher, Kelley, Leonard, Lewin, Lewis, Lizotte, Lunt, Lynch, MacEachern, Mackel, Mahany, Martin, A.; Martin, R.; Maxwell, McMahon, Miskavage, Mitchell, Morton, Mulhern, Nadeau, Najarian, Norris, Peakes, Pelosi, Perkins, S.; Pierce, Powell, Quinn, Raymond Rideout, Rolde, Saunders, Silverman, Snow, Snowe, Spencer, Strout, Talbot, Tarr, Teague, Theriault, Tierney, Truman, Twitchell, Tynedale, Usher, Wagner, Walker, Wilfong, The Speaker.

ABSENT — Bowie, Churchill, Curran, P.; DeVane, Dudley, Farnham, Goodwin, H.; Hennessey, Hinds, Kennedy, Laffin, LaPointe, Laverty, LeBlanc, Littlefield, Lovell, MacLeod, McKernan, Morin, Peterson, T.; Post, Smith, Susi, Torrey, Webber, Winship.

Yes, 15; No, 110; Absent, 26.

The SPEAKER: Fifteen having voted in the affirmative and one hundred and ten in the negative, with twenty-six being absent, the motion does not prevail.

Thereupon House Amendment "B" to Committee Amendment "A" was adopted. Committee Amendment "A" as amended by House Amendment "A" and House Amendment "B" thereto was adopted.

The Bill passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" and House Amendment "B" thereto in nonconcurrence and sent up for concurrence.

On motion of Mr. Jensen of Portland the House reconsidered its action of earlier in the day whereby Bill "An Act to Reorganize the Standardization Committee as the Contract Review Committee" (H. P. 2278) (L. D. 2339) (H. "A" H-1202) was passed to be enacted.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed as amended by House Amendment "A."

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" was adopted.

Mr. Jensen of Portland offered House Amendment "A" to House Amendment "A" and moved its adoption.

House Amendment "A" to House Amendment "A" (H-1238) was read by the Clerk.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: In the way of information, this amendment is merely to correct some technical errors that I made in an amendment that I offered some days ago in this House.

Thereupon House Amendment "A" to House Amendment "A" was adopted.

House Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill passed to be engrossed as amended by House Amendment "A" as amended by House Amendment "A" thereto in nonconcurrence and sent up for concurrence.

(Off Record Remarks)

#### House at Ease

The House was called to order by the Speaker

The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

#### Committee of Conference Report

Report of the Committee of Conference on Bill "An Act to Regulate Drinking Water" (S. P. 687) (L. D. 2198) ask leave to report: that the Senate recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted Committee Amendment "A" (S-431); adopt Conference Committee Amendment "A" (S-542) to Committee Amendment "A"; adopt Committee Amendment "A", as amended by Conference Committee Amendment "A" thereto; and Pass the Bill to be Engrossed, as amended by Committee Amendment "A", as amended by Conference Committee Amendment "A" thereto; that the House recede and concur with the Senate.

Signed:

Mrs. CUMMINGS of Penobscot  
Messrs. CYR of Aroostook  
GREELEY of Waldo

— of the Senate.

Messrs. LEONARD of Woolwich  
GARSOE of Cumberland  
CAREY of Waterville

— of the House.

Came from the Senate, with the Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-431) as amended by Conference Committee Amendment "A" (S-542) thereto.

In the House, the Report was read and accepted in concurrence, and the House voted to recede and concur with the Senate.

#### Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306) ask leave to report: that the Senate recede from its action whereby it Indefinitely Postponed the Bill and accompanying papers; accept the Minority Ought to Pass Report; read the Bill twice; adopt Conference Committee Amendment "A" (S-540), submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A";

That the House recede from its action whereby it Passed the Bill to be Engrossed, as amended by House Amendment "B" (H-1127); recede from its action whereby it adopted House Amendment "B" and indefinitely postpone same; adopt Conference Committee Amendment "A", submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A", in concurrence.

Signed:

Mr. TROTZKY of Penobscot  
BERRY of Cumberland  
CARBONNEAU of Androscoggin

— of the Senate.

Messrs. BLODGETT of Waldoboro  
CHURCHILL of Orland  
PETERSON of Windham

— of the House.

Came from the Senate Report Read and Accepted and the Bill passed to be Engrossed as

Amended by Conference Committee Amendment "A" (S-540).

In the House, the Report was read and accepted.

The House receded from its action whereby the Bill was passed to be engrossed as amended by House Amendment "B"; receded from its action whereby House Amendment "B" was adopted and indefinitely postponed the same; adopted Conference Committee Amendment "A" (S-540) in concurrence.

The Bill was passed to be engrossed as amended by Conference Committee Amendment "A" in concurrence.

#### Non-Concurrent Matter

Bill "An Act Redistributing the Powers of the Executive Council" (H. P. 1997) (L. D. 2197) which was Passed to be Engrossed as Amended by Committee Amendment "A" (H-1115) as Amended by Senate Amendment "A" (S-519) thereto, and House Amendments "A" (H-1166), "B" (H-1177), "C" (H-1183), "E" (H-1191), "F" (H-1196); and Senate Amendments "B" (S-524) and "C" (S-526) as Amended by Senate Amendment "A" (S-532) thereto in the House on April 6, 1976.

Came from the Senate, with that Body having Adhered to its former action whereby the Bill was Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by Senate Amendment "A" thereto, and House Amendments "A", "C", "E;" and Senate Amendments "B", "D," and "C" as Amended by Senate Amendment "A" thereto in non-concurrence.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Well, I know I don't want the Senate dictating to this body, so I move that the House adhere.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the House adhere.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: I understand the feelings of the good gentleman from Bangor, Mr. Kelleher, and I think we all, to some extent, share those feelings that we don't want the Senate dictating to us on things that we feel are good and reasonable ideas. However, it is essential that we do pass this bill, and with the exception of the two House Amendments that we have debated, this bill is a very excellent piece of work and I therefore move that we recede and concur and would ask you all to vote for that motion.

The SPEAKER: The gentleman from Sabattus, Mr. Cooney, moves that the House recede and concur.

The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I do concur with the gentleman that this bill is not entirely bad. But I think that this House should reflect itself again by standing by its vote in accepting the two amendments that we put on here. If the Senate feels as strongly as the gentleman does that is on State Government, who is our House Chairman, as well as the other members that are on the State Government Committee, then perhaps they may concede a little, but I am a little tired and I would hope and pray that this House would be somewhat tired of that other unmentionable body sending back to us legislation that we want to alter or change.

I would request a roll call simply because I don't want them telling this body, which I have the greatest respect for and there happens to be 151 of us in here, only 33 of those kind gentlemen over there, and lady, so I would hope that we would oppose the motion to recede and concur.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: While I certainly respect the opinions of the gentleman from Bangor, and I cannot help but agree with him, in principle at least, let's not allow our principles or our hurt feelings or whatever to stand in the way of this piece of legislation. If we vote to adhere, this bill dies, January 1st, the gentleman on the second floor has more power than I am willing to think about.

This bill is a good bill, as the gentleman from Sabattus, Mr. Cooney, has mentioned, based on the vote in here, then the House has got to consider there are several small flaws in it in its current posture; however, these small flaws, you know, usually when you buy a new car, if you have a small flaw or something wrong with the car, you don't junk the whole thing just on principle. I would appreciate it if we would recede and concur.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The point just made by my good friend from Houlton, Mr. Carpenter, is a good one as far as it goes, that is, you don't junk the whole car for a small problem. That is exactly what this House did when we asked for a Committee of Conference. Yet, it seems to me that the other body doesn't seem to worry about our needs and doesn't seem to worry about our desires, they have an idea what is right and they think that the plebeians down here in the House don't seem to know what they are doing.

Well, I had something to do with putting the compromise together that made the abolition of the Executive Council possible, as did my good friend from Houlton. But I think the House has voted by overwhelming majority to adopt certain amendments and I think if the Senate doesn't want to talk about it, I think they ought to learn there are two branches, two co-equal branches of government and I am going to vote with Mr. Kelleher.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I certainly understand the concern of this House. I have been just as mad as they are, but if we adhere, the gentleman on the second floor, come January 1st, can make any and every appointment that has previously had to be confirmed by the council, he can make it and you can go whistle in the dark. There are hundreds of other things that says Governor and Council, so there was some check and balance in there. They are all out the window. You have made a king out of a man. Do we want to do that?

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I would rather make a king out of the man on the second floor than a bunch of flops in this House. I think we have been abdicating our powers here little by little to that other body and I think it is time we stopped. This is not the first time it has happened, it has happened in other sessions of the legislature I have been in. It happened on these two orders we just got a minute ago that we passed, it is happening all the time. They want both ends and the middle and they want us to look like queens. Well, I would rather see a king on the second floor than a bunch of queens in here.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question through the Chair to any member that cares to answer. My impression is of the constitutional

amendment that we passed, it said that until we have enacted such legislation to implement this constitutional amendment, it does not go into effect. Is that correct or is that wrong?

The SPEAKER: The gentleman from Portland, Mr. Jensen, has posed a question through the Chair to anyone who cares to answer.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: It is incorrect. On the fourth day of January 1977, this constitutional amendment becomes law. Any changes we make will have to be made prior to that time over the existing statutes that exist.

For example, the Commissioner of Agriculture is currently confirmed by the Executive Council because of statute and we are in the process of changing that statute, but on the fourth day of January 1977, if we had not changed it, then the entire statute is wiped out.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that there is a time to be obstinate and a time to be reasonable. We have got to assess whether we have got more to lose by adhering on this issue than we would by receding and concurring. I personally think, and it is my feeling that we should not be giving the governor unlimited power in his appointments. I do hope that we will recede and concur and fight the battle another time.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: I would address this especially to Mr. Kelleher from Bangor, because he seems to be the leader of the move to adhere, that we can still add to the list of those people who would be confirmed by joint legislative committees. It could be done on the fourth of January next year in an emergency measure in a separate bill, he can put anything in that he wishes at that time. And since all of the people who are on the two committees that are in question here are not coterminous but are staggered appointments, it is reasonable to believe that very few would be coming up immediately as coterminous appointments and there is all good, prudent time in which to pass an act to provide for the legislative confirmation of those duties. So, to throw the baby out with the bathwater this afternoon here I think is not prudent and I would ask you to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I might reassure my fine friend from Sabattus, I am not trying to lead anybody in here, but I do respect the chair that I hold and I do respect this body. If I were sitting down in the corner, I would be somewhat different in the position than my assistant floor leader is in allowing the other body to dictate to this membership here.

I think Mr. Cote expressed himself well as far as we are concerned. I think we are very able men and women in this body. I think we were able to spell our position very clearly to the other body, what it is. If you people want to lay down and let the Senate dictate to you, that is fine with me, Mr. Cooney, but I never was one that was willing to do that. We have co-equal branches of government I think we have got a very good instrument to demonstrate it.

You know, that is just exactly why they sent it over here, because they think we are willing and weak enough to lay down and bow to their wishes. Twice or three times there were attempts to remove both these amendments, and

this House sustained its position each and every time. To turn around and worry about the threat, as my good friend from Hampden said, that we will make a king out of the gentleman on the second floor, so be it, I am not worried about the gentleman on the second floor, whether it is James Longley or who it is, I do think that there is some integrity in this House that we should uphold, and I don't think that we should be bending to the Senate anytime and every time that they want.

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

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I think that the argument being delivered now by the good gentleman from Bangor really is not too valid, and I don't feel as though we are always being in a position of being told by the other body what we are going to do. I believe it was only three or four days ago, and I would remind him of that, that we adhered on the Criminal Code and told them we didn't want to talk any more, and I believe they receded and concurred.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I did not go along with the amendments which the House decided to keep on the executive council bill, but I understand how strongly you do feel, and I am trying to be helpful when I point out the constitutional resolution which we did pass.

It appears to me that we would not be making a king of the Governor if we did adhere but, perhaps, indeed what we would be doing, we would have to be confirming every appointment which now would need the assistance of the council to be passed. Just for your own benefit, if you all would like to look into this and ask for an opinion, perhaps somebody would like to table this so you can find out exactly what it would mean to adhere versus receding and concurring or doing what you prefer after you have found out exactly what would evolve from such an action.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I have to disagree with the gentleman down in the far left-hand corner when he says that the Representative from Bangor, Mr. Kelleher's arguments are not valid. I think Mr. Kelleher has made a fine argument today and I think his argument has been quite valid.

Now, the good gentleman down in the far left-hand corner said just the other day that the Senate backed down and went along with us on the criminal code. This is true, but this is only one of the very, very, very, very few times that I have seen this happen in the eight years I have been here. It has always been the House backing down, backing down. It also always seems that we get in a position where we can't do anything else, so the argument is, you are going to lose a good bill and all these things are going to happen if you don't back down. Well, I often thought that maybe to save the state money, and the gentleman from Solon at one time had introduced an amendment or tried to abolish the other body but maybe that was the wrong amendment. The next time around, maybe a bill should be in to abolish the House and save the state this money if we are going to let 33 people run 151 people. I would suggest to you that this case is the case of the tail wagging the dog. I think that the 151 minds in this House are equal to or greater than the 33 minds at the other end of the hall. I would hope today that we voted to adhere.

I don't see nothing wrong if the gentleman from the second floor happens to get a little more power. What is the difference whether he

gets the power, as Mr. Cote says, or we lose all ours. As it is now, we are losing our power; every day we are giving it up to the other body and pretty soon the people will say, well, if you people in the House aren't doing your job and it is the other body that is doing it for you, why don't we abolish you, and I would have to agree with them.

The SPEAKER: The Chair recognizes the gentleman from Hallowell, Mr. Stubbs.

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: When the people voted to abolish the Executive Council, they voted overwhelmingly to do so and it is now our duty to act responsibly, enact some statutes to take the place of the Executive Council. It is not our duty to act on emotionalism.

I firmly believe that we should recede and concur on this. The State Government Committee has spent many, many hours developing this bill: 98 percent of it is identical to what the Senate wants. Anything in here, as has been said before, can easily be enacted into a bill in the future. I only ask that you act in a responsible manner.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Wagner.

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to repeat the arguments about making a king of anyone, although I must confess there is a certain ring to the sound of King James that appeals to me. We got a nice version of the Bible in 1613 from one of the previous King James, but in regard to arguments of the gentleman from Bangor and the gentleman from Skowhegan about the other body dictating to us, it puts me in mind of some of Mark Twain's Huck Finn. I believe it was Huck Finn's father who was inclined to the bottle and when he would get into an alcoholic stupor, he became rather disturbed and went around the room kicking buckets, etc., and his son said, but mostly he went to the government when he was in that condition. Well, I think we have a similar case here when we are a little frustrated and mostly we are going for the Senate.

I think that that may be unfortunate and I share that frustration but I think that prudence and common sense here dictates that we do observe the will of the people in referendum, people did not ask us to give the Governor all these powers. They expected us to provide for an orderly and responsible confirming policy and I think this bill does that, although it may not be perfect. I urge you to recede and concur.

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: I would point out to the members of the State Government Committee, who worked equally as hard on a lobbyist disclosure bill, that that came out 12 to 1 and it seems to me that a body other than this got its way.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: As I look at this, what we are fighting over is actually three. I would say, relatively little amendments. I know the gentledady from Bath is very upset with the fact that the Governor had the power to appoint the Maine Committee on the Aging. That is one of the bills that is involved. The other two are not that important, it seems to me. We are talking about a bill, an L. D. which had 81 pages and there are several amendments to it also, so in all, it may reach 100 pages and apparently we are just fighting over three pages. So I think we have the responsibility to enact some legislation and I certainly hope that you will go along and recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: It is not only that the hour is late but it is probably because the hour is late that maybe we are not properly giving the good thinking that the gentleman from Skowhegan, Mr. Dam, thinks we can give.

There is nothing wrong with receding and concurring on this bill. We can get at the thing later on if we want to very easily. Something else is going to roll along here and I am waiting for it and believe me, when it comes along, I am going to have my nickel's worth to say, but now is not the hour to do it. The thing to do now is to recede and concur and just wait until a little later and we will be back in business if we want to be.

I sure hope we recede and concur without too much further ado. There is an old saying, I will be seeing you at the Fair.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Walker.

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I am asking for a point of information. Doesn't the other body stand to lose as much as we do?

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to recede and concur. I think to adhere would not be a responsible action.

The State Government Committee did spend many hours this summer and fall in this session working on this bill to avoid what we are facing here tonight.

Last June, we sent out a questionnaire to every member of both bodies listing all the appointments that you felt should be confirmed, we got little response, perhaps maybe five or ten at the most.

We sent out a report this fall showing the progress of the State Government Committee on what we were doing with the Executive Council and its powers, we had little input from anybody. We put a report on your desks in February telling you what the committee did and we had little input from anybody who felt contrary to it. I think at this point in time we have a bill of great magnitude and I think it would be a great disservice not only the legislature but to the people of this state if we do not recede and concur.

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

Mr. LaPOINTE: Mr. Speaker, Men and Women of the House: I apologize for getting into this debate at this late hour. I have been downstairs on the second floor discussing a corrections bill, but I think it is important for me to try to respond to the remarks of the good gentledady from Auburn, concerning her outlining of the simple fact that there has not been input to the various stages of the process, that the State Government Committee has been studying the whole issue of redistribution of the powers of the Executive Council.

I think that this House said yesterday and they said on last Friday what their input was. We offered two little amendments. One of those amendments was on the Maine Human Services Council and one of those amendments was on the Maine Committee on the Elderly and the other one had to deal with the Criminal Justice Planning Administration, and this House input at that point because this House felt that that is where that input should take place. They amended the bill and those amendments have stayed on. They went on on Friday and they stayed on yesterday, and I think that those amendments should stay on, because we are talking about 20 to 25 millions of dollars in the distribution of human service money around the State of Maine. I don't consider those amendments were baubles. I don't consider those

amendments little trifling things, I consider those amendments very important, because we are putting people on those committees and the legislature is ratifying who will go on those committees if these amendments stay on, because we feel it is important that the legislature have some input in the makeup of those particular committees.

The gentleman from Lewiston, Mr. Jalbert, has indicated that we will have another shot at this, well, I know that I haven't been around here as many semesters as the good gentleman from Lewiston has been, but mark my word, if we recede and concur on these two amendments this afternoon, just wave your little hand bye-bye dearie, because you won't see this bill again and that is the issue. I think that we should adhere because I think that those amendments are important and I think that this House has gone on record on two occasions.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: I would just point out that if you are concerned about the three amendments, you also lose them if you adhere. You lose the entire package if you adhere.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Regardless of how you are going to vote on this provision, I would hope that you would listen to what I am going to read, because I think that the members of the State Government Committee inadvertently, I am sure, have been putting forward some information which is not factually true.

When those of us got together to draft this particular section of the Constitution, we provided two paragraphs which, contrary to popular belief, provide that if no legislation is passed, then all appointments have to go through the legislature, not the contrary, if no legislation is passed, the Governor has carte blanche and I would like to read this section to you. Section 8 — to appoint officers, he, meaning the Governor, shall nominate and, subject to confirmation as provided herein, appoint all judicial officers except judges of probate and justices of the peace and all other civil and military officers whose appointment is not by this Constitution or shall not by law be otherwise provided for. If this bill fails then, we will not have created a more powerful executive branch, we will have created a much, much weaker executive branch.

I suggest that we adhere and I think we will see another bill before us by tomorrow morning.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I am a little overwhelmed this afternoon with what seems to be taking place and I guess I like to be a maverick as much as anyone else does, but I can see the headlines now, that we repeal the Executive Council that does the confirming and then the legislature cannot agree on the guidelines to lay down as to who is going to confirm to what. Can't you imagine what the public is going to think? Can't you imagine what they are going to think when they look at this legislature and they realize that we cannot work out a set of guidelines to confirm, to take over the duties of the Executive Council. How in the world are we ever going to be able to confirm if we can't agree enough or get together close enough to work out the guidelines?

This is going to be the greatest thing to hit the headlines that has happened since I have been in the legislature when this little thing breaks loose if we adhere this afternoon. The people, the public, the press and everybody else is going to have a real chuckle at this legislature because

we have been talking for years to do away with the council, we can do it, and apparently we are almost at the point this afternoon, where we are going to drop the whole thing back because we refuse to give a little bit. It is a question of compromise, it always has been and believe me, it always will be. Give a little today and get a little tomorrow, that is my theory.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I would like to pose a question to the State Government Committee. If in fact this becomes law, am I not wrong that after January 4, it would take two thirds of each branch to change the law, somewhat different than we have today, Mr. Cooney? Am I not right in my reading of the bill?

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to anyone on the State Government Committee, who may answer if they so desire.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question, which I only heard the last part of from Mr. Kelleher, and also to the gentleman from Durham, Mr. Tierney, who read to you one paragraph of the amendment but not all of it, that we must by law establish an appropriate Joint Standing Committee and we must do that after next January 4 by a two-thirds vote of this legislature. So what we will have to do next time is pass a law, not by a majority vote which is the situation today, but by a two-thirds vote and I think it might be a great deal more difficult for us to establish an appropriate committee than it is today.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I think we should attempt to keep our eye on what we have before us and what we have before us is essentially responsibility. My people, with whom I talk say to me, when are you going to get done in Augusta? And the question is getting more petulant every day. If I have to go back to them and say that I was mad at those 33 men at the end of the hall and I was not going to let them dictate to me so I am going to stay there for another week or I am not going to accept the responsibility for which I took an oath of office, would shame me to go to them.

We are hearing techniques of debate which are skilled and able. The gentleman from Durham, Mr. Tierney, gave us a fighting lawyer's argument by reading part of what the law has to say, whereupon the gentleman from Bangor took a tangential approach and raised another issue which confused the first one.

The fact of the matter is, if we let this bill die by adhering today, on the 4th of January next year, it is true, every appointment that the Governor makes will have to be confirmed by the legislature — all right — but in order for us to get into that confirmation process and the other 81 pages of law that are involved, everything from pardons and paroles to small claims, will require two-thirds action of this legislature and I would submit that we pose an unbearable burden on the organization of a new legislature to irresponsibly throw them this entire bucket of worms when we can't even agree by a simple majority.

We are all signers of the Joint Rules by which this body runs. We all agreed to the system by which the Senate adherence has us against the wall today, and I think to yield to simple emotionalism is to abandon entirely our oath of office and our responsibility as legislators. We must recede and concur and then if the provision of the gentleman from Portland that those

people who spend \$3 million in the health and welfare business and the position of the lady from Bath that these people on the aging are very important, I will be very glad to be one of the two thirds who votes to install that requirement.

It is a simple issue which we can address, and if their positions are good and if they are this vital to the conduct of state government that causes all this emotion and excitement, then for goodness sake, we will have no trouble getting two-thirds and passing a simple bill, come next January. But in the meantime, let's stick to the issue of what we have to do here today unclouded by various kinds of confusing or tangential or emotional arguments.

Mr. Kelleher was granted permission to speak a third time.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First, I want to commend my good friend from Gorham, Mr. Quinn, it is very easy for him to get up and address someone's position by saying, if it is in opposition to his, "to be very simple." Sometimes I think he is a bubbling fountain of misinformation, but that again is only my opinion and maybe not acceptable to the rest of you people.

I think there is a very strong position that we should take here today. I don't think that any one of us wants to see this bill die. I don't think any one of us wants to pass what some people think to be exorbitant powers down on the second floor. I am one that does not want to do that, nor do I think that this House wants to, but I do think that this House has a position that we should hold fast to. What seems to be simple and unrealistic and unsupportive to the members of the State Government Committee, they should have their eyes opened just by the vote that was expressed here last Friday and again earlier this week.

For 13 members of a committee or 10 members of a committee to sign out a report and feel that it happens to be the handwritten scroll passed on down to Moses and that no one should even touch them or open it or amend it is rather ridiculous. I don't think any one of us here that serve on other committees are willing to accept amendments or suggestions, but to turn around and have someone say that they feel our position is simple and unrealistic and unfavorable and unwanted and hope that the House would accept that is not acceptable to me.

I hope that we do reject it. We may be up against the wall, but I can't think for the life of me that the other 33 members in the other body would want us to turn around and pass what everyone fears to be unruly authority down on the second floor. I think the realities of life will come very quickly to them if we do reject the motion to recede.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: We have heard during this debate about how the State Government Committee members seem to be opposed to the amendment on the Human Service Council. I would like to point out, I am not sure if it has been mentioned here because I will confess I haven't heard the whole debate, but in a Joint Order directing the Health and Institutional Services Committee to study the social service programs throughout the state, at one of our meetings during the fall, our committee, and I will admit that the full committee was not there, but there were at least 10 members of the committee who voted to recommend to the State Government Committee that the Human Services Council be put into the Executive Council bill and confirmed by the Health and Institutional Services Committee. Now, I don't know if they got that communication or not, but we did direct our staff to provide such a communication.

So I think that what we have here is the fact that another committee working in this general area has recommended that this Human Service Council be put on the Executive Council bill, so we are not talking just 10 members recommending that it not be, but you are talking another committee recommending that it does be.

The Human Services Council, in our overview of the social service program in the state, have a tremendous amount of input on how the funds are going to be handled. I can't stand here and give you a total amount because I don't know and I don't think that the Department of Human Services knows how much is handled. All your Title 20 money and almost every other federal money that comes into this state is, in one way or another, affected by what the Human Service Council does or says in their plans and in their recommendations. It is in the magnitude of many, many, many millions of dollars, not two or three or even five or six, I would say it was up in the 15 or 20's. Mr. LaPointe has mentioned it and he may have a better handle on it but I do know that our committee in a session dealing with this voted to recommend to the State Government Committee that the Human Services Council be put and that the members be confirmed by the legislature.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, Members of the House: Very briefly, I don't mind compromising but I do resent it a little when I am the one being compromised.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: Just a brief point. Presently the Executive Council confirms 617 appointments. I don't think you want to put the legislature in a position of confirming that number of appointments. Secondly, we are talking about 143 different agencies. If we adhere and wait until next January, we will be required to vote on a two-thirds vote to require these different agencies to go to different committees, and I don't think we want to be in that position.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Gould.

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will be very serious this time. I am not very excited about what the Senate wants us to do or if they try to dictate to us. It seems to me that life is a game of give and take: if it wasn't, there wouldn't be a married person in this House today.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chair. I have heard discussion as to whether or not we should recede and concur or whether we should adhere. It occurs to me, and you can tell me if I am wrong, that the people who want to have these other appointments ratified by the legislature also have another motion available to them, is that not correct, since the Senate's motion to adhere was not a positive action? If the recede and concur motion were defeated, would not the motion to further insist be in order and then put the burden about the responsibility at the other end?

The SPEAKER: The Chair would answer in the negative. The motion to adhere having been made by the other body implies that no further talk is presumed to occur. If the other body had wished to take the posture as expressed by the gentleman from Augusta, Mr. Bustin, they would have moved to insist.

If the sentiment of this body is so overwhelming, there is one other available option that will become available if the motion to recede and concur were to prevail, and that would be, of course, to suspend the rules and then to amend



it again. That would be entirely proper and within the rules.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to this debate with some interest and I particularly noted the remarks of the gentleman from Island Falls a while back, and it is true, I think, we, as individuals, who are here in Augusta and are participating in this legislative process tend to take a proprietary interest in the bills, the amendments that go through and we feel very deeply involved in them. But I think we should remember that we are here also to serve all the people, not just ourselves, and the interests of all the people and if this legislature in either body were to take action as the result of a pique that it had against the action of the other body, I can't help but feel that that is an irresponsible way to look at things, that we should be looking at the merits. We looked at the merits of this the other day and, as I recall, and I don't have the roll call in front of me, but I don't recall that they were tremendously overwhelming in either direction. There was good honest opinion on both sides of the question. I am sure there was down in the other body, but it has gone through the process and we do have this bill before us. I agree with the gentleman from Brewer that if we don't take reasonable action, we would justifiably be subject to great criticism.

I urge you all to hear what the Speaker just said. We have been called politicians a great many times and I think that is what we are, so let's not act like non-politicians, let's be willing to compromise.

I would like to ask a question. If in fact the house fails to recede and concur and does adhere, is this bill dead except for the two-thirds vote on suspension of the rules?

The SPEAKER: If this body were to vote to adhere, the bill is dead.

Mr. GOODWIN: What if this body receded and changed their posture on the bill and let's say we kept on only one of the amendments in question and sent it back again?

The SPEAKER: The Chair would advise the gentleman that the Senate has made its position known, the motion to adhere having been made. The option is still available, as was pointed out earlier by the Speaker, that if this body were to recede and concur, when the bill comes back for final enactment, the rules could be suspended and an amendment then could be reimposed on the bill.

The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: If the House failed to recede with the other body, would the motion then to recommit still be in order?

The SPEAKER: The Chair would answer in the negative. The motion to recommit at this time cannot be made.

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

Mr. COONEY: Mr. Speaker, a parliamentary inquiry? Could you give us an idea of how long it would take to engross this bill and prepare for enactment?

The SPEAKER: The Chair is not in a position to determine because he would have to check with the Engrossing Department and it probably would be 24 hours or so. However, it would be possible to pre-engross it both ways.

The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Just to consider all of the options, I thought I recalled earlier in the session that this House reconsidered its action whereby it had adhered and is that an option that would be available to the other body, if we adhere?

The SPEAKER: The Chair would answer in the negative.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I really am enjoying this because when I voted against this entire thing, I predicted that we were giving our powers to the other body and so it is great to say I told you so, but I don't want to say, I want to say I want to go home.

Isn't this here a possibility, Mr. Speaker, that we could refuse to adhere and then when we did refuse to adhere, could we then make a motion to insist and ask for a Committee of Conference?

The SPEAKER: The Chair would answer in the negative.

Mr. JALBERT: Then I look at it this way here. I say that we have two shots at it, one of the shots I am not going to mention. I note that the gentleman from Portland, Mr. LaPointe, is not in his seat, but one of the other methods you mentioned, that we could recede and concur and then we could reconsider and we could then plank amendments up against this thing before it went into the other body.

The SPEAKER: The Chair will restate the three positions that are available to this body. There are in fact two at this point in time, one is the motion to adhere: two, the motion to recede and concur; the third possibility would occur if this body were to recede and concur and when the bill came back as an enactor, the rules could at that time be suspended and the amendments then could be reinserted on the bill and sent back in non-concurrence.

Mr. JALBERT: And fourth, couldn't we take another shot at it through the Errors and Inconsistencies Bill?

The SPEAKER: The answer would be yes, assuming that the amendments were, in fact, germane. The Chair will not rule on that until it should come in front of us.

Mr. JALBERT: Could I ask you, Mr. Speaker, if the amendments that we are debating now would be attempted to be introduced in the Errors and Inconsistencies Bill?

The SPEAKER: The Chair would have to rule on it depending on what he would find in the Errors and Inconsistencies Bill that would deal with the proposed amendment that might in fact be proposed by members of this body and is not in a position of peruling.

Mr. JALBERT: If we adhere, it would kill the bill dead right here?

The SPEAKER: The Chair would answer in the affirmative.

Mr. JALBERT: Then is there any doubt in your mind, Mr. Speaker, that if we did that, tomorrow morning there would be another bill that would reappear here?

The SPEAKER: The Chair is not in a position to presuppose as to what might happen.

Mr. JALBERT: If you were in a position?

The SPEAKER: My answer remains the same.

Mr. JALBERT: Mr. Speaker, let me make this statement then and I will sit down.

The SPEAKER: The gentleman may continue debating if he so desires.

Mr. JALBERT: Mr. Speaker, what I really am trying to do is have the gentleman in the right-hand corner say that we quit until nine-thirty tomorrow morning, that is really what I am trying to accomplish, because we are getting nowhere. We did it last fall so let's forget all about it, it is all over now.

The situation is this, that if we go along with the adhering motion which kills the bill, I can assure you that there will be another bill that will appear here sometime tomorrow and also, it will cost us at least 24 hours.

The SPEAKER: A roll call has been requested. 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 more than one fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Sabattus, Mr. Cooney, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G.W., Berry, P.P., Berube, Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Call, Carey, Carpenter, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Curran, P., Curtis, Doak, Dow, Drigotas, Durgin, Dyer, Farnham, Faucher, Fenlason, Garsoe, Gould, Gray, Greenlaw, Hall, Henderson, Hewes, Higgins, Hutchings, Immonen, Jalbert, Joyce, Kany, Kelley, Kennedy, Laverty, Lewin, Lewis, Lynch, MacEachern, Mackel, Martin, R., Maxwell, McBreaity, Mills, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Norris, Palmer, Pelosi, Perkins, S., Perkins, T., Peterson, P., Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Shute, Silverman, Smith, Snow, Snowe, Sprowl, Strout, Stubbs, Tarr, Teague, Tozier, Usher, Wagner, Walker, The Speaker.

NAY — Carroll, Connolly, Cote, Dam, Davies, DeVane, Flanagan, Goodwin, H., Goodwin, K., Hennessey, Hobbins, Hughes, Ingegneri, Jensen, Kelleher, LaPointe, Leonard, Mahany, Pearson, Post, Saunders, Tierney, Wilfang.

ABSENT — Bowie, Curran, R., Dudley, Farley, Finemore, Fraser, Gauthier, Hinds, Hunter, Jackson, Jacques, Kauffman, Laffin, LeBlanc, Littlefield, Lizotte, Lovell, Lunt, MacLeod, Martin, A.; McKernan, McMahon, Mulkern, Peakes, Peterson, T., Rollins, Spencer, Susi, Talbot, Theriault, Torrey, Truman, Twitchell, Tyndale, Webber, Winship. Yes, 92; No, 23; Absent, 36.

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

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

Mr. COONEY: Mr. Speaker, having voted on the prevailing side, I now move we reconsider and ask that you vote against me.

The SPEAKER: The gentleman from Sabattus, Mr. Cooney, having voted on the prevailing side, now moves that we reconsider our action whereby this House voted to recede and concur.

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

On the disagreeing action of the two branches of the Legislature on Bill "An Act to Clarify the Fish and Game Laws" (H. P. 1933) (L. D. 2121) the Speaker appointed the following Conferees on the part of the House:

Messrs. USHER of Westbrook  
MARTIN of St. Agatha  
STROUT of Corinth.

On motion of Mrs. Bachrach of Brunswick, Adjourned until ten o'clock tomorrow morning.