

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Fifth
Legislature***

OF THE

STATE OF MAINE

Volume III

June 16, 1971 to June 24, 1971

Index

1st Special Session

January 24, 1972 to March 10, 1972

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**KENNEBEC JOURNAL
AUGUSTA, MAINE**

HOUSE

Tuesday, March 7, 1972

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. LaForest Robbins of North Anson.

The journal of yesterday was read and approved.

**Papers from the Senate
Referred to Committee on
State Government**

Tabled Later in the Day

Report of the Committee on Natural Resources on Bill "An Act to Revise the Maine Land Use Regulation Commission Law" (S. P. 709) (L. D. 1890) reporting that it be referred to the Committee on State Government.

Came from the Senate with the Bill substituted for the Report and passed to be engrossed as amended by Senate Amendment "C".

In the House, the Report was read.

Mr. Smith of Waterville moved that the Report be accepted in non-concurrence.

Whereupon, on motion of Mr. Martin of Eagle Lake, tabled pending the motion of Mr. Smith of Waterville to accept the Report in non-concurrence and later today assigned.

**Non-Concurrent Matter
Tabled Later in the Day**

Bill "An Act relating to Guarantees by the Maine Industrial Building Authority" (S. P. 706) (L. D. 1887) which was passed to be engrossed as amended by Senate Amendment "B" and House Amendments "B" and "C" in non-concurrence in the House on March 2.

Came from the Senate with House Amendment "B" indefinitely postponed and the Bill passed to be engrossed as amended by Senate Amendment "B" and House amendment "C" in non-concurrence.

In the House: On motion of Mr. Emery of Rockland, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act Implementing the Reorganization of the Department

of Environmental Protection" (S. P. 772) (L. D. 2051) which was passed to be engrossed as amended by Senate Amendment "A" and House Amendment "A" in non-concurrence in the House on March 3.

Came from the Senate with that body voting to insist on its former action whereby the Bill was passed to be engrossed as amended by Senate Amendment "A".

In the House: On motion of Mr. Bustin of Augusta, the House voted to recede and concur.

**Non-Concurrent Matter
Tabled and Assigned**

An Act Authorizing Town of Dresden to Vote on Certain Liquor Local Option Questions (H. P. 1494) (L. D. 1937) which was passed to be enacted in the House on March 1 and passed to be engrossed as amended by House Amendment "A" as amended by House Amendment "A" thereto on February 28.

Came from the Senate having failed passage to be enacted.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Bristol, Mr. Lewis.

Mr. LEWIS: Mr. Speaker and Members of the House: For the second time last Friday this bill failed of enactment by one vote, 22 being needed — I had 21. With the excellent support I have received here in the House on this bill regarding the Town of Dresden, I am not about to give up as yet, and I would hope that somebody would table this until tomorrow.

Whereupon, on motion of Mr. Mills of Eastport, tabled pending further consideration and tomorrow assigned.

Orders

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage:

WHEREAS, the Wolverines of Schenck High School of Esst Millinocket are the winners of the 1972 State Class "B" Basketball Championship; and

WHEREAS, this talented group of courageous young men have demonstrated a style of team play and skill only possessed by champions; and

WHEREAS, the Towns of East Millinocket and Medway can be justly proud of this winning team and its individual stars; now, therefore, be it

ORDERED, the Senate concurring, that the members of the 105th Maine Legislature, now assembled in special session, take this opportunity to commend the Wolverines of Schenck High School and coach, Ronald Marks, for winning the State Class "B" Basketball Championship for 1972 and wish them continued success in the field of sports; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to the Towns of East Millinocket and Medway and the principal and coach of Schenck High School. (H. P. 1611)

The Joint Order received passage and was sent up for concurrence.

Mr. Kelley of Machias presented the following Order and moved its passage:

WHEREAS, the Royals of Jonesport-Beals High School are the winners of the 1972 State Class "D" Basketball Championship; and

WHEREAS, this talented and courageous group of young men have demonstrated a style of sportsmanship and skill only possessed by champions; and

WHEREAS, the citizens of the area can be justly proud of this winning team and its individual stars; now, therefore, be it

ORDERED, that members of the House of Representatives of the 105th Maine Legislature, now assembled in special session, take this opportunity to commend the Royals of Jonesport-Beals High School and coach, Ordie Alley, for winning the State Class "D" Basketball Championship for 1972 and wish them continued success in the field of sports; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to the principal and coach of Jonesport-Beals High School.

The Order received passage and was sent up for concurrence.

Mr. Porter of Lincoln presented

the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be directed to report out a bill to provide funds to assist County Attorneys in the administration of the Court System. (H. P. 1612)

The Joint Order received passage and was sent up for concurrence.

By unanimous consent, ordered sent forthwith.

House Report of Committee Divided Report

Report "A" of the Committee on State Government on Bill "An Act Implementing the Reorganization of the Department of Human Services" (H. P. 1551) (L. D. 2012) reporting that it be referred to the 106th Legislature.

Report was signed by the following members:

Messrs. DONAGHY of Lubec
SILVERMAN of Calais
HODGDON of Kittery
STILLINGS of Berwick
MARSTALLER

of Freeport
CURTIS of Orono
SHAW of Chelsea

— of the House.
Report "B" of same Committee on same Bill reporting same in a new draft (H. P. 1609) (L. D. 2060) under same title and that it "Ought to pass"

Report was signed by the following members:

Mr. WYMAN of Washington
— of the Senate.

Mr. FARRINGTON
of Old Orchard Beach
Mrs. GOODWIN of Bath
Messrs. BUSTIN of Augusta
COONEY of Webster
— of the House.

Report "C" of same Committee on same Bill reporting same in a new draft (H. P. 1610) (L. D. 2061) under same title and that it "Ought to pass"

Report was signed by the following members:

Messrs. JOHNSON of Somerset
CLIFFORD

of Androscoggin
— of the Senate.

Reports were read.

The SPEAKER: The Chair

recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, I move that the House accept Report "B".

The SPEAKER: The gentlewoman from Bath, Mrs. Goodwin moves that the House accept Report "B".

The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Members of the House: This is one of the bills that I mentioned the other day. As you can see, it is complicated enough to warrant three reports. If we pass Report "B" we will be now combining Health and Welfare and Health and Institutional Services. No one can prove to me that this is going to be more efficient. It certainly will cost more money and evidently they couldn't prove it to the committee, either, because Report "A" refers it to the next session and Report "C" does about the same thing in referring it to the next session.

I now move the indefinite postponement of this bill and all its accompanying reports.

The SPEAKER: The gentleman from Bath, Mr. Ross now moves the indefinite postponement of all Reports and Bill.

The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This happens to bear my name and I suspect this may be one of the problems with it. Needless to say I am somewhat surprised by the remarks made by the gentleman from Bath, Mr. Ross. I had assumed that the gentleman was going to support government reorganization, but of course every now and then we get lost along the way from Bath to Augusta.

I think that one of the things that we have to look at when we look at this bill along with all the others, is to realize that the amount of savings that one is going to get depends upon how much effort the department head and the legislature are willing to get together on in determining the savings that are going to accrue.

I suspect that if for no other reason this morning I would support this bill even if I didn't know anything that was in it, realizing that legal fees were paid to a large amount for the drafting of this bill, realizing that a great amount of effort was put into it by the Governmental Reorganization Committee and also by the State Government Committee.

What really bothers me, however, is the fact that I have been told that members of the Committee really didn't get an adequate chance to look at it to really get to know the facts about the entire contents of the redraft when it was presented to them yesterday.

I am fully aware that we are in a desire and a rush to go home, but on the other hand — and I don't think it is any reason for us to kill anything, or for that matter to pass anything just because we want to go home. If we had wanted to do that we could have adjourned sine die after the second day that we were here; probably for the benefit of the people of Maine we would have been better off.

Let's take a look at these three reports, very briefly. The first report is a very simple one, it refers it to the 106th. This of course is a polite way of killing it. The second report is a redraft of the bill presented to the Committee. It was redrafted by Jon Doyle who, as you all know, used to be with the Attorney General's office.

And in the third report is a report that was drafted by one member of the other body primarily. Now of course the main purpose of this report is to make sure that Dean Fisher doesn't get appointed to be commissioner of anything under this department. I don't happen to agree or disagree with whether or not Dean Fisher ought to be appointed to anything at the moment, but I do think that if you are going to tell him he is fired there ought to be a better way of doing it than this. I don't think it is a surprise to anyone that Dean Fisher doesn't hold a Masters Degree in Business Administration as is provided for in Report "C".

You know there are many ways of getting rid of state employees,

and I don't think we as a legislature have found the right one. We do manage somehow every now and then to abolish a few jobs, but we always seem scared to really I suppose do a job when we can do it.

I can recall two years ago when there were problems within the Department of Economic Development as far as employees were concerned, but the question of whether or not we shouldn't simply put them off the classified positions and put them under the unclassified so that someone would be in a position to remove them for cause if they wanted to. At that point everyone for the most part on the Appropriations Committee, as I recall it, I was then a member, agreed that that would be the best way to handle the problem. As you know, by the time that the bill left the committee to the time the bill hit the floor the question of classified versus unclassified had been taken care of, and I can assure you it wasn't in the bill.

Now going to this very bill and talking about its savings, I think the amount of savings that are accrued, as I have indicated earlier, depend on whether or not we as a legislature are going to be willing to do the job; and secondly, whether the committee that would be assigned to supervise is willing to analyze what takes place very carefully; and finally, third, the question will lie with the commissioner that is appointed.

The biggest and the largest amount of savings that will occur when these two departments are consolidated will come not from necessarily savings of money as much as the question of using or being able to use more state funds to get federal funds, and this is primarily through the Department of Mental Health and Corrections.

At the present time the Department of Health and Welfare gets of course the largest amount of percentage from the Federal Government in terms of matching money. The Department of Mental Health and Corrections gets a little bit, but not very much. If you combine the amounts of money into one department, it has been

told to everyone concerned that worked on the bill that once this occurs, then the State will be able to use the money in the entire Department of Human Services to match some of the money from the Federal Government.

As I understand the redraft — and of course I haven't even read it because it just hit our desks this morning, as I understand the redraft I have been told that it takes care of the number of problems that have been discussed earlier in the hearing, such as the special problem of the Eye Care Division and also the Older Citizens Division within the Department of Mental Health and Corrections.

This to me is probably the second most important reorganization bill, the first being the Department of Transportation which we have already enacted and it has been signed into law by the Governor. This particular bill will give us as much savings possible, as did the Transportation Department.

I certainly hope that you vote against the motion of indefinite postponement today. Frankly I think the best way to approach this today would be to accept Report "B", which is the report that it ought to pass in new draft, and then let it go along its way for at least another day to third reading and then everyone could at least have an opportunity to read it and everyone might be in a position to agree to final substance, actually approving it. If we did that, then at that point, if someone were not satisfied certainly the motion to indefinitely postpone would still be in order.

But today it seems to me the proper approach ought to be to accept Report "B", and so I would ask you to vote against the motion made by the gentleman from Bath, Mr. Ross.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Hodgdon.

Mr. HODGDON: Mr. Speaker and Ladies and Gentlemen of the House: I feel this morning as though this body should have some explanation as to the background of this L. D. I want to make it perfectly clear at this time that I

am not here on my feet this morning to debate the merits of reorganization as a whole.

Whether or not you people agree with reorganization, I think you would find it very hard to disagree that the Committee had a tremendous job to perform and not for too long a length of time. We had one counsel to do all our research and to develop these thirteen bills.

Now the bill that we are considering this morning is simply the most complex of all the reorganization bills. Health and Welfare received a federal grant in regard to reorganization of state government. In order to expedite matters they used some of that money to hire an attorney to draft the L. D. for Human Services.

While this bill was being drafted the Committee had no chance whatsoever to go into it in detail. Now, if you remember, at the public hearing there was a lot of opposition to the bill. I am sure that there was a lot of opposition to the bill in committee. It then became necessary that the author of this bill get together with several of the opponents and see if they could work out a compromise.

On last Thursday afternoon Mr. Doyle appeared before the Committee and some language in the bill was changed. The Committee recommended further changes and we as a committee received this bill on our desk in committee yesterday afternoon.

If there was any partisan politics played in this bill, Mr. Speaker and ladies and gentlemen of the House, I am not aware of it. To be sure, the way the reports look it could be that way, but I think every member of the Committee will agree that politics did not enter into the final voting. The reason that I voted as I did to refer it was it was the fact that it is a complicated bill. I think it is a bill that is most important to the people of the State of Maine, and until such time as the Committee as a whole could sit down and go over this, section by section, I was not ready to sign any report.

And that is the background and I think that we should give it considerable consideration before any final judgment is made.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I, too, arise not in debate but simply to reiterate what the gentleman from Kittery has already told you, and I will add one thing to it. Report "C" came in even later than the Report "B". It was after five o'clock last night before we received Report "C". This is a very important thing. I think that you folks deserve to know that although we have tried on this it just has not been possible in this length of time that we have had, and it is primarily since last Thursday. But we don't feel qualified; if you do, go ahead.

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

Mr. COONEY: Mr. Speaker and Ladies and Gentlemen of the House: I would like to just add a couple of comments here this morning on this topic. I do hope we keep this bill alive and accept the "ought to pass" Report "B". Mr. Hodgdon mentioned to you that this was a non partisan thing and I agree it really was.

The thing that bothers me is that this is such an important department and it is one where the two departments that are being combined are naturals to be combined. I hate to see us put it off to the 106th Legislature and to get reorganization underway right now, because if we can keep this report alive — and perhaps if you have some suggestions on things that you don't like about it they can be amended, we can pass this bill and we can start reorganizing the biggest single department that needs reorganizing. And I think we all agree that it probably does need reorganizing.

So I would hope that you would reject the motion and pass this. Now one significant thing that the drafters did — and I am not sure it was commented on here today, was the powers of the Commissioner, and many people felt that the language of the bill was entirely too broad and gave too many powers to the Commissioner.

If you note on page two of the

original bill presented by Mr. Martin, there was a paragraph that read: "The commissioner shall organize the department into such bureaus, divisions regions and other administrative units as in his judgment are consistent with sound principles of management and with meeting the needs of those served by the department. He shall have authority to organize, reorganize, transfer or abolish bureaus, divisions, staff functions or other administrative units within the department."

Well, many people felt that this kind of language was just too broad, gave the Commissioner too many powers, and so this has been struck out, and we could go through the bill and point to some other places, especially with the appointment of temporary help, he is not going to be allowed to appoint temporary help. And I think we have tried to clean this bill up so it is acceptable and workable. So I would ask you this morning to vote against the motion to indefinitely postpone it so we could accept the Report "B" of the committee and move this bill along.

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

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen of the House: I would like to speak in favor of the motion made by Representative Ross. Of the thirteen bills to promote reorganization I am supporting ten, and I find severe difficulties in supporting the other three. This is one of those three.

The overall intent of reorganization, as I understood it, was to try to achieve economy in size by combining smaller departments, create a new department large enough so that you could best utilize the talents therein.

Now the new department that would be created by combining Health and Welfare and Mental Health and Corrections, as I understand based upon the discussion at the hearing, would contain one third of all of the state employees and have an annual budget of \$125 million. And, Mr. Speaker and ladies and gentlemen of the House, I think that we have reached the

point of diminishing returns in trying to reach economy of size.

It is for that reason, and also because I think that if reorganization in those departments is necessary — and it may very well be, especially in the Department of Mental Health and Corrections, the wisest thing for us to do would be to try to help reorganize those departments but not combine two departments that have problems. I would fear the outcome. In particular perhaps the Department of Mental Health and Corrections needs some clearer lines of authority and responsibility. But I think that this is a whole problem that might very well be better handled by the 106th.

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

Mrs. GOODWIN: Mr. Speaker and Ladies and Gentlemen of the House: I, too, would ask you this morning not to indefinitely postpone this bill. I don't think that we should kill a bill this morning which is eleven pages long and which none of you have really had a chance to read and, as you have been told, the Committee itself did not see the final draft until late yesterday afternoon and we had one copy for fourteen members. Many of us are not speed readers like Mr. Ross and cannot make such snap judgments.

I would hope that you do not kill this. I think more time and more money has gone into the preparation of this one bill than perhaps all the others combined. I would ask you at least for this morning to keep the bill alive so that we can debate it on its merits, and I would ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Members of the House: During this special session we have already passed several reorganization bills, so this proves that I am not against the entire concept. But I assure the gentleman from Eagle Lake, Mr. Martin that I was against this particular reorganization from the very inception, and I did not get lost between Bath and Augusta.

The only place you could get lost there would be in Dresden, and you haven't passed Mr. Lewis's bill yet.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. Porter.

Mr. PORTER: Mr. Speaker and Ladies and Gentlemen of the House: As we went down through the calendar this morning, I saw the day getting longer and darker. Item one, tabled later today. Item two, later today. Item three, recede and concur. Item four, tabled one day. It was getting dark. Then all of a sudden we came to item five and the sun came out in full splendor, when the gentleman from Bath moved to indefinitely postpone this bill.

I am very much opposed to these reorganization bills and I think if we follow this pattern of indefinitely postponing these bills we might get out of here this weekend.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would suggest the gentleman from Lincoln, Mr. Porter take a look outdoors.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think many of us at the beginning of the regular session heard the Governor come in here and say one of the big things we could do for the people of the State of Maine in saving money would be to stop talking about reorganizing state government, stop studying it, and finally doing something about it. Well here we go again.

The motion is to indefinitely postpone and a lot of people want to refer it to the 106th, and we just keep going and going and going. One of the members of this House makes an awful lot of noise from time to time when we are talking about appropriations bills, particularly saying that the bureaucracy is out of control, we can't do anything about the way state government is operating. Lo and behold along comes an opportunity when perhaps we can bring it under

control, and what happens? The motion to indefinitely postpone, or support for referring it to the 106th Legislature.

I suggest that this is a cop-out. I think the Committee on State Government, as well as the Special Select Committee on Government Reorganization, did spend enough time to know what is going on here. I think that there can be very adequate debate on the merits of this bill if it is allowed to go to the third reader.

It has been said that there is no partisan politics involved with this bill. I agree with that, but I suggest that there is an awful lot of personality politics involved with this bill and that that is the major reason why the motion to indefinitely postpone is made.

What's wrong with this bill? Would the gentleman from Bath indicate the specifics of why this bill should not be passed? Can we hear some good reasons as to why this reorganization measure should not be enacted? The Committee on State Government has been told that if this measure is passed an additional three quarters of a million dollars a year would be coming in from the Federal Government. That alone might be adequate reason for at least letting it go to third reader.

I would hope that the House would reject the motion to indefinitely postpone and adopt Report "B."

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

Mr. GILL: Mr. Speaker and Ladies and Gentlemen of the House: Today we have heard discussion on the various reports. We have heard a quote from the Governor's message. I would rise today to support the indefinite postponement and concur with the remarks of Mr. Curtis of Orono.

I would like to speak on behalf of the people that are affected by these two large departments. I would say that the people have not got full confidence in either one of these departments. So therefore the proponents of this legislation may say this is an argument for reorganizing them. I say this is not so. If you have a minus and

a minus, it does not make a plus as it does in some form of mathematics.

I have a great deal of respect for Dr. Fisher. I will admit when I first came here some ten years ago that I did not. But I have learned that this man can do a lot for his department. I will say that his department is so large that it is almost too much of a job for the man, and I am not saying this with any derogatory thoughts about Dr. Fisher. I think that that department would be too large for any man to try to run right, and certainly in the area of Mental Health and Corrections the same goes.

I do not have quite the confidence in the Commissioner of Mental Health and Corrections as I do Dr. Fisher. So therefore I would assume that if this were to pass I concur that Dr. Fisher would be the man to run it. But I have received calls, and this is the truth in regard to this. I don't know if they have been employees in one department or the other, and I say this because we can't always tell when someone calls you at home just what their axe is to grind.

But generally they have felt as I am stating, that either one of these departments themselves could stand some reorganization and some efficiencies, but they do not feel that this will be achieved through the consolidation of these departments.

As for this increase in federal monies which we would get, I don't like to say it is a small amount or it is not worth bothering with, but I do say that \$750,000 to this new consolidation of these departments wouldn't amount to much money, considering the way that they would be able to draw up plans and researches.

The other night I was fortunate enough to run into a gentleman at one of the local watering holes that is now a consultant for a firm from Massachusetts up here that is looking over these departments, and I would say that this gentleman, if his conclusions are reached, and of course he was a very strong proponent of this, and he said he has been working on it for some time in a quiet way. And the ques-

tion arises to me, is he up here to do consulting work for the department or is he up here to push this consolidation in government?

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

Mrs. GOODWIN: Mr. Speaker and Ladies and Gentlemen of the House: I would like to call your attention to a provision in this bill on page ten, which is not contained in any of the other reorganization bills, a provision that — "The Commissioner of the Department of Human Services shall on or before January 15, 1973, and at such other times as may be required by the Standing Committee on State Government, file with the committee a concise report on the reorganization specifying organizational changes, personnel changes, the reasons therefor and the budgetary implications of the reorganization."

What this means is that if the State Government Committee should find that the Commissioner is not implementing reorganization according to the legislative plan, or if we should find that there are no cost savings in sight, or if we should find that this department will indeed prove too unwieldy and unworkable, then there is no reason why the State Government Committee could not be directed to report out a bill to abolish this new department.

I think that we have got to start somewhere and there is no sense waiting until the 106th and perhaps implementing reorganization then. Because the longer we wait the greater the cost is going to be, the greater the cost in dollars and the greater the cost in services which will be lost for Maine people.

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

Mr. JALBERT: Mr. Speaker and Members of the House: My reason for getting up this morning to support the consolidation and to go along with the gentleman from Eagle Lake, Mr. Martin, is because of my absolute faith in the gentleman who has temporarily been appointed to head these two departments, speaking of the Department of Health and Welfare

and the Department of Mental Health and Corrections, and I have with me the proof of the pudding of the long long criticism that I have had concerning certain heads within the Department of Mental Health and Corrections.

I got a call last night from Senator Hichens, it was very late, telling me that he wanted me to know that the head of Mental Retardation, Mr. Anderson, had been asked by a majority of his committee to resign. The head of the Mental Health and Corrections has been highly critical of the Legislature, particularly critical of the Appropriations Committee for failure to give him all of the funds that he wanted. I raised the question in the committee room as to why for instance this man or any departmental head would be allowed to close buildings without us knowing anything about it.

The headline here this morning shows, "Alleged Kidnapper of Bechtel Boy Escapes from State Hospital." The security building was closed and so now, and I say in my article of criticism that I have nothing but compassion for the parents of this young man, but he broke away yesterday afternoon and he is still at large as of the last few minutes that I called the State Police. When it came time for his trial for the second time the judge remanded him to the State Hospital because he felt he was incompetent to stand trial.

I wonder how any of you would have answered the question that was posed to me by the mother of the young man that this escapee, this alleged kidnapper, I wonder how you would have answered when my phone rang last night and it was the mother of this boy who had been mutilated and beaten to a point where this alleged kidnapper left him for dead. But she said, "Louie, what am I going to do?" I said, "The only thing for you to do is to do what I am going to do, is to pray hoping that they catch this boy before he commits another unfortunate crime.

Now I am not going to take any more of the guff of the head of the Mental Health and Corrections. I told him and I told committees

that Mr. Anderson was a totally incompetent individual. I went before various committees on Retardation. I went before groups and spoke and told them that this man who was in charge of the Mental Retardation programming first went to work at the University of Maine.

He couldn't get along there, left, went to work for Dr. Bowman, and after four months he asked for a recommendation to be assistant director of Governor Dever Institution at Taunton, Mass. He stayed there four months, was fired from that place, and then came back to Dr. Bowman and Dr. Bowman out of pure kindness rehired him. He has yet to take the tests that would make him actually in good standing, and he is the one that has been running the show under the supervision of the Commissioner of Mental Health and Corrections.

I know that there might be some who might not look kindly upon Dr. Fisher, but I know I am sure that the vast majority do. His department is mostly conducted by regulations in Washington, his hands are tied by the regulations that are almost impossible to believe that Washington sets on, and I think if they keep on doing it, that I stated at the beginning of the last session, they should take over the whole program and pay for it.

My major reason now for voting for this bill is because if the Commissioner of Mental Health and Corrections is to stay here, at least he would be under the supervision of a competent departmental head. And I certainly hope that the motion to indefinitely postpone does not prevail, if for no other reason but for the reason at least we would have a good head of a department.

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

A vote of the House was taken, and more than one fifth of the members present having expressed

a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bath, Mr. Ross, that the Reports and Bill "An Act Implementing the Reorganization of the Department of Human Services," House Paper 1551, L. D. 2012, be indefinitely postponed. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

ROLL CALL

YEAS — Bailey, Baker, Barnes, Bartlett, Berry, G. W.; Birt, Bither, Bragdon, Brawn, Brown, Bunker, Call, Carey, Churchill, Clark, Collins, Conley, Cote, Cummings, Curtis, T. S., Jr.; Donaghy, Doyle, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Finemore, Gill, Good, Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Hewes, Immonen, Kelley, K. F.; Kelley, R. P.; Lee, Lewin, Lewis, Lincoln, Littlefield, MacLeod, Maddox, Marsteller, McCormick, Mills, Morrell, Mosher, Murchison, Norris, Page, Parks, Payson, Porter, Pratt, Rand, Rollins, Ross, Scott, Shaw, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Stillings, Trask, Tyndale, White, Wight, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

NAYS — Albert, Bedard, Bernier, Berube, Binnette, Boudreau, Bourgoin, Bustin, Carrier, Carter, Clemente, Cooney, Cottrell, Curran, Curtis, A. P.; Cyr, Dam, Dow, Farrington, Fecteau, Fraser, Gagnon, Gauthier, Genest, Goodwin, Hancock, Herrick, Hodgdon, Jalbert, Jutras, Kelleher, Keyte, Lawry, Lebel, Lessard, Lizotte, Lund, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, Millett, Murray, O'Brien, Pontbriand, Rocheleau, Santoro, Slane, Smith, D. M.; Smith, E. H.; Susi, Tanguay, Theriault, Vincent, Wheeler, Whitzell.

ABSENT — Ault, Berry, P. P.; Crosby, Drigotas, Faucher, Kelley, P. S.; Kilroy, Lucas, McNally, McTeague, Orestis, Sheltra, Webber, Whitson.

Yes, 77; No, 59; Absent, 14.

The SPEAKER: Seventy-seven having voted in the affirmative and fifty-nine in the negative, with

fourteen being absent, the motion to indefinitely postpone does prevail.

Sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Members of the House: In reference to this last item, I would move that the House reconsider its action whereby it indefinitely postponed it, and I hope that everyone votes against that motion.

The SPEAKER: The gentleman from Bath, Mr. Ross, now moves that the House reconsider its action whereby it indefinitely postponed the Reports and Bill on L. D. 2012. The Chair will order a vote. All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken. 54 having voted in the affirmative and 74 having voted in the negative, the motion did not prevail.

Passed to Be Engrossed

Bill "An Act Reclassifying Part of the Waters of Presumpscot River, Cumberland County" (S. P. 777) (L. D. 2056)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Third Reader

Tabled and Assigned

Bill "An Act Implementing the Reorganization of the Department of Manpower Affairs" (S. P. 779) (L. D. 2058)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mrs. Lincoln of Bethel, tabled pending passage to be engrossed and tomorrow assigned.)

Enactor

Tabled Later in the Day

An Act to Appropriate Moneys for the Expenditures of State Government and Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973 (S. P. 768) (L. D. 2047)

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

(On motion of Mr. Susi of Pittsfield, tabled pending passage to be enacted and later today assigned.)

Constitutional Amendment Failed of Final Passage

Resolution Proposing an Amendment to the Constitution to Abolish the Executive Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation (H. P. 1550) (L. D. 2009)

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

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, I would like to ask a question on this bill, if I may. I would like to ask, is House Amendment "A," H-623 attached to this bill?

The SPEAKER: For the gentleman's information and the information of the House, House Amendment "B" is incorporated in the Bill; "A" was indefinitely postponed.

The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, may I have an explanation of what Amendment "B" does?

The SPEAKER: The filing number is H-623.

The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Members of the House: House Amendment "B" was almost identical to House Amendment "A," except for one portion, and that was the portion where the four Representatives from the House of Representatives to the Legislative Council, two would come from the Minority Party and two from the Majority Party, and they would be elected by the members of the House and not appointed by the leadership.

The SPEAKER: The Chair recognizes the gentleman from Machias, Mr. Kelley.

Mr. KELLEY: Mr. Speaker, I move the indefinite postponement of this bill and all of its accom-

panying papers, and I would speak briefly to my motion.

The SPEAKER: The gentleman from Machias, Mr. Kelley, now moves the indefinite postponement of this Resolution.

The gentleman may proceed.

Mr. KELLEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is a classic example of what happens when an irresistible desire to tinker supersedes good judgment, and shows also why many areas of government have, under constant hammering, deteriorated into top-heavy bureaucracies. For decades the Governor's Council has served Maine, and on the whole it has served it well. Certainly its record is as good as that of Maine Legislatures over the years, yet no one to date has suggested that we abolish the Legislature.

The Council is particularly vulnerable to attack because it stands alone. It cannot hide in the swamps of bureaucracy, it cannot pass the buck, it is fair game for any upstart legislator or any group who wish to call attention to themselves, and this can be done under the banner of "reform legislation," regardless of whether the new proposal is better or worse than the existing system.

It will be argued that other states don't have or have abolished similar systems. Somehow that doesn't impress me. Nebraska has a unicameral legislature, but I'm not going to suggest that Maine do likewise. Many states still have capital punishment, but Maine seems to get along without it.

Up to now all of the opposition to the Governor's Council has come from political party, but this time we have a new twist. The proposal for abolishing the Council now comes from a member of the Republican party, the party which has over the years repeatedly defended the Council, and realizing this, I can imagine that the Council this morning feels much as Caesar felt when Brutus advanced upon him with the Roman equivalent of the switchblade.

The Governor's Council has been a whipping boy for years. Every disgruntled lawmaker, every frustrated chief executive, every legis-

lator who suffers with a touch of exhibitionism can always use the Governor's Council as a target.

It would of course be inaccurate to say that the Council has always been infallible, just as it would be grossly unfair to remark that the present attack on the Council comes from a freshman legislator who has yet to complete his first term. I believe that the sponsor, although speaking from a tremendous wealth of inexperience, is really sincere.

But consider the proposal carefully, and I am sure that even the most starry-eyed idealist will see the booby traps. For instance, on page two, second paragraph, we find that the Governor alone will have the right to grant pardons and commutations of sentences, he, the Governor won't have the aid of even the newly formed Legislative Committee. Now bearing in mind the recent flap over the Snowy Beach episode and the shifty footwork displayed over the Big Box issue, I wonder how many of you would like to see this additional power given to the Chief Executive?

On page four, Article IX, we find that any civil officer may be removed by the Governor on the address of the Legislature. Under the present system the Governor can only do this with the advice of the Council. Under this new proposal, not even the newly formed Legislative Council is consulted in these matters; and consider this, for years the Maine Legislature has shouted from the house tops that it was overworked, underpaid and needed more clerical staff assistance. Now, under this bill we do an about face and add to the duties of the Legislature. No one expects a politician to be consistent, but in this case we really are abusing the privilege!

I was interested to hear from another freshman legislator on TV on February 14. Unhindered by modesty he told the audience that the Council was "archaic, irresponsible to the needs of the people" and that anyway, the members of the Council were defeated candidates. Somehow, to him, there was something faintly indecent about that arrange-

ment. And to this I would ask, why?

Look at the present makeup of the Council. These men are veterans, not only of the political wars but they all, to a man, have proven their business ability, their civic mindedness and their practicality. Yet under the proposed legislation we could be saddled with a Legislative Council composed of members with no extensive experience in State government, no record of achievement, and who could easily become rubber stamps. In other words, the Legislative Council, at its best, could be the source of vicious political infighting, and at its worst it would become nothing more nor less than a boil on the backsides of the legislature.

The great strength of the present Council lies in its objectivity. It can be above the battle. Certainly members of the legislature should not serve on such a committee. They are too close to the action, too involved in petty politics and are much too busy to do justice to the job.

We propose here this morning to abolish a very workable, very efficient and objective system and replace it with something which adds to duties of the legislature, gets us involved in petty politics and vicious infighting, and lays the groundwork for serious problems in the years ahead. Somehow this proposal reminds me of a certain town meeting that we had Down East about forty years ago. A bunch of do-gooders in one of our small towns had decided that the town hall, being shabby and in need of repairs, should be torn down. And that year they succeeded in getting three Articles put in the town warrant in this order — this actually took place.

Article IV, to see if the town would vote to tear down the town hall, salvaging all building material which could be used in the construction of the new building.

Article V, to see if the town would vote to construct a new town hall on the site of the present town hall, using a minimum of new material.

Article VI, provided that the old town hall would be used for meet-

ings until the completion of the new town hall.

Ladies and gentlemen, it was silly for the townspeople to accept that impossible proposition. It would be silly for us this morning to accept this impossible proposition.

When the vote is taken, Mr. Speaker, I would respectfully ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: This is the very first time, I believe, that I have heard a comment to the point on this House floor that a freshman legislator was inexperienced and did not have the feelings of the wishes of the people in the State of Maine at his command to the point that exhibitionism might be the goal rather than better government for the State of Maine. I find it kind of irresponsible when I find that just because a member of the Republican party decided to try to do something about strengthening the arm of the legislature, known as the Executive Council, that suddenly all of a sudden the Republican party is a party that defends the Council and has never had any intention of doing anything about it.

My answer to that would be that I think it depends on who controls the majority votes in this body and in the other body as to whether you are in favor or disfavor of the Governor's Council.

I would like to talk about the Governor's Council as is proposed in the new makeup here, which would be called a Legislative Council. I think that after the debate the other day that you are well aware that this Legislative Council would be a distinct arm of the legislature and that is just exactly what the Council should be. For those of you who might feel that it is going to put power in certain people's hands, this Legislative Council would not become effective until the 107th.

I think it is time that we as legislators maybe ask some people in the State of Maine, "Do you really want to do something about the Council? Are you satisfied with

the Council and its present makeup, or do you want to try to do something different?" I think here we have got a proposal that is different. It is a proposal that I don't believe is going to put any more work on anybody than it has in the past. I think it is going to give the people in the State of Maine in November the chance to make the decision, and that is what our position is here today, to offer this to the people in the State of Maine for their decision through referendum.

It would be the duty of the 106th Legislature to then change the statutory requirements or the duties of the Council and put many of them back in the hands of the legislature, where they belong anyway.

Ladies and gentlemen of this House, I don't believe that this would be a boil on the back of the legislature. I believe instead it would be a complement to the legislature and we would be handling our affairs like we should. And therefore I would urge you to let's make the change; let's offer it to the people in the State of Maine, that we make a constructive step in changing the makeup of the legislature and accept our responsibilities of better government for the State of Maine as their duly elected legislators.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: One of the real fringe benefits of legislative service that I have enjoyed down here over the many years has been the opportunity that we have had to listen to the speeches of the gentleman from Machias. They are extremely enjoyable, but I disagree with him very heartily on the issue which he spoke on this morning.

I would like to publicly identify myself at this time as one of the renegades in the Republican party who supports the legislation that we have before us. Through the years, I believe that consistently every attempt has been made to accommodate the wishes of those who dissent on this issue and apparently to very little avail. I believe that the supporters of this

present legislation have been responsible and have been very considerate of the opposition to their measure — done all that we can. I believe the change is needed. I hope that this morning you would support the legislation we have before us.

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

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: As always, it is a delight to gather a little bit of sunshine on a day like this, even though it be in the form of debate in opposition to this bill, and we all appreciate the sunshine that Mr. Kelley has afforded us on this rather gloomy, overcast day. But it seems to me that we are perhaps oversimplifying the issue if we say that this is just a question of misguided reform, because I think the real question here is, what kind of an organization do we want to carry out the duties that are presently being carried out by the Council? And the essential difference, or I think the critical difference in the legislation you see before you is who and how these choices are going to be made.

In the first place, rather than being persons who are outside the legislature, the membership would be from within the legislature. Now I don't think it makes a great deal of difference with respect to their being defeated or undefeated. I think it does make a difference in the sense that a person who has served in this legislature and taken part in the debates and taken part in the committee activity is in a better position to carry out the will of the legislature after we adjourn and go home.

We often mutter and curse over the fact that after we have adjourned our will is not respected. And I think it isn't so much a case of people not wanting to respect it as a case of being unaware of what transpires here during a session. And I think if the Council is selected from within the legislative membership there is a better chance of having that kind of communication. And the second point, it seems to me, is how this group is going to be selected.

At the present time, as we all know, the actual selection is made by a delegation of the Majority Party of the Council district. Now this means that a relatively small group of people is making the choice from a more restricted group of candidates, to the complete ignoring of the interests of the Minority Party. Now I use the term Minority Party and I think nobody can afford to be smug. I don't happen to share the oblivious optimism of some members of the present Minority Party, but I think it is obvious that the picture has changed and no party can be confident of a minority being the other side.

It seems to me that the government is better served if both parties have the opportunity to have their say in the business of the Council. I hope you will vote against the pending motion.

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

Mr. DAM: Mr. Speaker and Members of the House: I feel something like Representative Susi from Pittsfield, when he said that he is the renegade in the Republican Party. I may be the renegade in the Democratic Party because I rise to support the motion of the gentleman from Machias, Mr. Kelley. I think the only thing we are doing is swapping one set of wordage for another.

We are abolishing the Executive Council and creating the Legislative Council. I do not see any advantage in this. You have been told that there will be advantages but we have been told on many bills the great advantages that we will see. I do not see any advantage in this.

I see nothing wrong with the present Executive Council and I personally have never found the Executive Council that is there now or the one prior to them to be unreasonable in any way or to go beyond their duties in what they should do.

I hope today that we can support the motion to indefinitely postpone this resolution.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think this vote is going to be the most interesting one of the session at the rate that we are going. I do want to make a number of points and I am not sure I want to or can match the remarks made by the gentleman from Machias, Mr. Kelley.

There are a couple of points I think I would like to make in reference to some of the points he raised and also what I think are some of the chief issues involving the Executive Council.

First of all, I don't think the Democratic Party has changed its position in wanting the abolishment of the Executive Council at all, at least through the years that I have been here. I can recall in 1965 a bill that was co-sponsored by the gentleman from Brewer, Mr. Libhart and the gentleman from Enfield, Mr. Dudley, who proposed to remove the powers from the Executive Council. The Democratic Legislature at that time, passed the bill, and of course, it was then vetoed by then Republican Governor John H. Reed. So I don't think that ourselves anyway have changed their parting necessarily, in wanting to do something about the Executive Council.

Speaking for myself and I think as leader of the Democratic Minority here today, it has always been my feeling that the Council does not represent the wishes of the legislature or of either and members of either party. It has been my feeling over the years that I have been here, that the Council does basically what it wants to do regardless of legislative leadership, or legislative appropriations committees or of anything else that is around.

It would seem to me that a Legislative Council could more adequately represent the wishes of the 151 members in this body and the 33 members that will be in the other body in the next session.

I would hope, therefore, that you would vote against the motion for indefinite postponement and if the yeas and nays have not been requested, I so request them.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Over the many years that I have been here, I have enjoyed the most pleasant of relations with the Council and particularly, the members of the Council as representing my area, even though they were members of the opposition party. But somewhere along the line, even the lowest of minorities are deserving of some sort of representation.

I am part of the third councilor district made up of Franklin County, Sagadahoc County and Androscoggin. And it goes to Franklin for two years, comes back to Androscoggin for two and then goes to Sagadahoc for two and back to Androscoggin for four years. And this is the way that it was set up originally. We get it six years while the two smaller counties get it six years as combined between them.

Now, for the 104th legislature, what happened was that there happened to be two members. We started to have the Council for four years in Androscoggin County. It was Androscoggin County's turn for four years. And there happened to be only two of the Republican Party, the majority party, from Androscoggin County. One of the men, a candidate, the gentleman from Leeds, Mr. Buckley, had a candidate by the name of Mathews, and the gentleman from Mechanic Falls, Mr. Foster, the other Republican in the Androscoggin County delegation had a candidate that is presently in the council chambers now, Judge Edmund Darey, who is a close personal friend. Well, it was one to one, so it behooved the Republican caucus to choose the one they wanted, and they chose Mr. Darey.

Last, year, the council seat still came into Androscoggin County. There were no Republicans in the Androscoggin County delegation whatever. The council seat remained in Androscoggin County. Judge Darey remained in his spot and was elected by this group here. I say elected by this group

here because normally when, outside of a very, very few incidents, the recommendation of the majority party within the County where the council seat comes from usually holds water. So, I just feel somewhere along the line that it is a ludicrous situation, one; secondly this is a constitutional amendment and this has been an issue, it has been most always presented, as stated by the gentleman from Eagle Lake, Mr. Martin, the Democratic Party's position has been straight and complete abolishment.

This is a switch, this really and truly is a compromise, and thirdly, if for no other reason, for the last few days, I have seen the man on the right, extreme right and the man on the extreme left kind of take issue with one another, they have married this morning, I will go along with the wedding.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen: Very briefly, I would like to reiterate what the gentleman from Lewiston, Mr. Jalbert, had to say because I was in on this nominating process, the proof of the injustice and inequity in this matter of the present election of the council was in our council district this year.

It was Androscoggin's turn, however, there was not one Republican in the entire delegation and there was no one to nominate him. So I, from Sagadahoc County, being an entirely different county, had to nominate Judge Darey from Androscoggin County.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker, Ladies and Gentlemen of the House: In the beginning I am going to say that I am not in total agreement with the way the council is presently elected. I think that the situation that Representative Jalbert and Ross just called to our attention bears out what I say here.

I do, however, want to point out to you that the members of our council are not neophytes in this process of state government. There

are seven men in there and seven council districts. Two of those gentlemen are long term politicians of excellent caliber. The other five men in there were elected to that council by the members of this body and I contend that they are excellent legislators and I contend that they are extremely knowledgeable in the process of state government.

I wanted to read to you that one paragraph, the statement of fact, on page 5 of L. D. 2009 and it says, "This Constitutional Amendment abolishes the Executive Council and creates a Legislative Council to consist of ten members. The ten members are the President of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, one other Senator appointed by the President of the Senate. The Speaker of the House of Representatives, the Majority Leader, the Minority Leader and three members appointed by the Speaker, must be from the minority party." Fine.

I question the advisability of it though, I think that our Speaker, our leaders here in the House, and our leaders in the Senate are extremely busy. If you stop and think, only last week we considered increasing the salary of some of those members because of their heavy work load. Now here we are trying to create another job that I question their ability to do along with their duties as leadership of this House. I think that probably we could add weeks onto our session if we burden our leadership with this particular work load.

I want to say that in all the years that I have been here, and all the council members that I have dealt with, I have found good cooperation with the exception of only once in the last 12 years. I more or less was told to whistle Dixie, and you all can understand that. But I think it is up to the individual legislator. They say there is no compatibility between this House and our council. I think there is. I think it is our own fault if we don't go in council and talk with our councillors, and create the atmosphere of cooperation between the council and the legislature and so at this point, until we create

a regular session in this House, I would have to go along with the motion of Mr. Kelley and agree that this should definitely be postponed.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Members of the House: This morning I asked a question in regard to an amendment on this bill which would change the bill, which I like a little better. But I would like to ask a question through the Chair to the gentleman from Standish, Mr. Simpson, or the gentleman from Augusta, Mr. Lund, has anyone checked the possibility of this being unconstitutional in regard to a legislator being a member of the Executive Department.

I would question this very much and I wish one of those gentlemen would answer that question.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, poses a question through the Chair to the gentleman from Standish, Mr. Simpson, or the gentleman from Augusta, Mr. Lund.

The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't have the letter right here directly in front of me but the other day in the acceptance of the report on this particular piece of legislation, I read the letter from the Attorney General's office which definitely stated that this would not be in violation of the constitution, but in fact, was doing nothing but strengthening our position as the council should be an arm of the legislature to the Governor's office.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, Ladies and Gentlemen of the House: I am not an attorney, but I doubt if any attorney in this hall or elsewhere will deny the fact that the ruling of the Attorney General is not law and such a thing as this would have to be decided by the Supreme Court of the State of Maine.

We could not get a decision, only an opinion from the Attorney Gen-

eral's office, and they are not always right.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH, Mr. Speaker, Ladies and Gentlemen of the House: I suppose this morning, at least in the eyes of the gentleman from Machias, Mr. Kelley, I am committing several sins by speaking briefly on this measure.

First of all, I am a freshman. Second of all, I am considerably under 30 years of age, and probably lastly, with even greater disdain, from his point of view, I am a Democrat. But I did campaign on this issue when I was running for reelection and I would just like to say a few brief words about it.

First of all, I think that it has been made, at least by reference, clear here that this body is a very undemocratic body, that is, the Executive Council. It is responsible in no way to the people of Maine, yet it has considerable power to block and obstruct many of the nominations and actions of the Executive branch. If there is going to be any obstruction of any executive activities in this state, it seems to me that it ought to be done by the real representatives of the people, that is, this body. It ought not to be done by a group of defeated political candidates who sit in the Executive Council, who have been repudiated by the people of Maine.

Finally, by way of observation, I would say if this goes down the drain today, it is not going to be a boil on the backsides of the legislature, but will continue as it has been, to be a boil on the backside of the Republican Party. It is they who have defeated this bill in the past, and I have a feeling from the way the motions have been made here today that it is going to be they again if it goes down the drain, and I must say, I hope it is not the case.

Finally, to the gentleman from Machias, I would simply say, as I stand here wounded, for I had really hoped that he would support this measure, in the best Shakespearean rhetoric, "Et tu Kelley."

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Wight.

Mr. WIGHT: Mr. Speaker and Members of the House: I certainly agree with the gentleman from Machias, Mr. Kelley, I feel that this is another great adventure in reorganization.

The Council has been tried and proven and tested for 150 years and there is always matters that can be laid at their door and faults that can be found with them. I feel that the Legislative Council will be far more expensive and even more political, and I hope you support Mr. Kelley.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker, Ladies and Gentlemen: I hope you will forgive me for speaking twice, but I did have one more comment that I did intend to make.

I do hope that the Democrats will pardon me for using this analogy that I will today, being March 7 and all of us knowing what is going on in New Hampshire. But today, if nothing else, our Council does come from all sections of the State of Maine and I wanted to point out to you that the sponsor of this bill is a Cumberland County man.

I wanted to point out to you that we have a Senator in our legislative body also from Cumberland County, who has long sought leadership post, and I am using the idea that the Republicans might be in control here, you see. That would give us a President of the Senate, a Speaker of the House from Cumberland County. We conceivably could have leadership in both bodies from Cumberland County. And so what you would be trading for here today would be a Cumberland County Executive Council instead of the broad coverage that we now have as it is constituted today.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Members of the House: I think the innuendo that was just used I think is probably the falsest one or the worst type of argument

that you could put forth for this particular piece of legislation.

I think that while I am right here, that there is something else that ought to be said here. It has also been said that the present members of the Council have been mentioned and what have you. And I as one legislator, and I come from Cumberland County, do not have any quarrel with any of the present legislators or the make-up of the present Council, as the individual members go.

And I will publicly state right here too that I know some of you are saying that I defeated in the primary one of the men that is serving on the Council and that is true. But that, in no way, takes away from his ability on the Council itself, and I might be a freshman but I am going to tell you that I don't think that that, in any way, demeans my ability to stand on this floor and defend what I think is right.

Furthermore, I would seriously question whether some of the veterans have that same ability. Furthermore, I think that we are talking about a Council here that somebody has said that the leadership in our bodies would not have the ability to take and handle. They have also said that there would be no experience on the Council.

Well, if we would put in the leadership on the Council, then you are trying to tell me that there would be no experience on the council? I say just the opposite.

This has been something that I have considered all the time that I was in high school and I was in college and also through my other activities before I ever came to this body, and it was no way brought about just because suddenly I am here. It is something I deeply believe in. I believe that the Council, not the individual members, but the Council, needs to be strengthened and I think this is the best way to do it.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I probably shouldn't get up now but the temptation is too great.

The gentleman from Standish made the remark that he was a freshman. Going back to 1945 and remembering it, he didn't have to tell me that he was a freshman at all, because I used to do exactly the same thing. I would get up on anybody that would say anything about me and I would get up just as hot as a firecracker. And I mean, being now a diplomatic man, I might suggest to the gentleman from Standish, Mr. Simpson, that the easy way to be is the best way.

Now, I would like to thank also, the gentleman from Hope, Mr. Hardy, for remarking about March 7 in New Hampshire because this is an epic in Maine for us. Because March 7, 1972 in New Hampshire, is the beginning of the launching of the next President of the United States, and I am in a hurry to get there, so I hope we vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Machias, Mr. Kelley, that this Resolution Proposing an Amendment to the Constitution to Abolish the Executive Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation, House Paper 1550, L. D. 2009, be indefinitely postponed. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

ROLL CALL

YEA — Bailey, Baker, Bartlett, Berry, G. W.; Bither, Bragdon, Brawn, Brown, Bunker, Call, Carrier, Churchill, Clark, Curtis, A. P.; Dam, Donaghy, Dudley, Dyar, Emery, D. F.; Evans, Faucher, Finemore, Hall, Hardy, Haskell, Hawkens, Henley, Hewes, Hodgdon, Immonen, Kelley, K. F.; Kelley, R. P.; Lee, Lewin, Lewis, Lin-

coln, MacLeod, Maddox, Marsteller, McCormick, Mosher, Murchison, Page, Parks, Payson, Porter, Rand, Rocheleau, Rollins, Shaw, Shute, Silverman, Simpson, T. R.; Stillings, Tanguay, Trask, White, Wight, Williams, Wood, M. E.

NAY — Albert, Barnes, Bedard, Bernier, Berube, Binnette, Birt, Boudreau, Bourgoin, Bustin, Carey, Carter, Clemente, Collins, Conley, Cooney, Cote, Cottrell, Cummings, Curran, Curtis, T. S., Jr.; Cyr, Dow, Doyle, Emery, E. M.; Farrington, Fecteau, Fraser, Gagnon, Gauthier, Genest, Gill, Good, Goodwin, Hancock, Hayes, Herrick, Jalbert, Jutras, Kelleher, Keyte, Lawry, Lebel, Lessard, Littlefield, Lizotte, Lund, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, Millett, Mills, Morrell, Murray, Norris, O'Brien, Pontbriand, Pratt, Ross, Santoro, Scott, Simpson, L. E.; Slane, Smith, D. M.; Smith, E. H.; Susi, Theriault, Tyndale, Vincent, Wheeler, Whitzell, Wood, M. W. Woodbury

ABSENT — Ault, Berry, P. P.; Crosby, Drigotas, Kelley, P. S.; Kilroy, Lucas, McNally, McTeague, Orestis, Sheltra, Webber, Whitson
Yes, 60; No. 77; Absent, 13.

The SPEAKER: Sixty having voted in the affirmative and seventy-seven in the negative, with thirteen being absent, the motion does not prevail.

The Chair recognizes the gentleman from South Portland, Mr. Gill.

Mr. GILL. Mr. Speaker and Ladies and Gentlemen of the House: I customarily don't get up just to go on record, but on this issue, I am.

I voted against the indefinite postponement of this bill. However, I am going to vote against the enactment of this particular piece of legislation. There are a great number of members in this House that are for a change in the Council. As it was mentioned the other day, there was a report that could have been accepted but was not. It would call for the election of the Council by the councilor's district. And that is the position of a lot of us in this House. We are in favor of change but not of this particular bill.

The SPEAKER: This being a Constitutional Amendment, a two-thirds vote of the House is necessary. All in favor of this Resolution receiving final passage will vote yes; those opposed will vote no.

A vote of the House was taken. 68 voted in the affirmative and 67 voted in the negative.

Whereupon, Mr. Martin of Eagle Lake requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, I request that this matter lie on the table for one legislative day.

Mr. Silverman of Calais requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that this matter be tabled until tomorrow, pending final passage. All in favor of tabling will vote yes; those opposed will vote no.

A vote of the House was taken. 55 having voted in the affirmative and 72 having voted in the negative, the motion did not prevail.

The SPEAKER: The yeas and nays have been ordered. All in favor of this Resolution being finally passed will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Barnes, Bedard, Bernier, Berube, Binnette, Birt, Boudreau, Bourgoin, Bustin, Carter, Clemente, Collins, Cooney, Cote, Cottrell, Cummings, Curran, Curtis, T. S., Jr.; Cyr, Dow, Doyle, Farrington, Fecteau, Fraser, Gagnon, Gauthier, Genest, Good, Goodwin, Hancock, Hayes, Herrick, Jalbert, Jutras, Keyte, Lawry, Lebel, Lessard, Littlefield, Lund, Lynch,

Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, Mills, Morrell, Murray, Norris, O'Brien, Pontbriand, Pratt, Ross, Santoro, Scott, Simpson, L. E.; Slane, Smith, D. M.; Smith, E. H.; Susi, Theriault, Tyndale, Vincent, Wheeler, White, Whitzell, Wood, M. W.

NAY — Bailey, Baker, Bartlett, Berry, G. W.; Bither, Bragdon, Brawn, Brown, Bunker, Call, Carey, Carrier, Churchill, Clark, Conley, Curtis, A. P.; Dam, Donaghy, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Faucher, Finemore, Gill, Hall, Hardy, Haskell, Hawkens, Henley, Hewes, Hodgdon, Immonen, Kelleher, Kelley, K. F.; Kelley, R. P.; Lee, Lewin, Lewis, Lincoln, Lizotte, MacLeod, Maddox, Marstaller, McCormick, Millett, Mosher, Murchison, Page, Parks, Payson, Porter, Rand, Rocheleau, Rollins, Shaw, Shute, Silverman, Simpson, T. R.; Stillings, Tanguay, Trask, Wight, Williams, Wood, M. E.; Woodbury.

ABSENT — Ault, Berry, P. P.; Crosby, Drigotas, Kelley, P. S.; Kilroy, Lucas, McNally, McTeague, Orestis, Sheltra, Webber, Whitson.

Yes, 70; No, 67; Absent, 13.

The SPEAKER: Seventy having voted in the affirmative and sixty-seven in the negative, with thirteen being absent, seventy being less than two-thirds, this Resolution fails of final passage.

Sent to the Senate.

Passed to Be Enacted

An Act Reallocating Funds for Professional Contractual Employees of the Joint Standing Committees of the Legislature and a Pay Raise for Members of the Legislature and Indian Representatives at the Legislature (H. P. 1450) (L. D. 1893)

An Act to Correct Errors and Inconsistencies in the Education Laws (H. P. 1468) (L. D. 1911)

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

The SPEAKER: Is it now the pleasure of the House these Bills be passed to be enacted?

(Cry of "No")

All in favor of these Bills being passed to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

107 having voted in the affirmative and 16 having voted in the negative, the Bills were passed to be enacted, signed by the Speaker and sent to the Senate.

Enactor

Tabled and Assigned

An Act Implementing the Reorganization of the Department of Finance and Administration (H. P. 1546) (L. D. 2002)

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

(On motion of Mr. Cote of Lewiston, tabled pending passage to be enacted and tomorrow assigned.)

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

SENATE JOINT ORDER — Re Leadership be provided with legislative assistance prior to convening of 106th Legislature (S. P. 783) — In Senate, read and passed.

Tabled — March 6, by Mr. Porter of Lincoln.

Pending — Passage in concurrence.

On motion of Mr. Porter of Lincoln, retabled pending passage in concurrence and tomorrow assigned.

The Chair laid before the House the second tabled and today assigned matter:

Resolution Proposing an Amendment to the Constitution Providing for Apportionment of the House of Representatives into Single Member Districts (H. P. 1543) (L. D. 1999)

Tabled — March 6, by Mr. Susi of Pittsfield.

Pending — Final passage.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: First off I would like to thank you for your courtesy during the several days that I had this tabled and moving it along to the point of final enactment.

I think in my own mind that this bill we are now considering may be the basis, if serious consideration is not given to it or some

modification of it, as one of the more serious problems we will have to face in the next session of the legislature. I would first like to go back a little into history, and the background of two decisions of the United States Supreme Court.

From 1901 to 1962 the overwhelming majority of the states refused to apportion themselves, and at least twenty states were in open violation of their constitutions. The State of Tennessee had not apportioned itself in seventy years. This resulted in court suits and was the basis for the original apportionment decision of the United State Supreme Court in Baker vs Carr, in 1962. Few decisions of that court have resulted in more discussion and provoked stronger reactions, especially among politicians and legislators.

Two years later the same court handed down a second and probably much more noteworthy decision in Reynolds vs Sims. This decision said that both houses of a bicameral legislature must be apportioned on a strict population basis. This led to the development of the one man-one vote philosophy in reapportionment. At the time of Reynolds vs Sims there were only five states which were apportioning on a strict population basis. Incidentally Maine was not one of these states.

Since the handing down of these two decisions many states have had to revise their Constitutions and much litigation has resulted. It bears out well what Justice Frankfurter warned at the time of the original Baker-Carr decision "of the endless quagmire into which this Court today catapults the lower courts of the country."

The one state which I would like to discuss briefly as its problems seems to closely parallel ours is Illinois. This state had gone for 55 years without apportioning itself. In 1963 they found themselves in a situation similar to what we presently have in this state — one party controlling both houses of the legislature and the Governor being of the other party. In 1963 the legislature passed an apportionment bill which the Governor vetoed. The legislature could not pass the bill over the Gover-

nor's veto. The Court ruled then that the House members must all run at large. This created, as some of you may remember, a yard long ballot, 354 legislators running at large and the people of Illinois had to vote for 177.

The Court did decree that in the event one party did not elect one third of the legislature that one third would be of the opposite party. Imagine the reaction if the big box repeal passes and we were faced with a ballot in November with 302 names in a straight line and having to select 151. Illinois showed it could be done, but did not recommend it ever be tried again.

Now where do we stand in Maine? In 1963 after Baker vs Carr we made one change in our apportionment. This was to eliminate a requirement that no municipality, regardless of the size of its population could have over seven representatives. This restricted Portland to seven instead of the eleven that they should have been entitled to. It also put into the Constitution that single member districts could not be formed unless two thirds of the legislature concurred. This change in the Constitution left districting within the counties and did not allow the crossing of either county or municipal lines. It also said that the House must apportion itself in not less than five nor more than ten years.

The special session which convened after the adoption of this constitutional change apportioned the Maine House in January 1964. The legislature which will convene on the first Wednesday of January next will be required to apportion this House again, and I would emphasize this point, that the next legislature must apportion itself.

"We have just seen a long drawn out battle over apportioning the Senate. One factor in this apportionment battle was that there was no disagreement over guidelines. These are very simple for the Senate an odd numbered body, thirty-one, thirty-three or thirty-five Senators. The problem here was simply mechanics or construction of districts. At the regular session which adjourned last June

four bills were introduced relative to House Apportionment, two by each party. These never did get to the House, but were tabled in the Senate and sent to the Court with a list of question for which answers were requested. Shortly thereafter, the Legislature adjourned and the Court ruled that there was nothing before the legislature; thus no solemn occasion existed.

I have discussed with several knowledgeable people what action the Court might have taken if the legislature had been in session. The general opinion was that the Court would probably not have answered the question, but would have said for the legislature to apportion the House and then have a test case presented on the basis of that apportionment. I recognized that this problem did exist as early as February a year ago and though I tried in every way that I could to get this problem before the Court earlier procrastination of both parties prevented an earlier presentation.

Now where are we at the present time? I have prepared a list — and you have it on your desks, of 29 communities in this state which would have population exceeding the State unit base number, which is the number of Representatives, 151 divided in the population of the state. All 29 are substantially over this figure of 6,581, which is the population as I just indicated. This listing also gives the ratio per representative and the percentage of deviation. In three cases, Bangor, Portland and Biddeford, the percentage deviation is not excessive. In all others they do go up to as high as in one case of 167.6% of the State unit base number.

During the last two times in which this bill has been on the calendar I have attempted to give some background on the bill to at least try to initiate some thinking about the problem before you. Now it is my opinion, and I am confident that I am correct, that a town such as Orono, which is almost one and half districts by population, cannot under the present apportionment formula of the Maine Constitution be districted under the one man-one vote con-

cept. And incidentally the bill I used to determine the number of representatives for these communities was the one developed by the Minority Party and not the one developed by the Majority Party, so that there could not be any feeling that one might have any advantage over the other. In fact actually the two bills are so much alike that the adoption of either one or the other would probably not have affected the makeup of this body.

The Constitution does not allow the crossing of either county or community lines. Moreover, it says, that after the communities which have over the unit base number, in this case the county base, are given their quotas the balance of the communities will be grouped together to form districts equal in number to the unallocated representatives. The problem in Senate apportionment was to get down to as low a deviation between districts as possible. All districts were developed with less than a two percent deviation.

Then to take some other examples. What do we do with Augusta?

Presently it has three representatives and according to the population of 1970 would have 7,315 people per representative or 111.2%. Now Brunswick which has two representatives and 8,098 people per representative, and this is a variation of 123.1% of the State unit base number.

Do you add a town with either of these communities to give them another representative? This completely disenfranchises the small town, and is not permissible under the Constitution. Do we cut off the extra population and make a district with this remainder? This would be reasonable but again the Constitution does not allow it. In at least one area two large communities can be joined together to make near perfect ratio with ten representatives, and the only example that I could find in the state where this could be done would be the joining of Lewiston and Auburn together to jointly elect ten representatives and they would be almost perfectly on the 6581 factor. This would solve the problem this time, but what about

the next census and the inevitable shifting of population?

A second problem with our present constitutional provision is if the legislature cannot solve its problems then the Court will do it. The Maine Supreme Court, I am told, is very dissatisfied with the position we have put them in. Their reason for being is to interpret the law, not to be an apportionment body. What would be their position if the present Senate Apportionment were appealed to the United States Supreme Court and overturned? Even a citizen of Maine is in the position of having to go out of the State to a higher court to get a decision of the present apportionment of the Senate if they desired it. Certainly the Maine Supreme Court or any Court cannot rule on its own efforts. If we do not make an attempt to do something with House apportionment before we go home, we are unfairly placing the Maine Supreme Court in the position of having to apportion this body with uninterpretable guidelines. This is to me absolutely irresponsible.

Now I fully understand the problem and thinking of some of the members of the other party, and I will add that quite a few I have talked to do not concede the problems involved here and think that something should be done.

However, I do both challenge and plead with them to face up to this problem. I have spent much time on this and will be willing to discuss this in any way that might lead to a possible conclusion.

I would now like to discuss the last part of this amendment. Several states, not being able to come up with solutions to their apportionment problems have set up Commissions or other methods of settling this problem. At least two have turned the problem over to the Governor with a small Commission to advise him. And I might read just a little bit of California — and this was an article that was taken out of a California paper back during the summer in which they are in the same box that we are in which they have a Democratically controlled legislature to a Republican Governor or vice versa.

And this article indicated that — “Perhaps the time has come for people to take back the power to redistrict the legislatures. Some have suggested a broad-based, blue-ribbon citizens’ commission—similar to a grand jury. A body of peers representative of the sections and segments of the state. All groups. All blocs.

Provide such a commission with a competent non-partisan staff, some computers and some basic guidelines. Voter equity. Community interest and geographic identity for each district: None of this drawn-out, twisted around, winged dragon stuff. A fair reflection of basic partisan registration so that neither party has impotence or monopoly.”

When the Special Commission appointed by the Governor to study the Senate Apportionment submitted their report, one recommendation was that a special Commission be established prior to the meeting of the legislature which was to have to reapportion itself. This Commission was to submit a plan to the body being apportioned for initial consideration as a guide to their problem. The National Municipal League, which has done a great deal of work and study in this area strongly recommends that some body, apart from the legislature, do at least some of the initial apportionment effort.

This amendment which completely rewrites the original bill, recommends a special commission be established to develop a plan and submit it to the Joint Committee which is to study the apportionment of the House. One of the people who reviewed this piece of legislation suggested that I put the Senate under the bill at the same time. He thought the idea had a good deal of merit. This Commission, and if you will take the amendment H-616, establishes a Commission of eleven members, the Speaker and two others appointed by him, one member of the House appointed by the minority leader, two from the Senate one appointed by the president and one by the minority leader, the heads of each of the major parties, and three members appointed by the Governor, two from

Maine Colleges and one from a citizens group.

I would point out, and some of the members of my own party might disagree with me on this, although I do think that the approach is reasonable, that the balance of power in this constitutional change rests with the lay members appointed by the Governor. The Majority Party having five members is voted by three from the Minority Party and three appointed by the Governor. This proposal went possibly a good deal further than I ever thought I might go. The more I thought and searched my own mind for it, it appeared to me to be reasonable.

I sincerely hope that you will give this bill your support and if you do not do something, as I have pointed out, I fear that the next legislature will be left in an unsolvable position, remembering that it takes at least two years to amend the Constitution and this job must be done by January 1, 1974.

If this bill does pass, I would add at the end that I would intend to introduce an order to set this Commission up so that they could start to do some preliminary work and submit a report to the next legislature.

Now there is some other material on your desks in which I have put — I attempted to put all this together. One of them shows the breakdown and either one of these two bills, 1843 or 1846, which were introduced in the last session, are very very close alike and they do show the deviations of districts and the number of districts that are off from the mean of 6581, both over and under.

It also has a breakdown of York County and York County in both bills are identical, and it shows the number of representatives and the ratio per representative. And we have got one interesting situation in there in which Kittery has 11,028 people with one representative and Saco with 11,678 or 559 more people has two representatives. Any citizen in the Town of Kittery could challenge in court any plan that might be submitted to this Legislature or if it is adopted by this Legis-

lature and approved by the Governor could then be immediately challenged in court because he was under represented.

And it also gives a breakdown of the counties, and you will find in this too that at least taking the two extreme examples, Piscataquis and Franklin Counties. Now Franklin County, before you even start to develop any districts you are 13.8% over, they have 7,481 people, as a minimum you could have in any district if all three of them were exactly even. Piscataquis County, likewise with three representatives, has 5,428 or the 17.9% over the deviation.

I do think that something should be done and if the solutions that I have suggested and worked out here are not reasonable, are not sound, I think that some other solution should be developed and I would hope that you would give this some consideration this morning.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank Representative Birt for all the work that he has done in this very important area and I would hope frankly that the sea of empty seats in Representative Birt's row is not indicative of any kind of lack of interest on the part of the legislature in this particular topic.

I would like to mention that in a recent decision of a U.S. District Court, a Minnesota Legislature has not only been reapportioned by the Court, but reduced in size by the Court. I would agree with Representative Birt that we have some serious problems and he has described the situation as it exists in Orono. I think all of us know our own situations particularly well.

But I would also like to agree with him that if we don't act we are not really doing our constitutional duty and unfortunately the Courts may find it necessary to act for us.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House:

For the past two weeks, I have found it relatively rough in this corner. It seems to be getting rougher day by day. Maybe that is the way special sessions go, I guess, I am not sure.

I don't think that I necessarily want to waste any time of anyone else this morning on this issue or perhaps on some of the others that we have discussed or are probably going to discuss later.

The minds have been made up for some time, we are not going to change anyone. I suppose I could make some comments about this particular bill much as someone else made on the bill which I had this morning called Human Services, and that was basically, let's refer it to the 106th because no one knows what's in it. I have a feeling that this is partially true in this case, even though I know in this case what the final result is going to be, might not have been true in the bill that I was sponsoring earlier.

To respond to the remark made by the gentleman from Orono, Mr. Curtis, in the case of Minnesota, Minnesota does not have a constitutional limitation as to the number of legislators or senators that it will have. And so the Federal Court went and reapportioned and decided that it was going to cut the size of both houses.

This it would not do in Maine since we do have our constitutional limit within the Constitution. And, of course, it specifically says 151 in the House and in the case of the Senate it says either 31, 33 or 35. Now in terms of whether or not the Federal Courts could reapportion the Maine House and the Maine Senate, of course that is very true if someone will bring a suit, and of course I suspect that it is even true now under the reapportionment adopted by the Court in the other body.

I don't think that it is going to change one vote and, therefore, I ask you to vote against the bill, against final passage today, and I ask that when the vote is taken it be taken by the yeas and nays.

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

Mr. COTTRELL: Mr. Speaker and Members of the House: I happened to have served on the Interim Committee on constitutional amendments and reapportionment in 1963. And I know we will have to reapportion, of course, and I know Mr. Birt and probably other members too have given us a very good mathematical report of our present districts and that, in itself, shows that something has to be done.

On the matter of single districting, I know that I will never be affected by any single district. I do think that that is a problem. It should be noted that multiple districting is not unconstitutional. If Portland, for instance, has a reduction of one representative to make their total number 10 in a new reapportionment, there are many ways of doing it. We have six wards.

For instance, you might want to have each ward represented by one and then four elected at large. There are many combinations and permutations in redistricting. I would not want to vote for a bill that orders single member districts, but I would like to vote for some kind of a vehicle to establish an Interim Committee to make recommendations to the next legislature on the whole matter.

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

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

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: During this entire discussion, I have stayed completely clear of the philosophy of single member districts. The problem as I see this morning is not a discussion or a decision on single member districts. It is a decision of whether you can or cannot apportion the

House of Representatives at the next session of the legislature when you are required by the Constitution to do it.

I would pose a question to the gentleman from Eagle Lake, Mr. Martin, as to why he refuses to face up to this question and apparently why he desires to seek sanctuary in the Court.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would be more than happy to respond to the question posed by the gentleman from East Millinocket.

I would suspect I might respond in this way, that I trust the Courts a little bit more than I trust the Republican majority to do anything about reapportioning a fair House of Representatives.

I think that over the years, right now, if this body were reapportioned according to enrollment figures, we would be a heck of a lot closer to being in the majority today in this body. I, for one, am not willing to accept a reapportionment plan that has been determined that it is going to be gerrymandered before it is even given to us.

And for that reason, I am not willing to accept this type of an approach to the problem.

The SPEAKER: All in favor of final passage of Resolution Proposing an Amendment to the Constitution Providing for Apportionment of the House of Representatives into Single Member Districts, House Paper 1543, L. D. 1999, will vote yes; those opposed will vote no.

ROLL CALL

YEAS — Ault, Bailey, Baker, Barnes, Bartlett, Berry, G. W.; Berube, Birt, Bither, Bragdon, Brawn, Brown, Bunker, Churchill, Collins, Cummings, Curtis, A. P.; Curtis, T. S., Jr.; Donaghy, Doyle, Dyar, Emery, D. F.; Faucher, Finemore, Gagnon, Gill, Good, Goodwin, Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, Jutras, Kelley, K. F.; Lee, Lewin, Lincoln, Littlefield, Lund, MacLeod, Maddox, Marstaller, McCormick, Mill-

ett, Morrell, Mosher, Murchison, Norris, Parks, Payson, Porter, Pratt, Rand, Rollins, Ross, Scott, Shaw, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Stillings, Susi, Trask, Tyndale, Vincent, White, Wight, Wood, M. W.; Wood, M. E.; Woodbury.

NAYS — Albert, Bedard, Bernier, Binnette, Boudreau, Bourgoin, Bustin, Call, Carey, Carrier, Carter, Clemente, Conley, Cooney, Cote, Cottrell, Curran, Cyr, Dam, Dow, Dudley, Farrington, Fecteau, Fraser, Gauthier, Genest, Hancock, Kelleher, Keyte, Lawry, Lebel, Lessard, Lizotte, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, Mills, Murray, O'Brien, Pontbriand, Rocheleau, Santoro, Slane, Smith, D. M.; Smith, E. H.; Theriault, Wheeler, Whitzell.

ABSENT — Berry, P. P.; Clark, Crosby, Drigotas, Emery, E. M.; Evans, Jalbert, Kelley, P. S.; Kelley, R. P.; Kilroy, Lewis, Lucas, McNally, McTeague, Orestis, Page, Sheltra, Tanguay, Weber, Whitson, Williams.

Yes, 77; No, 52; Absent, 21.

The SPEAKER: Seventy-seven having voted in the affirmative, fifty-two in the negative, with twenty-one being absent, 77 being less than two-thirds, this Resolution fails of final passage.

Sent to the Senate.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act to Revise the Site Location of Development Law" (S. P. 767) (L. D. 2045)—In Senate, passed to be engrossed.

Tabled—March 6, by Mr. Hardy of Hope.

Pending — Adoption of House Amendment "A" (H-620).

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

Mr. LUND: Mr. Speaker, I support the pending motion to adopt the pending amendment.

Thereupon, House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker, Ladies and Gentlemen of the House: The

last few days we have had a lot of talk about taking away our responsibilities or taking away our votes or doing this and doing that. Right about now, we are taking away a good portion of the responsibility of our town fathers. This state is made up of a great many small towns.

If you read this bill, you will find that even though they have some problem with this subdivision part of the law, and I've got no quarrel with that, probably do have some trouble with it. But what this does it brings under the law all towns, all cities, all water districts, all school districts. Anything that has to do with that, has to get a license from the EIC to do anything.

Now maybe we need this kind of control, but I say in this day and age, we need less control instead of more control. And I am going to make a motion to indefinitely postpone this bill and all its accompanying papers.

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

Mr. DUDLEY: Mr. Speaker and Ladies and Gentlemen of the House: I support the gentleman from Albion, Mr. Lee. I am against centralized government, not today, but I always have been, and this is another step in centralized government.

I have served a long time as selectman of a town, some twenty years, I am not serving now, but if I were I would not like any more dictation from Augusta on what you can do or any more permits you would have to acquire.

We have over 300 towns in this state and I think if you would inquire of any of these people that are trying to run these towns, and most of these selectmen serve either without pay or nearly without pay and our good government in Maine is really formed by these people, they are holding these little towns together. And I hope that the House will not be so unreasonable to try to force more regulations on these people when it is unnecessary at this time, I am certain that it is unnecessary at this time.

Now if this bill could be amended to include such cities as Lewiston, Augusta and Portland, some of these metropolises that may need this, this might be something sensible. But when you try to bear all these regulations on a small community that has three selectmen, and these selectmen are overworked now with the regulations and permits and so forth. I don't believe we are doing justice to the good government of the State of Maine. I hope you will see fit to vote for Mr. Lee's motion.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, what this bill does, as I believe most members of the House recognize, this keeps subdivisions in the law. As it is presently drafted, this law covers subdivisions. Both the EIC and developers of land need some basic guidelines and this bill would give them these guidelines. It is absolutely necessary, from my point of view to keep subdivisions in the law, as 85 per cent of the developments coming within the site law in the last two years have been subdivisions. So I hope that you will examine the amendment, which we believe is a good one, and that you will vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentlewoman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker and Members of the House: I think an answer needs to be given as far as the State Quasi-municipal, Educational and Charitable Developments. Now the reason these are named in the law at this time is to insure the legality of the law as to equal treatment of projects which create potential environmental problems by a virtue of their size. This means that if the town is going to construct something that is over 60,000 square feet or something that is over 20 acres, that the same impact of the law will be on them, and I don't see why this is objectionable. It doesn't mean that every single time a town is going to do some small project that they have to

come to the EIC. It is only if they come under the size provisions that are now in the law.

The SPEAKER: The pending question is on the motion of the gentleman from Albion, Mr. Lee, that this Bill be indefinitely postponed. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

A vote of the House was taken.

47 having voted in the affirmative and 72 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

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

On motion of Mr. Porter of Lincoln,

Recessed until two o'clock in the afternoon.

After Recess
2:00 P.M.

The House was called to order by the Speaker.

The SPEAKER: The Chair observes a very important young lady in the rear of the Hall of the House. The Chair would ask the gentleman from Limestone, Mr. Albert, to escort the Maine Potato Blossom Queen to the rostrum.

Thereupon, Representative Albert escorted Miss Martha Getchell to the rostrum, amid the applause of the House, the members rising.

Miss MARTHA GETCHELL: Thank you. I would like to take this time to thank you for giving me the time for having the honor to come and speak to you, the House of Representatives.

I would also like to remind you that March 15 through 25 is Maine Potato Week. I know I am here a little ahead of time, but I am here for publicity pictures.

Thank you very much for the great honor. (Applause)

Thereupon, Mr. Albert escorted Martha Getchell from the Hall of the House.

The following papers from the Senate were taken up out of order by unanimous consent.

From the Senate: The following Order:

ORDERED, the House concurring, that the Legislative Research Committee be, and hereby is, directed to study the subject matter of the bill, "An Act Relating to Animal Welfare, Senate Paper No. 705, Legislative Document No. 1886, introduced at the First Special Session of the 105th Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the State Department of Agriculture be directed to provide the Committee with such technical advice and other assistance as the Committee feel necessary or appropriate to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report its findings and recommendations at the next regular session of the Legislature; and be it further

ORDERED, that upon passage in concurrence, a copy of this Joint Order be transmitted forthwith to said department as notice of the pending study. (S. P. 753)

Came from the Senate read and passed.

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

From the Senate: The following Order:

ORDERED, the House concurring, that the Legislative Research Committee be directed to study the feasibility of using a cost plus formula in place of the existing flat rate for computing reimbursement to boarding and nursing homes which provide services to the State; and be it further

ORDERED, that the State Department of Health and Welfare be respectfully directed to provide such technical advice and other assistance as the committee deems necessary to carry out the purposes

of this Order; and be it further

ORDERED, that the Committee report the results of its findings to the next regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that a copy of this Order be transmitted to said department as notice of the pending study. (S. P. 784)

Came from the Senate read and passed.

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

From the Senate: The following Joint Resolution:

WHEREAS, the Members of the Legislature have learned of the passing, on February 10, 1972, of Mr. Jack Laurence of South Portland, Maine; and

WHEREAS, Mr. Laurence was one of the most devoted and well loved sports promoters of our time; and

WHEREAS, it is beyond reach to detail the many persons he helped directly or indirectly, the number of performers whose careers he fostered, the thousands of spectators' lives he enriched; and

WHEREAS, his remarkable career has left enduring marks in or about the arenas and halls and their occupants literally around the world; and

WHEREAS, less known were his many quiet acts of charity and civic mindedness which have made bonds global in scope that may never be severed; now, therefore, be it

RESOLVED: That We, the Members of the 105th Legislature of the State of Maine now assembled in special session, take this moment to inscribe this token of lasting affection and esteem for his memory and extend our deepest sympathy to his family and our understanding to all others who share in the loss; and be it further

RESOLVED: That a copy of this Joint Resolution, duly attested by the President of the Senate and the Speaker of the House, be immediately transmitted by the Secretary of State to the bereaved family. (S. P. 781)

Came from the Senate read and adopted.

In the House, the Joint Resolution was read and adopted in concurrence.

Non-Concurrent Matter

Resolution Proposing an Amendment to the Constitution to Reduce the Age of Qualification as a Member of the Maine House of Representatives to Twenty Years (H. P. 1508) (L. D. 1950) which was finally passed in the House on March 6 and passed to be engrossed on February 29.

Came from the Senate having failed final passage.

In the House: On motion of Mr. Lawry of Fairfield, the House voted to insist.

The Chair laid before the House the first tabled and later today assigned matter:

Refer to the Committee on State Government — Committee on Natural Resources on Bill "An Act to Revise the Maine Land Use Regulation Commission Law" (S. P. 709) (L. D. 1890) — In Senate, Bills substituted for the Report and passed to be engrossed as amended by Senate Amendment "C" (S-388)

Pending — Motion of Mr. Smith of Waterville to accept Report in non-concurrence.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: For one fleeting moment this morning we had the makings of a miracle when this House was momentarily at a loss for words, as the Speaker awaited a motion on L. D. 1890. I am afraid to admit that the motion that I made would not do what I think ought to be done. Therefore, I would ask to withdraw and move instead that the Bill be substituted for the Report in concurrence.

Thereupon, Mr. Smith of Waterville withdrew his motion to accept the Committee Report, and on motion of the same gentleman, the House substituted the Bill for the Report in concurrence.

The Bill was read twice.

Senate Amendment "C" was read by the Clerk and adopted in

concurrence and the Bill assigned for third reading tomorrow.

The Chair laid before the House the second tabled and later today assigned matter:

Bill "An Act relating to Guarantees by the Maine Industrial Building Authority" (S. P. 706) (L. D. 1887) — In House, passed to be engrossed as amended by Senate Amendment "B" (S-361) and House Amendments "B" (H-606) and "C" (H-607) in non-concurrence. In Senate, House Amendment "B" indefinitely postponed and Bill passed to be engrossed as amended by Senate Amendment "B" and House Amendment "C" in non-concurrence.

Pending — Further consideration.

On motion of Mr. Emery of Rockland, the House voted to recede.

On further motion of the same gentleman, the House voted to recede from the adoption of House Amendment "B".

On further motion of the same gentleman, House Amendment "B" was indefinitely postponed in concurrence.

The same gentleman then offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-626) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, I would pose a question to the gentleman from Rockland, Mr. Emery, as to what is the difference between House Amendment "B" which we just indefinitely postponed and House Amendment "D" which he is now offering.

The SPEAKER: The gentleman from Eagle Lake, Mr. Martin, poses a question through the Chair to the gentleman from Rockland, Mr. Emery, who may answer if he chooses.

The Chair recognizes that gentleman.

Mr. EMERY: Mr. Speaker and Ladies and Gentlemen of the House: Very simply, House Amendment "B", which passed under the hammer in this body, ran into

trouble down at the other end of the hall because some of the Senators felt that it was a little bit too inclusive.

Therefore, in an attempt to compromise without taking any further time, I merely watered the language down. The MIBA under this amendment would no longer have any authority to enter into management decisions of the board, but merely would recommend decisions that they thought would avoid a default. The amendment that I just indefinitely postponed would, in fact, have given the MIBA the authority to interject their own decisions directly into management decisions of a business that was in danger. That is all that it does.

Thereupon, House Amendment "D" was adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "B" and House Amendments "C" and "D" in non-concurrence and sent up for concurrence.

The Chair laid before the House the third tabled and later today assigned matter:

An Act to Appropriate Moneys for the Expenditures of State Government and Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973 (S. P. 768) (L. D. 2047)

Pending—Passage to be enacted.

On motion of Mr. Susi of Pittsfield, retabled pending passage to be enacted and tomorrow assigned.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Is the House in possession of L. D. 2051?

The SPEAKER: The answer is in the affirmative. Bill "An Act Implementing the Reorganization of the Department of Environmental Protection, Senate Paper 772, L. D. 2051, on which the House voted to recede and concur earlier in the day.

The Chair recognizes the same gentleman.

Mr. HARDY: Mr. Speaker, Ladies and Gentlemen: Last week, the House passed by a 3 to 1 margin, the amendment to this bill,

which would leave the EIC at its present membership of ten.

Yesterday in the other branch, it was decided that our amendment should be rejected and such happened. This morning, as you all remember, we receded and concurred and this went under the hammer without debate.

I think that we should have asked for a Committee of Conference at the moment. I believe that most of us believe that the present EIC, with its present makup, is doing a pretty good job and I think we shouldn't change its make-up without good reason. Nobody has given us a good reason for adding this new member to the commission.

I now move that we reconsider our action this morning, and if this is granted I should ask to insist and ask for a Committee of Conference.

Thereupon, on motion of Mr. Hardy of Hope, the House reconsidered its action of earlier in the day whereby it voted to recede and concur.

The motion to recede and concur was lost.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. HARDY: Mr. Speaker, I now move that we insist and ask for a Committee of Conference.

The SPEAKER: The gentleman from Hope, Mr. Hardy, now moves that the House insist on its former action and ask for a Committee of Conference.

The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the gentleman from Hope that we should keep the EIC at its present membership. I am just wondering, however, if perhaps what we ought to do is just to move to insist on our former action rather than asking for a Committee of Conference.

I wonder if you would take that under consideration. I think it would save us some time and prevent another committee having to meet. Mr. Speaker, does the motion to insist have priority over insisting and asking for a Committee of Conference?

The SPEAKER: The answer is in the affirmative.

Thereupon, on motion of the same gentleman, the House voted to insist.

On motion of Mr. Porter of Lincoln,

Adjourned until ten o'clock tomorrow morning.