

MAINE STATE LEGISLATURE

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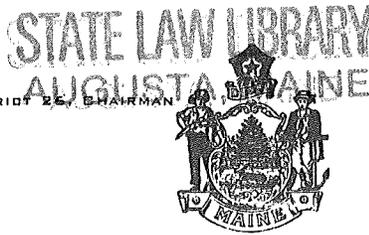


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STATE OF MAINE
ONE HUNDRED AND SEVENTH LEGISLATURE
COMMITTEE ON STATE GOVERNMENT

October 31, 1975

Hon. Jerrold B. Speers, Chairman
Legislative Council
State House
Augusta, Maine 04333

Dear Senator Speers:

Joint Order H.P. 1781 of the 107th regular session of the Legislature directed the State Government Committee to study the Maine Revised Statutes "for the purpose of amending such statutes to conform with the proposed amendment to the Constitution abolishing the Executive Council."

I am pleased to enclose the preliminary report of the State Government Committee entitled, "Replacing the Executive Council".

Because of the pertinent nature of the topic, copies of the report are being mailed to all Legislators.

The comment and suggestions of Legislators, the Governor, members of the Executive Council and other citizens who are concerned with the orderly transition required to replace the Executive Council are solicited. If the amendment is ratified by the People on November 4th, the State Government Committee will conduct a public hearing on the enclosed report and thereafter draft the recommended statutory changes into a legislative document for consideration at the Special Session.

Sincerely,

A large, stylized handwritten signature in dark ink, which appears to read "Theodore S. Curtis, Jr.".

Theodore S. Curtis, Jr., Chairman
Committee on State Government

REPLACING
THE
EXECUTIVE COUNCIL

A Preliminary Report
of the
Joint Standing Committee
on
State Government
107th Legislature

October 31, 1975

REPLACING
THE EXECUTIVE COUNCIL

"There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble; and he with the Councillors, or a majority of them may from time to time, hold and keep a Council, for ordering and directing the affairs of state according to law."

Constitution of the State of Maine, Art. V, Pt. 2, §1

When the Constitution of the State of Maine was drafted 154 years ago, the draftsmen formulated a government designed for a situation which no longer exists and which perhaps did not exist when Maine became a state. Within the memories of many of the draftsmen of the Maine Constitution, the executive branch of government, in the person of the royal Governor, had completely dominated government, resulting in the virtual exclusion or elimination of colonial legislatures from the governing process and the extreme weakening of the court system in the colonies. Most of the original 13 states had responded to this situation by creating in their constitutions a check on the executive branch in the form of a council corresponding to the only form of check on royal power allowed the colonies.

By the time of Maine's separation from Massachusetts, three of the councils created in the 1780's had been abolished and three more councils were abolished within 30 years after Maine became a State. In 1820, Maine became the one state not among the original colonies to establish a dual executive by creating an Executive Council.

"The whole idea of a council to share executive power with the Governor goes back to colonial days. Because of the intense fear and mistrust of an all-powerful governor engendered by the frequent abuses of power by British royal governors, many of the early states set up councils to check and to dilute the powers of state governors.

The theory of government was of three branches; legislative, judicial and executive. A system of check and balances was worked out between these three.

But because of over-riding fear of concentrated executive power, it was further divided between the governor and an executive council in such a way that neither could act without the other in most vital matters. There was, in short, a dual executive."

Bangor Evening Commercial, March 17, 1953

Originally the Executive Council (which has often been referred to as the Governor's Council) quite literally shared the power of administering State government. The Council approved every appointment of the Governor, and at that time the Governor appointed most employees of the State personally. The Council approved every warrant issued by the Treasurer upon order of the Governor, and thereby had the final say on expenditure of state funds. The Council participated jointly with the Governor in the pardoning process.

In 1975 the need for a dual executive is no longer urgent and this lack of urgency has been reflected in the steady diminution over the years of the powers of the Executive Council. The power of the chief executive to gain further power through control of appointments has been diminished by the advent of a civil service personnel system and by statutory establishment of qualifications needed for certain officers. Correspondingly, the control of the Executive Council over appointments has been lessened, although this control is still the strongest check on executive power retained today.

Other checks on the executive expenditure of funds have been established. Today, extensive audits of state expenditures are required, line budgets closely regulate the use of appropriated funds, and mechanized payroll procedures have simplified administrative duties considerably. Therefore the close supervision of the Executive Council over executive expenditures is no longer necessary. Only vestiges of this power still remain, such as the control by the Council of the Governor's allocation of the state contingency fund, the Council's approval with the Governor of certain transfers of funds appropriated by the Legislature from one line of the budget to another within a department, and the approval quarterly of proposed expenditures of Departments.

The Council still functions with the Governor to grant pardons as provided by the Constitution. In this area, too, more reliance is being placed upon the recommendations of corrections personnel and other agencies not in existence when the Council was created, and statutory restrictions on the power to pardon have been enacted.

In contrast, as the powers originally assigned to the Executive Council have diminished, the pro forma duties assigned to the Council have multiplied dramatically. The Council is required to approve of many administrative actions by state government officials, is the recipient of many department reports, and is required to approve many contracts which have already been approved by other agencies, such as the Office of the Attorney General. In many cases, Executive Council approval is an unnecessary step in the process of State Government.

"Time has changed the Council and brought a relative decline in its importance but the number and scope of its activities have seen an absolute gain. As an administrative agency, the Executive Council must approve many routine actions of the various state departments. All travel orders for distances beyond 500 miles of Augusta must be passed on by the Governor and Council. Contract bids are opened and certified at meetings of the Executive Council. Final plans for most state building construction are approved by Council. As we have seen the Council also must approve expenditures already appropriated by the Legislature, approved by the Bureau of Accounts and Control and found satisfactory by particular departments. Final election results reached by carefully controlled procedures in the office of Secretary of State must also be certified by the Governor and Council. These routine duties are multiplied in many phases of state government."

Clement Vose, The Executive Council of Maine in Decline

The Executive Council has been an issue since its creation, which was hotly debated by the draftsmen. Tradition has it that a copy of the proposed Constitution was submitted to Thomas Jefferson for comment and that he criticized inclusion of a council. Through the years there have been many attempts to abolish the Council, all of which failed for one reason or another. The 107th Legislature finally passed by wide margin in the House (97 to 31) and the Senate (26 to 3), and the voters of the State have an opportunity to ratify, an amendment to abolish the Executive Council.

The Constitutional amendment, which if ratified will become effective on January 4, 1977, does far more than simply abolish the Executive Council. The Committee on State Government which actively participated in the drafting, the Committee of Conference which drafted the provisions relating to appointments, and the members of the legislature who debated and passed the amendment, were all aware of the original reasons for having an Executive Council.

Therefore the foremost question has not been whether or not the Council should be abolished, but to what extent the Council should be replaced. The amendment itself reveals the reasoning of the Legislature. This amendment

can be summarized as follows:

1. At present the Governor and Council are required to examine the election returns for Legislators and to summon those who appear to have been elected to attend. Since election results are now tabulated by the Secretary of State and since the two Houses of the Legislature are the final judges of who has been elected, this duty of the Governor and Council is ceremonial. The amendment leaves this duty with the Governor.

2. Under the Constitution the most important of the duties of the Executive Council is approval of certain appointments of the Governor. The Council is required to approve the appointment of all judicial officers and when the Legislature enacts statutes to that effect, is required to approve the appointment of civil officers. The State Government Committee felt strongly, as did the Legislature, that some check on judicial and key executive appointments should be retained. Therefore the question became who should assume the duty. Various models, in the other States and in the Federal government, were available for consideration. The second committee of conference from the House and the Senate finally arrived at a solution to this problem which was acceptable to the Legislature. The amendment requires that judicial appointments be confirmed, as well as other appointments as required by statute. Confirmation will be by a majority vote of a joint committee of the Legislature, with final review by the Senate. The Senate

may be called into session by the Governor or President for this purpose.

3. The power to grant reprieves, commutations and pardons presently lies with the Governor with the advice and consent of the Council. This is clearly an executive branch function which in many states and in the Federal government rests with the Chief Executive. The amendment leaves this power with the Governor alone.

4. Judges / of probate, registers of probate and sheriffs are elected officers. The Constitution contains provisions for the Governor with the advice and consent of the Council to fill any vacancies in these offices until a new officer can be elected. The amendment gives this power to the Governor. The Governor with the consent of the Council may also appoint an Attorney General to fill a vacancy in that office occurring when the Legislature is not in session. The amendment requires approval of such an appointment by the Legislature in the manner outlined above.

5. A new provision contained in the amendment would prevent appointment of a legislator by the Governor to any office requiring the approval of the Legislature for appointment.

6. It was also decided to include in the amendment a provision to eliminate the office of Notary Public as a constitutional office. This office will remain as a statutory office.

These provisions reveal the intent of the Legislature to retain checks and balances where these are meaningful, as in the case of major appointments, but to eliminate the role of the Council where such

a role is no longer required and where in fact it may be a hindrance to efficient, responsible government.

COMMITTEE PROCEDURES

In anticipation of passage of the constitutional amendment abolishing the Executive Council, the 107th Legislature, by means of Joint Order H.P. 1781 ordered the Joint Standing Committee on State Government to make a careful study of the Maine Revised Statutes "for the purpose of amending such statutes to conform with the proposed amendment to the Constitution abolishing the Executive Council". The study order specifically directed the Committee to include in its recommendations certain provisions relating to the approval of appointments of the Governor and approval of Departmental transfers of funds. The order required that the recommendations of the committee and draft legislation implementing these recommendations be submitted to the special session of the 107th Legislature.

During its study, the Committee has based its discussions on one underlying principle. This principle is that the Executive Council was created as a part of the system of checks and balances among the three branches of government in this State. In abolishing the Council it is essential that this system not be weakened.

1. Where the Executive Council is no longer necessary as a check on the executive branch, its duties have been eliminated.

2. Where the retention of a check on the executive branch is essential for the preservation of the system of checks and balances, the duties of the Executive Council have been reassigned or an alternative check on the power of the executive has been established.

In accord with this principle, the Joint Standing Committee on State Government has made the following recommendations, which will be presented to the special session of the 107th Legislature in bill form, if the amendment is ratified by the People on November 4th.

RECOMMENDATIONS

(Contingent upon ratification on November 4, 1975 of the Constitutional amendment to abolish the Executive Council.)

I. Appointments

- A. The Maine Constitution, as amended, requires that all appointments of judicial officers be confirmed by the Legislature. In addition, the statutes should be amended to require legislative confirmation of appointments to policy-making positions and to membership on certain policy-making and quasi-judicial boards and commissions of the state.

At present the Executive Council must confirm a multitude of gubernatorial appointments ranging from appointments of Justices

to serve on the Supreme Judicial Court to appointments of members of licensing boards and commissions. At least 650 such appointments would be likely in a four year period. It is the feeling of the State Government Committee that many of these appointments should not require confirmation by the Legislature because the offices are purely administrative or advisory in nature, because the duties of the appointees are outlined by statute to such an extent that new policies will not be created by those being appointed, or because the appointees carry out duties which are tangential to the primary purposes of state government. Among appointments of the type just discribed are the following: Appointments to the Health Insurance Board (administrative); appointments to the Critical Areas Advisory Board (advisory); appointments to licensing and examining boards (duties outlined by statute). ✓ /

Certain appointments by the Governor should be confirmed by another branch of state government in order to maintain the system of checks and balances. The Constitution requires that appointment of judicial officers be confirmed by the Legislature. The committee recommends that approval also be required for the appointment of officers who will be setting policies within the executive branch, such as commissioners and certain bureau chiefs, and for members of boards and commissions which have policy-making powers, such as the State Board of Education. In addition, approval by the Legislature should be required for appointments to boards and commissions which although constrained by statute, make decisions which are quasi-

judicial in nature. The Public Utilities Commission is such a body. The committee strongly feels that appointment of well-qualified and capable persons to the offices described is essential and that requiring approval of nominees after a careful scrutiny will help ensure such appointments. In addition, approval of the appointments by the Legislature will avoid any possible attempt on the part of the Chief Executive to gain power by controlling the courts or major decision-making agencies through his appointments. The design of state government requires that these agencies function independently and a check on the appointing power of the chief executive will best insure independence.

A list of appointments for which approval is recommended is included in this section of the report under recommendation C.

- B. A procedure for confirming appointments of the Governor by the Legislature should be included in the statutes in order to insure that confirmation will occur expeditiously but/after a full consideration of the qualifications of the nominee.

The Constitution includes some procedures to be followed when the Legislature is required to approve an appointment made by the Governor. The committee recommends that a statute be enacted to include the following steps in the confirmation process.

1. When the Governor nominates a person to an office for which legislative approval of the appointment is required, he would notify the President of the Senate and the Speaker of the House of the nomination in writing. (The Constitution also requires posting of every nomination by the Governor, a provision which is satisfied when the Governor places the appointee's name on a clipboard outside the Executive Office.)

2. The President of the Senate would notify the chairman of the Joint Standing Committee which is charged by law with reviewing that appointment. (See recommendation C.)

3. The committee would then hold a public hearing after appropriate notice to the public. (The procedure should be similar to that required under P.L. 1975, Ch. 524, recently enacted legislation requiring the Executive Council to hold public hearings on major nominations by the Governor.)

The committee should be required to complete its proceedings within 30 days of the Governor's notice of the nomination.

4. According to the constitutional amendment, the committee "shall recommend confirmation or denial by majority vote of committee members present and voting". The committee would send written notice of its decision to the President of the Senate.

5. Under the constitutional amendment the "committee recommendation shall be reviewed by the Senate and upon review shall become final unless the Senate by vote of two thirds of those members present and voting overrides the committee recommendations". The Senate should be required to complete its actions within 60 days of the date of the Governor's nomination. (The constitutional amendment gives the Governor and the President of the Senate the power to convene the Senate to act on nominations.)

The Governor should be given the power to withdraw a nomination at any time prior to the Senate's vote, by sending written

notice of the withdrawal to the President of the Senate.

- C. The State Government Committee recommends that the following appointments require confirmation by the Legislature, with the confirmation proceedings to be conducted by Joint Standing Committees as indicated.:

APPOINTMENT

LEGISLATIVE COMMITTEE

1.	Supreme Judicial Court Justices	Judiciary
2.	Superior Court Judges	Judiciary
3.	District Court Judges	Judiciary
4.	Active Retired Justices and Judges	Judiciary
5.	Interim Attorney General	Judiciary
6.	State Archivist	State Government
7.	Commissioner of Finance & Administration	State Government
8.	State Tax Assessor	Taxation
9.	State Controller	State Government
10.	State Purchasing Agent	State Government
11.	State Personnel Board	State Government
12.	State Employees Appeals Board	Labor
13.	Trustees, State Retirement System	Veterans & Retirement
14.	Administrative Hearing Commissioner	Judiciary
15.	Commissioner of Agriculture	Agriculture
16.	Maine Milk Commission	Agriculture
17.	State Lottery Commission	Legal Affairs
18.	Director of State Lotteries	Legal Affairs
19.	Superintendent of Consumer Protection	Business Legislation
20.	Superintendent of Banks and Banking	Business Legislation
21.	Maine Guarantee Authority	State Government
22.	Commissioner of Business Regulation	Business Legislation
23.	Land Use Regulation Commission	Natural Resources
24.	Commissioner of Inland Fisheries & Wildlife	Fisheries & Wildlife
25.	Commissioner of Marine Resources	Marine Resources

26.	Commissioner of Conservation	Natural Resources
27.	Commissioner of Education	Education
28.	State Board of Education	Education
29.	Commissioner of Human Services	Health & Institutional Services
30.	Commissioner of Transportation	Transportation
31.	Superintendent of Insurance	Business Legislation
32.	Chief of State Police	State Government
33.	Commissioner of Public Safety	State Government
34.	State Board of Arbitration & Conciliation	Labor
35.	Panel of Mediators	Labor
36.	Public Employees Labor Relations Board	Labor
37.	Maine Employment Security Commission	Labor
38.	Commissioner of Manpower Affairs	Labor
39.	State Liquor Commission	Liquor Control
40.	State Housing Authority	State Government
41.	Commissioner of Mental Health and Corrections	Health and Insti- tutional Services
42.	Public Utilities Commission	Public Utilities
43.	Director of Civil Emergency Preparedness	State Government
44.	Director of Veterans Services	Veterans & Retirement
45.	Commissioner of Environmental Protection	Natural Resources
46.	Industrial Accident Commission	Labor
47.	Trustees, University of Maine	Education
48.	Trustees, Maine Maritime Academy	Education
49.	Board of Environmental Protection	Natural Resources

II. Dismissals

An Opinion of the Justices rendered in relation
/ to the present appointment provision

in Maine's Constitution has established that the power of appointment determines the power of dismissal. Therefore, if the Council is required to approve an appointment by the Governor, it is also required to approve dismissal of the officer. Officers appointed by the Governor serve at his pleasure, unless statutes provide otherwise.

The committee has spent much time discussing the power of dismissal. Despite considerable discussion, committee members still cannot agree on some aspects of this problem. One primary question must be decided before any further decisions can be made and this question is contained in the first of the committee recommendations:

- A. The Committee recommends that when the Legislature convenes in special session, the following question be asked of the Supreme Judicial Court, as authorized by Article VI, Section 3 of the Constitution of Maine:

May the Legislature provide by statute that officers whose appointments by the Governor require the approval of the Legislature may be removed by the Governor without approval by the Legislature?

As indicated above, the present Constitutional provision on appointment by the Governor (Article V, Section 8) contains no provision on dismissals of these appointees. The Supreme Judicial Court ruled in 1881 that the dismissal procedure must be parallel

to the appointing procedure. The proposed constitutional amendment does not contain any dismissal provisions. The committee feels that before the Legislature takes any action on establishing dismissal procedures, it should obtain a ruling by the Supreme Judicial Court on whether the proposed action of the Legislature complies with the Constitution.

B.1. A majority of the committee recommends that if this is permissible under the Constitution, commissioners and other policy-making officers whose appointments require the approval of the Legislature serve at the pleasure of the Governor and that their dismissal not require the approval of the Legislature.

This is the recommendation concerning which the committee is divided. Those members in favor of this recommendation feel that approval of the appointments of commissioners and other policy-making officers satisfies the need under the system of checks and balances for assuring that competent persons are appointed to these positions. These members feel that good government would be aided by giving the Governor flexibility in retaining or dismissing these officers who are his deputies in state government and who theoretically carry out the policies which the Governor establishes within parameters set by the Legislature. The Legislature still retains the needed check on a potential runaway executive branch officer because it may impeach civil officers or may request by address that the Governor remove such officers.

B.2. A minority of the committee recommends that if an appointment of a Commissioner or other policy-making officer requires the approval of the Legislature the dismissal of that officer should also require the approval of the Legislature.

Those members who support this recommendation feel that the system of checks and balances requires this procedure for dismissal. If a Governor may dismiss an officer whenever he wishes, officers may be less likely to carry out their duties in compliance with the policies established by the Legislature if the Governor should request otherwise. These committee members also feel that such a procedure protects these officers from an arbitrary chief executive and would provide a "day in court" for an officer whose dismissal was sought by the Governor. The minority believes that to do otherwise would be to give the Chief Executive, in effect, a statutory letter of resignation.

C. The committee unanimously recommends that members appointed by the Governor with the consent of the Legislature to policy-making and quasi-judicial boards and commissions continue to be protected from dismissal by statutory provisions for terms and "for cause" dismissal, and that any proposed dismissal under these provisions require the approval of the Legislature.

Members of policy-making and quasi-judicial boards and commissions are not supervised by the Governor, as are the heads of the Executive departments. Some boards and commissions exist for the purpose of setting policy for state institutions. They are intend-

ed to be independent of the Governor. Other commissions carry out rate-setting, licensing and other quasi-judicial functions within policy parameters established by the Legislature. These boards and commissions are also designed to be independent of the Governor. Presently members of these boards and commissioners are protected from arbitrary dismissal by statutory provisions establishing terms and providing for dismissal "for cause", which is frequently defined. The committee feels that these provisions should be retained. In addition, the committee recommends that any dismissal "for cause" require the approval of the Legislature in order to check any attempt by the chief executive to control these boards and commissions and to dismiss members with whom he does not agree.

- D. In situations in which the dismissal of an officer or commission member requires the approval of the Legislature, the committee recommends the following procedure:

The Governor would send to the President of the Senate a written notice setting forth the reasons for the proposed dismissal. The Governor's recommendation could be negated only by a two-thirds vote of the Senate, which must be taken within 60 days of the Governor's notice. If the person whose dismissal is sought so requests of the President of the Senate, or if the Senate independently so requests, a public hearing is to be held by the committee whose duty it was to review the nomination for office.

III. Fiscal Duties of the Executive Council

In the early days of the Executive Council every fiscal transaction of the State required the approval of the Governor and Council. Some of these duties still remain. The committee has been able to classify four types of fiscal activity in relation to which the Executive Council plays some part. In terms of these types of activity, the committee makes the following recommendations:

- A. The Governor and Council acting together are required to accept funds coming to the State from sources other than general tax revenues. The principal source of these funds is the Federal Government. Other sources are gifts, grants from sources other than the federal government, and bequests. Most department and agency heads also have the power to accept these funds with the approval of the Governor and Council.

The committee recommends that the Governor be given the power to accept funds coming to the State from sources other than state tax revenues, and that only the approval of the Governor be required for acceptance of such funds by department and agency heads.

The committee feels that in most cases this power is a duty which is ministerial, and that there is no need for a check on the Governor's power to accept funds. Use of federal funds is closely regulated by federal statute or regulation, which prevents irresponsible use of such funds. Most other income coming to the State also comes with

"strings" attached, which likewise control use of the funds. The one concern which the committee wishes to express is the potential use of federal funds for programs which have not been approved by the Legislature. The committee also feels, however, that this concern is not sufficient to require a check on the Governor's acceptance of such funds, because the Legislature can subsequently consider such programs when requests are made for state funds and the programs can be judged on their merits.

- B. The Governor and Council acting together are required to approve certain routine fiscal activities within the state government. Such activities fall into two categories. One category includes such activities as the investment of state funds by the Treasurer of State. The other category includes such activities as the advance quarterly approval of the plans for expenditure of appropriated state funds and other revenues by all state departments and agencies. This category includes the approval of transfer of funds from one program within a department to another.

The committee recommends that the power to approve routine fiscal activities within State Government lie solely with the Governor.

The committee recognizes that this recommendation places great power in the chief executive. Today, how-

ever, there are many checks on this power which did not exist earlier in the history of the State. Line budgeting by the Legislature places a check on the use of state funds, as do the present audit procedures. In addition, budgets are scrutinized annually by the Legislature so any attempt to bypass the Legislature's decision by transferring funds can be exposed expeditiously. This recommendation preserves the power of the chief executive to control the expenditures of departments and agencies and to act as a check on possible irresponsible fiscal transactions by independent officers such as the Treasurer. The committee feels these checks should be retained but any further check is unnecessary.

- C. At present the Council is required to approve of allocations by the Governor of the State Contingent Account. The State Contingent Account, established in 5 MRSA, §1507, consists of funds intended to meet emergencies. Up to \$800,000 in a fiscal year may be allocated from this fund. Certain portions of this fund are dedicated to specific uses: (1) \$120,000 for relief of state institutions, such as prisons, when the population of these institutions increases to the point where the appropriated funds are not sufficient; (2) \$100,000 for use in construction when costs exceed budgeted funds, or for use in unanticipated construction projects when such projects are in the best interest of the state and funds have not been budgeted;

(3) \$120,000 for the purchase of real estate within the capitol complex; (4) \$10,000 to provide for the promotion of Maine. The balance of the amount may be used "to meet any expense necessarily incurred under any requirement of law; or for the maintenance of government within the scope existing at the time of the previous session of the Legislature or contemplated by laws enacted thereat, or to pay bills arising out of some emergency requiring an expenditure of money not provided by the Legislature".

The committee recommends that allocation of the State Contingent Account be left to the Governor but that the amounts authorized for allocation be substantially reduced and that statutory guidelines for allocation be tightened.

The committee feels that there is justification for continuing the State Contingent Account. Emergencies do occur, in State Government as well as in families, and such emergencies must be anticipated. However, it is felt that such emergencies are much less likely to occur today with annual budgeting and sophisticated planning, and that therefore the amount authorized for allocation should be substantially reduced. The committee believes that continued careful budgeting by the Executive branch should be encouraged and the committee notes that recent appropriation acts have been carefully written to ensure that Legislative intent is realized. If the statutes control-

ling the contingent account are tightened and if the Executive and Legislative authorities continue to be precise and careful in the preparation of budgets and decisions concerning appropriations, allocation of the State Contingent Account will become a power which is much more in the nature of an administrative duty and should be left to the Governor. Checks on executive branch use of the funds will eliminate the need for any outside approval of the allocation, and flexibility will be retained in the process.

These recommendations by the committee are supported by a recent study of usage of the State Contingent Account done by the Department of Finance and Administration at the request of Governor James B. Longeley. The committee wishes to thank the Department for making this report available.

Specifically, the committee recommends the following amount and guidelines for the State Contingent Account:

1. An institutional reserve fund of \$100,000 to be used only for emergencies within state institutions.
2. A construction reserve fund of \$100,000 to be used only for emergency expenses connected with cost overruns in the construction of state buildings.
3. A real estate purchase reserve fund of \$100,000 to be used only for purchase of property within the capitol complex.

Amounts within these funds should be used only for for the purposes outlined and upon allocation by the Governor at the request of the appropriate state official.

4. A fund of \$50,000 to be used for promotion of the State of Maine outside the state and for other emergencies not provided for in the above funds.

Amounts in this fund should be used only for the purposes outlined ^{and} upon allocation by the Governor at the request of a private group or an appropriate state official.

These suggested figures would reduce the annual appropriation to the fund from \$800,000 to \$350,000. Limitations on the use of the fund will probably further reduce expenditures

- D. The committee recommends that any allocation from the State Contingent Account by the Governor and any transfer of funds within departments be publicized by some method equivalent to the present Council Order.

It is the feeling of the Committee that any allocation from the State Contingent Account and any transfer of funds within departments should be publicized by some type of order indicating that the transfer or allocation has been made. Accountability is the greatest assurance of good government and if such transactions are visible, accountability will be assured. It is the recommendation of the committee that the proposed orders should be made

available to the public through posting and that they be made available to the Appropriations Committee of the Legislature for consideration.

- E. The Governor and Council acting together have certain duties in relation to expenditures which are quasi-judicial in nature. One such duty is consideration of any ruling on small claims against the State. Another such duty is approval or rejection of claims against the State for certain funds which have come to the State because no one claimed them. Included are abandoned bank accounts and similar funds.

The committee recommends that the Land Damage Board, which adjudicates claims against the State for damage to land, be reorganized and authorized to adjudicate damages, resulting from eminent domain, animals, ^{and} state wards.

IV. Other Duties Of The Executive Council

As indicated in the introduction to this report, the Executive Council has been assigned a multitude of duties which are administrative in nature. The committee has identified these duties and is presently in the process of deciding what recommendations to make to the Legislature concerning them. In general, the committee has found that these duties should be carried out by the Governor but some duties which were carried out by the Governor and Council jointly could well be abolished or assigned to other officers within State Government. A complete list of these duties, and the commit-

tee's recommendations , will be included in the final report of the Committee and will be incorporated into draft legislation.

The committee has also requested recommendations from state officers and other legislative committees on questions about which the State Government Committee is unclear. Among these are:

1. Certain administrative provisions relating to the Office of the Secretary of State. The Honorable Markham H. Gartley, Secretary of State, has met with the committee and will be providing recommendations.

2. Certain administrative provisions of the Election Laws, and the question of how appointments of the Chairmen of Boards of [Voter] Registration should be handled. The Election Laws Committee has been requested to assist the Committee in making their decisions.

3. Licensing of detectives and watch guards. The Legal Affairs Committee is currently conducting a study of this area and that committee will be requested to provide recommendations.

Some other duties of the Council are still being studied by the committee, but their preliminary report covers the most widely discussed duties of the Executive Council.

The suggestions of Legislators, the Governor, members of the Executive Council and other citizens who have an interest in the orderly transition required to replace the Executive Council are solicited. Suggestions may be made in writing to the State Government Committee, State House, Augusta, Maine 04333 or orally at a public hearing of the Committee, the date of which will be announced following the anticipated ratification of the amendment to abolish the Executive Council.

SSH/sym