

MAINE STATE LEGISLATURE

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GOVERNOR AND COUNCIL:

Motion to lay on the table is a motion intended to enable a body to lay aside the pending question in order to attend to more urgent business, in such a way that its consideration may be resumed in preference to new questions competing with it for consideration. Mason's Manual of Legislative Procedure, section 330, page 233. The motion to lay on the table is also sometimes called the motion to postpone temporarily. This name is more descriptive than the usual name, since the real purpose of motion to lay on the table is to postpone the question for an undetermined but usually short period. Ibid., section 342, page 240.

A motion to lay the question on the table until a certain time is a motion to postpone definitely and takes a lower rank of precedence. Ibid., section 334, page 235.

In Murphy v. Casey (Mass.), 15 N.E. 2d 268, where removal of Commissioner of Agriculture is by the Governor with the advice and consent of the Council, the Court said (page 271):

"The Council in determining whether its advice and consent should be given to the removal of a public officer may adopt any reasonable methods of forming a proper judgment on the matter before it, including, if deemed necessary or desirable, the holding of a hearing at which witnesses are called. We do not think that the statute can reasonably be interpreted to mean that the Council can be compelled to hold such a hearing."

The court had previously held that opportunity for hearing before the Governor was necessary.

Appointments belong to the executive part of the government (Op. Just., 72 Me. 548). The words "the executive" are employed to embrace, in one general term, both the governor and the council.

The power of the Governor, with respect to appointments which require the advice and consent of the Council, is exhausted when he has submitted his nomination to the Council for confirmation. He may, of course, withdraw a nomination and make a new one. The Council can approve, disapprove, or withhold approval.

The Governor is not a member of the Council and has no vote in the decision the Council has to make concerning confirmation of the nomination.

James Glynn Frost
Deputy Attorney General

* Month and day lacking; opinion placed arbitrarily at beginning of October.