

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



~~XXXXXXXXXXXXXXXXXXXX~~
RICHARD S. COHEN
MARTIN L. WILK
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

April 9, 1976

Honorable Theodore S. Curtis, Jr.
Senate Chamber
State House
Augusta, Maine 04333

Dear Senator Curtis:

You have asked two questions regarding L. D. 2197, "AN ACT Redistributing the Powers of the Executive Council," which is presently pending before the Legislature. Specifically, you have asked whether this piece of legislation requires the approval of two-thirds of the members of each House present and voting, and whether, absent legislation such as L.D. 2197, the Governor would be able to make judicial and department head appointments without confirmation by any body of State Government after January 4, 1977, the date on which the recent amendments to the Maine Constitution abolishing the Executive Council become effective. My answer to the first question is that the legislation in question does require the approval of two-thirds of the members of each House present and voting. My answer to the second question is that, absent further legislation, the Governor would be able to make appointments without confirmation to statutorily created offices which may fall vacant after January 4, 1977, but would not be able to make any appointment at all for constitutionally created offices, such as judgeships, after that date.

I. Requirement of Two-Thirds Vote.

As you are aware, L.D. 2197 was prompted by the passage by the Legislature at the regular session and approval by the electorate at the past election of amendments to the Maine Constitution abolishing the Executive Council. Laws of Maine of 1975, Proposed Amendments, C. 4 (1975). Included in those amendments was an entirely new version of the article of the Constitution regarding the nomination and appointment of State officers. Me. Const., Art. IV, pt. 1, § 8. That section now provides in pertinent part:

Hon. Theodore S. Curtis, Jr.

Page 2

April 9, 1976

"Section 8. To appoint officers. He shall nominate, and, subject to confirmation as provided herein, appoint all judicial officers except judges of probate and justices of the peace, and all other civil and military officers whose appointment is not by this Constitution, or shall not by law be otherwise provided for.

"The procedure for confirmation shall be as follows: an appropriate legislative committee comprised of members of both houses in reasonable proportion to their membership as provided by law shall recommend confirmation or denial by majority vote of committee members present and voting. The committee recommendation shall be reviewed by the Senate and upon review shall become final action of confirmation or denial unless the Senate by vote of two thirds of those members present and voting overrides the committee recommendation. The Senate vote shall be by the yeas and nays.

"All statutes enacted to carry out the purposes of this section shall require the affirmative vote of two-thirds of the members of each House present and voting.

"Either the Governor or the President of the Senate shall have the power to call the Senate into session for the purpose of voting upon confirmation of appointments.

"He shall nominate and appoint justices of the peace for an initial term only, and additional terms of these officers shall be by renewal of commission, as provided by law.

"Every nomination by the Governor shall be made seven days at least prior to appointment of the nominee."

Like the entire resolution in which it is contained, however, this amendment becomes effective on January 4, 1977. The question then is raised as to whether a two-thirds vote is required for the

passage of a statute "enacted to carry out the purposes of this section,"* when such a statute is enacted before January 4, 1977.

In answering this question, it must first be noted that it was clearly contemplated by the Legislature in enacting this amendment that implementing legislation would be passed during the current special session and that, with respect to this legislation, a two-thirds vote of each House would be required. The floor managers of the amendment clearly indicated as much to both Houses of the Legislature at the time of its enactment. See Remarks of Representative Tierney (a member of the Conference Committee on the amendment), Maine Legislative Record, B2328 (June 26, 1975); Remarks of Representative Farnham (a member of the Committee on State Government, which originally reported out the amendment), Maine Legislative Record, B2327 (June 26, 1975); and Remarks of Senator Curtis (Senate Chairman of the Committee on State Government), Maine Legislative Record B2338 (June 26, 1975) (copies attached). It would thus appear that on the basis of these clear expressions of legislative intent alone the above-quoted portion of Art. V, pt. 1, § 8, cannot be read to permit the passage of implementing legislation by a simple majority of the two Houses at any time.

But beyond that, the suggestion that implementing legislation may be passed before the effective date of the amendment by a simple majority does not withstand analysis. This is because it is impossible constitutionally for such legislation to become effective in advance of the amendment which it is

* There can be no doubt that L.D. 2197 is such a statute. It is true that since the section of the amendment in question deals only with the manner of confirmation and does not (with the exception of judicial officers and other officers not otherwise provided for by law) impose the requirement of confirmation on any gubernatorial appointment, the two-thirds requirement might fairly be read to apply only to implementing legislation regarding the procedure for confirmation and not to legislation redistributing the confirmation powers of the Executive Council. L. D. 2197, however, while consisting mostly of the provisions of the latter type, does contain provisions regarding the procedure for confirmation. See, e.g., L.D. 2197, § 11. So long as these provisions remain in it, the entire bill must, therefore, be approved by a two-thirds vote to become law.

implementing. Since the effectiveness of the legislation is entirely dependent on the effectiveness of the amendment, the requirement in the amendment that the legislation be passed by a two-thirds vote must apply to such legislation regardless of when it is actually enacted.

II. Appointment of Civil and Military Officers "Otherwise Provided for by Law."

Like its predecessor, the new Article V, part 1, Section 8 of the Constitution leaves to the Legislature the power of "providing otherwise by law" for the manner of confirmation of all civil and military officers (other than judges). In the vast majority of cases, the Legislature has exercised this power by requiring gubernatorial appointments to be with the "advice and consent" of the Executive Council. The recent approved amendments to the Constitution, however, abolish the Executive Council. On January 4, 1977, therefore, all references to the Council in the statutes become of no effect, and the statutes must thereafter be read to provide for the appointment of such officers (which would include the approximately 152 "major" State officers, as enumerated in the final report of the Committee of State Government in L.D.2197) by the Governor alone.

III. Appointment of Judicial Officers.

A different situation exists, however, with respect to the appointment of judicial officers (and those relatively few civil and military officers whose manner of appointment is not otherwise provided for by law). The manner of nomination and appointment of these officers is set forth in the amended Article V, Part 1, Section 8. The Governor shall "nominate and, as provided herein, appoint" such officers. The succeeding paragraph sets forth the manner of appointment "provided herein:" "an appropriate legislative committee. . . shall recommend confirmation or denial," and such recommendation shall become final unless overridden by two-thirds vote of the Senate. This provision, however, is not self-executing; it requires further legislation at least to determine the "appropriate committee" to recommend confirmation or denial. In view of this, it would appear that if no implementing legislation (such as Section 11 of L.D. 2197 which designates the Joint Standing Committee to discharge the constitutional function) is enacted, confirmation and therefore appointment would be impossible of accomplishment. The result of a legislative failure to act is therefore different regarding the appointment of judicial officers than with regard to the other officers discussed in the preceding section of this opinion. While the Governor may appoint the latter officers without confirmation after January 4, 1977, there may be no appointment of judicial officers at all without further legislation.

Hon. Theodore S. Curtis, Jr.
Page 5
April 9, 1976

I hope that the above answers your questions satisfactorily. Please let me know if any further clarification is required or if there are any further questions which you may have regarding this important piece of legislation.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

JEB/ec

238
1

in the Constitution and with this, it is true, we can make it statutory but I guess I am at a loss to understand as to why the confirmation is taken out of the Constitution?

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

Mr. DeVANE: Mr. Speaker, I would like to direct to the members of the Conference Committee two questions. First, if an appointee has a hearing before the appropriate — I think that is the word that was used — joint committee of the legislature, who is the final arbiter of which committee is appropriate? I would like to know who decides which committee is appropriate because we see a great deal of jockeying, if you will, in terms of what bill goes where, and we all know why, and I think that the jockeying would be even more severe in terms of who goes where, so I would ask that one question. Who is the final arbiter of which is the appropriate committee?

The second question, if I understand the proposal correctly, a majority of the Senators — I think in this context, sir, it is necessary to mention the other body can sustain the opinion of a majority of the committee, is that incorrect? No, no, the question, sir, as I understand it, is this. The nominee has a hearing before the committee, the committee report is 7 to 6 ought to be approved, a simple majority of the Senate — two-thirds? I stand corrected and I thank you.

May two thirds of the Senate override a unanimous report of a joint standing legislative committee after it has been selected as appropriate?

The SPEAKER: The gentleman from Ellsworth, Mr. DeVane has posed a question through the Chair to anyone who may answer if they so desire.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the gentleman's first question as to the final arbiter of the appropriate committee is that the Legislature itself is the final arbiter of the appropriate committee, because all of this constitutional provision would have to be supplemented by enabling legislation which, under the terms of this section of the Constitution, must be passed by a two-thirds vote of both Houses of the Legislature. Again, the final arbiter of which appropriate committee would hear which particular nominee shall be set by statutes by a two-thirds vote of both Houses of the legislature.

The answer to the second question, may two thirds of the Senate override an unanimous committee report? The answer is yes, it can, and in doing so, obviously it would have to be overriding the unanimous report of the three Senate members on that committee which I, at least as one semi-experienced legislator, feels would not happen too often.

To return to the question of Mr. Birt again just momentarily, I would, of course, reiterate that there is nothing in the statutes which precludes confirmation by any system which we deem necessary for a registrar of probate who dies in office, but I would like to remind the good gentleman from East Millinocket that by an appointment by the Governor is only an interim appointment until another election and so this is one more reason why it was only a brief appointment that we don't want a temporary one until the next election was

held. We do not feel that we would like to encumber this election by Governor with the confirmation problem.

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

Mr. BIRT: Mr. Speaker, I have been on this a couple of times but I still think I would have objections to that particular point. The appointment, once established, gives whoever the candidate is, if he has a desire to continue, a built-in advantage. I guess I am still bothered to the extent that I am afraid that I might not be able to support this particular provision unless there are those changes.

I am probably a strong supporter, at the present time, of abolition of the council, but I guess I also am a strong devotee of the provisions of the Constitution. I think I always have been and I think if we are going to do this, we should do it right and the holding up of one day to correct this I don't think is going to make that much difference. I do think we would be making a mistake if we make this move and if we do vote for enactment on this, I am afraid I will vote against it.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I think to just clarify again Representative Birt's concern, in respect to judges of probate, as Mr. Tierney has mentioned, they are elected and they are not subject to confirmation under the present Maine Constitution. Neither, under the Maine Constitution, are Notaries Public, they are confirmable by the Council, but in terms of the question of the judges of probate, they aren't subject to confirmation presently under the Maine Constitution.

Mr. Birt of East Millinocket was granted unanimous consent to speak a third time.

Mr. BIRT: Mr. Speaker, to reply to the comments that have been made by the gentleman from South Portland, Mr. Perkins, if I understood him correctly, it is true, they are not subject to confirmation, but the point that I am working on is that the vacancy, if created by death or resignation, presently is subject to confirmation and as I understand this particular provision, it would not be subject to confirmation and I think that is the point that is bothering me.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I would simply say that we are always so near and yet so far. I have been here several semesters and I have seen this come before this Body and I have seen everyone arranged and all agreed and then, at the last moment, for some small reason, this Constitutional Amendment would be defeated. I have heard it debated many, many hours, I have heard all the things discussed, hashed, rehashed, but I think, today, through the tremendous efforts of the State Government Committee who have labored hard this session with this most important change and most important to the people, and to this Conference Committee and the hard work and the astuteness and the intelligence of all of the members of this committee and have come up with an answer to this problem, and of course we do have a further safeguard, because it is going to go to the people and they will make the final determination. I hope after

the several years that I have been here and listened, I hope that we can move ahead this evening and adopt this resolution to the Constitution.

Mr. Birt of East Millinocket, was granted unanimous consent to address the House a fourth time.

Mr. BIRT: Mr. Speaker, I am going to take very violent objection to the statement that was just made because that is not a small statement that I am working on, a small point. I think I am just as sincere and honest in wanting to abolish the Council as anybody on the floor of this body, but I object very strongly that the inference that I am picking on a small point to try to cloud this issue and stop it. I think the gentleman from Brewer is completely wrong in his statement. If we want to do this job, let's do it right and to put this off until tomorrow morning, if I have a valid point to correct it, is not altogether wrong.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: If the gentleman from East Millinocket, Mr. Birt, thinks I was inferring that he was dragging any red herrings across this thing, I apologize because I did not. I was simply reiterating that over the past 8 years, this measure has come right to the barn door, and every time it gets to the barn door, for one reason or another it is killed, it doesn't pass. And by no means do I mean to attack the integrity of my good friend from East Millinocket. I am sure he is very sincere. I do think, however, that this is thing, from the explanation that we have had on the question, I do think it is a matter that can be resolved by statute. I don't think really that it would be all that harmful.

I don't begrudge the good gentleman his opinion on it, but I think it is a matter that can be resolved very easily by statute.

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

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, we have been here since January, this is now June 26th and we come to the zero hour, the last hours, with a bill that goes to conference and back to another conference, and so forth, when the people really want it. I would like to see something done about the Council. I can't buy something as hasty as that when we have had all winter and they couldn't agree and now they still can't agree to any great extent without these Committee of Conferences and you know, I am sure that the people of Maine, from what I hear and see, they don't want a weaker Governor, they want a stronger Governor. We have had some good ones since I have been in this House. We had Senator Muskie, Clauson, Curtis and we have this man in the front office now, and every one of them was elected by quite a majority of the people and they want them to have some strength and they think we are down here trying to tie his hands behind his back. This is what the public thinks right now. I noticed in the Kennebec Journal this morning — the chuckle for the day, I hope you read it — this is the thoughts of the people and this is what the press is conveying. Now, in the waning hours of this legislature, we want to further try to tie his hands so he can't appoint anybody without dragging it on for six months or a year.

I hope we use good judgment and have something that we can have a little bit more time on and don't try to confront the

a report from a member of the Conference Committee?

The SPEAKER: The gentleman from Ellsworth, Mr. DeVane, has requested that a member of the Conference Committee explain the contents of the bill.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The second Conference Committee met last night and again early this morning and finally this afternoon in order to work out what we feel is a reasonable and decent compromise to achieve a long sought goal of both political parties of the abolition of the Executive Council. The controversy has been basically revolving around who would be the conferring body for such appointments that the legislature deems should indeed be confirmed.

The compromise, and what I think is more than a compromise, the proposal, which I think is best for the people of Maine is one where a legislative committee, is defined by statute, or committees bearing a reasonable proportion between the House and the Senate would hold a hearing and make a decision as to whether or not the individual appointed by the Governor would be confirmed. At such time, the committee would take a vote. The majority decision of that committee is subject to review by the Maine Senate. If the Senate disagrees with the recommendation of the majority of that committee and overturns it by a two-thirds vote, then the recommendation is overruled. If the Senate fails to overturn said recommendation, it becomes final.

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

Mr. COONEY: Mr. Speaker, in that this is a momentous vote, and I am sure we would all like to be recorded in the affirmative, I ask for the yeas and nays.

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

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't try to deceive the people of the State of Maine and try to tell them you are doing away with the Executive Council when you really are further complicating the matter of appointments, you are not doing them any favor. If you wanted to do something, I think the thing to do is to try to start by degrees.

First, you should eliminate the duties of the council given to them by this House and then, after that has been done, we will see what we can do with what is given to them by the Constitution.

I would like to see something done about the Executive Council. I am not satisfied either, but I am not satisfied with what we have before us, it is even worse than what we have now. Just because it was written in a certain political platform or two political platforms, they think something has to be done about it, hastily. That is not the way to do business.

I am sure you would be doing the people in the State of Maine a disfavor in sending this type of legislation out of them. We couldn't agree on anything and now a few men have a conference last night and this morning and come up with something they think we can support. I can't support anything like that, the people in Maine don't support it either, at least the people where I come from. They are not easily misled. You are not going to deceive them by doing this and you are going to make people like Longley even stronger. So if you decided to pass a bill like this, don't

count on my vote and I think you would be wise if you didn't vote for it yourself.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, the supplemental sheet does not say that Amendment S-381 has been put on the bill, it has hasn't it?

The SPEAKER: The Chair would answer that it has and is part of the bill.

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

Mr. CARPENTER: Mr. Speaker, I want to clarify one thing regarding — that is what I thought Mr. Burns was getting at. If you read that enactor, you may have some questions. This is L. D. 24, originally submitted by the gentleman from Gorham, Mr. Quinn. I believe, we had a number of bills before State Government and we decided to put this one out and that is why it says, "and reassign his constitutional powers to the Governor." Don't be deceived by that. The constitutional powers are not going anywhere except exactly where Mr. Tierney has told you.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: This made my second term on the State Government Committee. We wrestled with this all through the 106th. We thought we presented a good bill but we had very intensive lobbying against the bill by the then Executive Council. I think they can take credit for killing the bill last year.

We have labored over this this year, we have worked in a spirit of compromise. Some of us are dedicated to the Constitution to the State of Maine and the Constitution of the United States and I am one of them, and I do think this is a step forward and I would urge you to vote for it.

Mr. Dudley raises the question that there should be some statutory changes made. It is very unwise to make the statutory changes prior to the citizens of the State of Maine having accepted the constitutional amendment. Once the amendment is accepted, and I hope it is, then the statutory changes can be made and those statutory changes must be approved by a two-thirds vote of the House and the Senate.

I would advise you that in the four year study that we have had, we have collected a tremendous amount of data as to what changes must be made throughout the statutes that now exist. So, if the public does accept this amendment, it is not going to be as difficult a job as you would realize because of the great length of time and effort that has been put into the work necessary to present you with the proper statutory changes.

I would urge and plead with you to take this step forward today.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I am a little disturbed over the rapidity, the speed, that this is being moved through the legislature. We have had this amendment for about an hour and, frankly, I guess I have spent some time going over the Constitution and it has been a subject and an area that I have been quite interested in, and to move this quickly bothers me somewhat.

I have tried to compare this amendment to some of the language presently in the

Constitution and there are two or three areas that are of minor importance that probably don't bother me too much that I can accept. I think I would have to have the answer to one question though and that is Article 6, Section 6, relative to judges and registrar of probate, in which they are not subject to confirmation. They presently are subject to the confirmation of the Governor with the advice and consent of the Council, but that language is all taken out and if a justice or judge of probate should die or resign, immediately after his being sworn into office, a Governor would have the right of appointment to either the judge or registrar of probate, or at least this is the way it appears to me, without any form of confirmation, and I would inquire as to why that decision was made?

The SPEAKER: The gentleman from East Millinocket, Mr. Birt, has posed a question through the Chair to anyone who may answer if they so desire.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to be able to answer all the questions and I hope my friend from Durham, Mr. Tierney, being an attorney, can answer. But as you will notice in both the Statement of Facts and in the question which will be put to the voters, at the bottom of Page 7, there is some question as to what will the question look like. The fact that Notary Public was dropped from the Constitution, we have made provisions in the law to take care of the reappointment of Notaries Public and the State Government Committee, this year, passed out a bill giving the reappointment. We don't feel that it is necessary. We have thousands and thousands of them in the State of Maine, and I don't feel it necessary that they should be confirmed by either the Council as it now exists or the new proposal that we are offering. On the judges of probate, I was under the impression that these were already dropped from the existing Constitution. I may be wrong.

I would ask the constitutional attorney to help me.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise with some trepidation after such a glowing account of my very brief legal career.

I will try to answer my good friend from East Millinocket. As he so well knows, Article 5, Section 8, does exempt from the judicial officers which must be confirmed, judges of probate and then in Article 6, as he so well again points out, such judges and registrars of probate elected by the members of the county, if they do die, that the Governor can make an appointment without confirmation as far as the Constitution requires.

I think the feeling behind the Conference Committee was that there was no need to encumber the Constitution with this necessary requirement but at the same time, we in no way preclude the requirements of such confirmation through statutory change.

I hope that answers the good gentleman's questions.

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

Mr. BIRT: Mr. Speaker, I am not sure that it answers my question because at the present time the confirmation is required

Legislature will become even closer to the operation of state government and more useful to the executive branch of government as they have an opportunity to view before confirmation the nominees that are posted by the Governor for their areas of special expertise and interest.

As you know from reading the document that we have presented to you, a recommendation by a majority of a committee will always go to the Senate for a final decision. In the terms of section 8, the committee recommendations shall be reviewed by the Senate, and upon review shall become final action of confirmation or denial unless the Senate, by vote of two-thirds of those members present and voting, overrides the committee recommendation. That means that the Senate will have an opportunity to reverse, only with a two-thirds vote of those members present and voting in the Senate, the recommendation, whether it be for confirmation or for denial of confirmation, made by the committee to which the nomination was referred.

There is a great deal left to be worked out by statute, and a provision of this amendment requires that those statutory provisions which would be adopted would require a two-thirds vote in the House and a two-thirds vote in the Senate before becoming part of the statutes.

We think that the compromise proposal that we have prepared is a satisfactory one, one that will be workable, will enable the Governor to govern more efficiently, and will enable the legislature to take a deeper and more attentive position and attention towards the activities of the executive.

I think it would be appropriate to take at a few seconds at this time to go back in history to the time when our United States Constitution was under consideration by the people, as the people of the State of Maine must consider this recommendation before voting on it on November 4th of this year. And during the debates prior to the adoption of the United States Constitution a series of federalists papers were written, and one signed by Publius and noted as number 76 now in our history books includes these phrases.

"To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration."

And a little bit further the writer notes that,

"Though it might therefore be allowable to suppose that the executive might occasionally influence some individuals in the Senate, yet the supposition that he could in general purchase the integrity of the whole body would be forced and improbable. A man disposed to view human nature as it is, without either flattering its virtues or exaggerating its vices, will see sufficient ground of confidence in the probity of the Senate to be satisfied, not only that it will be impracticable to the executive to corrupt or seduce a majority of its members, but that the necessity of its concurrence in the business of appointments will be a

considerable and salutary restraint upon the conduct of that magistrate."

So, as we plan for the future and recommend to the people that they approve what I hope will be the adoption of the Senate today, I think we must hope that our successors in this chamber are very careful in the exercise of the authority that we are about to give them and to their colleagues in the House of Representatives through the joint committees.

I think it is possible, Mr. President, that this legislature, having improved or recommended improvements in the referendum and initiative provisions of our constitution, having recommended that single member districts for all House seats be established in the constitution, having recommended provisions for gubernatorial succession in the constitution, may through this final action that I hope we take at this time become known as a legislature that was deeply concerned about the future of our state and was noted for its reform, its constitutional reform. When the vote is taken, Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: This is indeed I think a very historic moment in the State of Maine and, as with all historic moments, it has come through the efforts of a great many individuals and over a great many years. The action that I hope we take here this evening will see a constitutional amendment being proposed to the people of this state that will indeed strengthen the legislature of the State of Maine.

There have been a great many years that have passed since this idea first surfaced, since it was first proposed, and a great many individuals have put a great degree of effort into coming to this moment here this evening. Many of them are here tonight. Many of them have not been even members of this legislature but have been members in previous legislatures who have attempted to accomplish what I hope we accomplish here this evening.

I wish to extend very sincere congratulations to the Committee on State Government, to the conference committees which worked very hard and long on this particular matter, and also to another Senator in this body, the Senator from Cumberland, Senator Merrill, who worked very hard in writing this legislation as well, and the legislative staff, particularly Mrs. Suzanne Havens, who worked very hard in putting this legislation together. Countless others, of course, have been involved in this effort as well.

I think the good Senator from Penobscot, Senator Curtis, put it very well when he said that this is one more item that I hope the people of the State of Maine will regard as contributing to a constitutional reform legislature.

As a last comment, Mr. President, I would like to also extend very hearty congratulations to the other body of this legislature for working with great difficulty with many questions but ultimately resolving that, although all of these questions may not be answered, it is very difficult to write indeed any kind of perfect legislation. And I feel that the action that has recently been taken, if I may, has been in a very statesmanlike manner. I would urge the members of this body to concur

with the other branch in finally passing this constitutional resolution.

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

Mr. CONLEY: Mr. President and Members of the Senate: I agree with all the comments that have been made here this evening up to this time, certainly the remarks made by the two previous speakers. I, for one, have been a member of the legislature over a number of years now, dating back anyway to the 102nd Legislature, and I can recall and would have to give credit to members who had served on the State Government Committee back in those days, because I am sure that their thoughts were exactly the thoughts of the present State Government Committee.

I look back to January 1st when we first came to these chambers, and I am sure that all of us had the thought in mind as to what was going to happen during this session of the legislature. Were we going to be able to work together? Would we be able to put our partisan feelings aside? Would we really be able to pass constitutional amendments such as the ones we have passed to date, doing away with the multi-member districts in the House, abolishing the Executive Council, as to whether or not we would be able to put another constitutional amendment for annual sessions before the people? I honestly in my heart say this could not have been done unless we had an independent Governor. Because of that fact, I think we finally recognized, each and every one of us, what our responsibility finally was to the citizens of this state. And I commend everyone, not only here but in the other branch as well, for working so hard and so cooperatively with one another.

I recall that when Governor Curtis was the Chief Executive of this state and he had the Executive Council, they were often referred to as Snow White and the Seven Dwarfs. No longer will we hear that. I can remember again when a great Republican House Member during the 102nd, by the name of Wayne Libhart, was asked — or the question was put to the House — what would it cost to replace the Executive Council, and Mr. Libhart stood up and said "The price of seven rubber stamps."

There is no question in anyone's mind here tonight, if we want to be honest and open about it, that the Governor's Council has been a millstone around every chief executive's neck since he has been the chief executive, whether it was an all-Republican Legislature with a Republican Governor — and we haven't had the luxury in my day to have an all-Democratic Legislature with a Democratic Governor — but aside from that, I am sure that each of those fellows who served in that corner office, whether it was on the third floor or the second floor, certainly had their woes.

I think the winners tonight are the citizens of this state, and I have to take my hat off to every one of you who served not only in this branch but the branch at the other end of the hall.

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

Mr. MERRILL: Mr. President and Members of the Senate: This has been a year, I think, that has been characterized by a great deal of criticism, some with merit and some I think without merit, of politics and politicians. And as