

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Ninth Legislature

OF THE

STATE OF MAINE

1959

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Thursday, April 9, 1959

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

Prayer by the Rev. Mr. Edward R. Nelson of the Immanuel Baptist Church of Portland.

The journal of yesterday was read and approved.

Conference Committee Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act relating to Licensing and Safety in Operation of Boats" (S. P. 79) (L. D. 151) reporting that the Senate recede and concur in referring the Bill to the Committee on Judiciary.

(Signed)

LINNELL of South Portland

PITTS of Harrison

BERMAN of Auburn

— Committee on part of House.

CARPENTER of Somerset

BRIGGS of Aroostook

HILLMAN of Penobscot

— Committee on part of Senate

Report was read and accepted and sent up for concurrence.

Papers from the Senate
Senate Reports of Committees
Ought Not to Pass

Report of the Committee on Public Health reporting "Ought not to pass" on Bill "An Act relating to Barber Apprentices, Barber Instructors and Barber Shop Licenses" (S. P. 405) (L. D. 1173)

Came from the Senate read and accepted.

In the House, the Report was read and accepted in concurrence.

Ought to Pass in New Draft

Report of the Committee on Legal Affairs on Bill "An Act relating to Pensions for Widows and Children of Deceased Policemen of the City of Lewiston" (S. P. 173) (L. D. 417) reporting same in a new draft (S. P. 444) (L. D. 1292) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft read twice and tomorrow assigned.

Ought to Pass
Tabled and Assigned

Report of the Committee on Business Legislation reporting "Ought to pass" on Bill "An Act relating to Capital Shares of Insurance Corporations" (S. P. 363) (L. D. 1046)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

In the House, the Report was read.

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

Mr. DENNETT: Mr. Speaker and Members of the House: As there presently is another bill upon the table assigned for April 16 and it deals with the same subject matter as contained in this bill, I move that this bill lie upon the table and be especially assigned for the same date which is next Thursday, April 16.

The SPEAKER: With respect to this item, the gentleman from Kittery, Mr. Dennett, moves that the "Ought to pass" Report be tabled and specially assigned for April 16, pending acceptance of the Committee Report. Is this the pleasure of the House?

The motion prevailed.

Report of the Committee on Highways reporting "Ought to pass" on Bill "An Act relating to Relocating Facilities in Federal Aid Interstate Highway Projects" (S. P. 410) (L. D. 1194)

Report of the Committee on Judiciary reporting same on Bill "An Act relating to Fiduciary's Transactions by Check" (S. P. 375) (L. D. 1102)

Report of the Committee on Public Health reporting same of Bill "An Act Increasing Fees for Plumbing Permits" (S. P. 347) (L. D. 974)

Report of same Committee reporting same on Bill "An Act relating to Qualifications of Applicants for Registration as Licensed Physicians or Surgeons" (S. P. 395) (L. D. 1139)

Came from the Senate with the Reports read and accepted and the Bills passed to be engrossed.

In the House, the Reports were read and accepted in concurrence, the Bills read twice and tomorrow assigned.

Non-Concurrent Matter

Report of the Committee on Transportation reporting "Ought to pass" on Bill "An Act relating to the Inspection of Motor Vehicles" (H. P. 780) (L. D. 1098) which was indefinitely postponed in the House on April 1.

Came from the Senate with the Report accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Turner.

Mr. TURNER: Mr. Speaker, I move that we insist on our former action.

The SPEAKER: The gentleman from Auburn, Mr. Turner, moves that the House insist upon its former action whereby it indefinitely postponed this Bill.

The Chair recognizes the gentleman from Bridgton, Mr. Haughn.

Mr. HAUGHN: Mr. Speaker, I am not positive, but I think recede and concur has the precedent, I may be wrong, but if it is so, I will make that motion.

The SPEAKER: The question now before the House is the motion of the gentleman from Bridgton, Mr. Haughn, that the House recede from its action whereby it indefinitely postponed this bill.

The Chair recognizes the gentleman from Bridgton, Mr. Haughn.

Mr. HAUGHN: Mr. Speaker, I request a division.

The SPEAKER: A division has been requested. Is the House ready for the question? The Chair recognizes the gentleman from Acton, Mr. Hobbs.

Mr. HOBBS: Mr. Speaker and Ladies and Gentlemen: As House Chairman of the Transportation Committee, in regard to this matter, the Committee Report was a full "Ought to pass" Report, you will remember. The majority feeling was that this is operated now under two department heads, and the Committee felt that it would be more properly handled if it was all

under one head of the State Police, and I hope the people of this assembly will go along with our thinking.

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

Mr. DUMAIS: Mr. Speaker, as a member of that Committee, I have studied this bill, and I was going to sign the minority report, but it was told to me that I could put an amendment on, and after talking with quite a few garages and quite a few legislators, the transferring of this power to the State Police would cost the State of Maine in the first year \$60,000, maybe \$120,000 the second year, and maybe \$200,000 and some odd the third year, and the elimination of stations after which an editorial appeared in the City of Lewiston stating that if all the garages and all the facilities were all taken care of together, that we might wind up in Lewiston and in certain big cities with three and four inspection stations and in some towns none at all, because the equipment they would have to buy the price would be prohibitive, and the enforcement would be very strict and naturally everybody cannot afford to buy a 1959 automobile, I came to the conclusion that the best thing was to leave well enough alone.

As it is now, we are making \$45,000 to \$50,000 a year with this inspection program, and with the turning over to the Chief of the Police would cost us, just the opening of the door, would cost us \$60,000. God knows after the door is opened how much it would cost. And Paul MacDonald has administered this very well. He has stated before the Committee that the only complaints he has had as far as inspection stations are concerned, are from people that bought cars from dealers like myself, jalopies, and they were not satisfied with the automobile, and they did complain. They filed a complaint, they didn't know what to complain about, but they complained about the stickers not being on the automobile because the thing was not present. My argument was against it that when I left Detroit in 1956 with five brand new Cadillacs, before we got to Toronto we had to leave two on the

side of the road, and I didn't think that even '56 automobiles were much better than '49's, and we questioned the Chief of the State Police at length on this thing, and we would have liked to have gone along on charging \$1.50 for a sticker the way some of the states have been doing, but the source of the truth that too many accidents happen by the use of jalopies on our roads proved to be futile. It proved that the human element that is behind the wheel was the person who really caused the accidents.

Incidentally, I know of some, and you probably do too yourself, of some people that have lost their hydraulic brakes, but they have managed to get home safely without a scar, and we find that in going through the junk yards that there are more practically '53, '54, '55, '56 and '57 models, automobiles scrapped than there are '46 and '47, and on this basis I thought that the State of Maine in the financial position that we were in, we would keep our \$45,000 and save that \$60,000 that we should pay out. Therefore, I hope that the motion of the gentleman from Bridgton, Mr. Haughn, does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mr. Haughn.

Mr. HAUGHN: Mr. Speaker and Members of the House: All due respect and courtesy to my fellow colleague from Lewiston, Mr. Dumais, I think it is a little far fetched in his explanation of the dollars to be expended. I have talked this over with Mr. Weed from the Registry Department. They are really disturbed by the fact that we have a duplication of services at the present time which is costing us money now. By putting it under one department we are doing what the Legislature would like to have done to have laws enforced. This way by having it under one department we are making laws that will and shall be enforced and are not too rigid and with cars on the highways that we know of today, the so-called jalopies, that are a hazard and a menace to the highways, it is true that by inspection it is not going to be the cure of it, but on an inspection of the stations themselves to make sure that they are not just placing a sticker on a car for the sake of knowing a neigh-

bor or some friend, they are going to make sure there is an inspection done.

Now if we want laws enforced, it is up to us to give them to the right group to handle, and it has the blessings of your Secretary of State and their department, who feel that they are not qualified to handle it because they haven't the staff nor the operations to do it. The amendment has taken off what we felt was the curse to this bill, the fee of one dollar, it has been reduced back to fifty cents to show that we are not just legalizing garages to make a profit and prey on the public, so as far as I am concerned, I think that this legislature would be very wise in their judgement if they give full consideration to keeping it under one agency, and that is namely, the State Police. When the vote is taken I do request a division.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Turner.

Mr. TURNER: Mr. Speaker, I wonder, we have had two — this has been before us twice and we have killed the bill both times, and of course this has come back from the other branch, and I wonder if they think we are just dubs or whether we don't know where we stand, and I move that we kill this thing once and forever.

The SPEAKER: The Chair recognizes the gentleman from Guilford, Mr. Dodge.

Mr. DODGE: Mr. Speaker, I would like to read — you have all had some of these, of the mistakes made by drivers that cause accidents. Defective equipment was 3.4 per cent, drivers' driving asleep was 2.1. Defective equipment, I don't think any extra thing you do is going to make any difference with your defective equipment.

The SPEAKER: Is the House ready for the question? The question before the House is the motion of the gentleman from Bridgton, Mr. Haughn, that the House recede from its former action whereby it indefinitely postponed this bill. A division has been requested.

Will those who favor the motion to recede, please rise and remain standing until the monitors have made and returned the count.

A division of the House was had. Twenty-nine having voted in the affirmative and ninety-six having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Turner.

Mr. TURNER: Mr. Speaker, I move we adhere to our former action.

The SPEAKER: The gentleman from Auburn, Mr. Turner, withdraws his motion that the House insist and now moves that the House adhere to its former action whereby it indefinitely postponed this Bill, "An Act relating to the Inspection of Motor Vehicles", House Paper 780, Legislative Document 1098. Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: At this time the Chair would recognize the presence in the gallery of the House of a group of pupils of the seventh grade of Winthrop Junior High School, accompanied by their teachers Mr. Henry Cottrell and Mrs. Doris Davis. On behalf of the House, the Chair extends to you ladies and gentlemen a most hearty and cordial welcome, and we hope you will enjoy and profit by your visit here today. (Applause)

Non-Concurrent Matter

Bill "An Act relating to Definition of Tavern under Liquor Laws" (H. P. 695) (L. D. 995) on which the House voted to insist on its former action whereby the Bill was passed to be engrossed on March 25.

Came from the Senate with that body voting to insist on its former action whereby the Bill was indefinitely postponed in non-concurrence, and asking for a Committee of Conference with the following Conferees appointed on its part:

Messrs. FARLEY of York

COLE of Waldo

WILLEY of Hancock

In the House:

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Caron.

Mr. CARON: Mr. Speaker, I would like to request that this be tabled until next Tuesday or Wednesday, whatever is the preference of the Chair.

The SPEAKER: With respect to this matter, the gentleman from Biddeford, Mr. Caron, moves that this bill and all accompanying papers be tabled and specially assigned for Tuesday next pending further consideration. Is this the pleasure of the House?

(Cries of "No")

The SPEAKER: Will those who favor the motion to table please say aye; those opposed, no.

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

Thereupon, the House voted to join in a Committee of Conference.

The SPEAKER: To this Committee of Conference the Chair will appoint the following on the part of the House: The gentleman from Biddeford, Mr. Caron, the gentleman from Bangor, Mr. Brown, and the gentleman from Bath, Mr. Mayo.

Order

Tabled and Assigned

Mr. Haughn of Bridgton presented the following Order:

ORDERED, the Senate concurring, that the Legislative Research Committee be, and hereby is, directed to study the full scope of the Personnel Law, including the administration thereof; and be it further

ORDERED, that a report of such study, together with any recommendations to either amend the Personnel Law or to install a Civil Service Law for state employees, be submitted to the 100th Legislature.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mr. Haughn.

Mr. HAUGHN: Mr. Speaker and Members of the House: Whereby this order came upon you kind of suddenly, and knowing the feeling that was expressed here yesterday, with the permission of the House I would like to have this order reproduced and tabled and specially assigned for Thursday, April 23.

The SPEAKER: The gentleman from Bridgton, Mr. Haughn, moves that this order be tabled and specially assigned for Thursday, April 23, pending passage. Is this the pleasure of the House?

The motion prevailed.

On motion of the gentlewoman from Yarmouth, Mrs. Knapp, House Rule 25 was suspended for the re-

mainder of today's session in order to permit smoking.

The SPEAKER: At this time the Chair would recognize the presence in the gallery of the House of a group of seventh and eighth grade pupils from the Garret Schenck Grammar School of Anson, accompanied by their Principal, Kenneth Taylor and Mrs. Albert Safford.

The Chair would also recognize the presence in the gallery of the House of a group of eighth grade pupils from Holy Cross School of South Portland, accompanied by Sister M. Ildefonsa, Sister M. Agnes, Sister Anne Marie and Sister Gertrude. On behalf of the House, the Chair extends to all of you ladies and gentlemen a most hearty and cordial welcome and we hope you will enjoy and profit by your visit here today. (Applause)

House Reports of Committees Leave to Withdraw

Mr. Letourneau from the Committee on Labor on Bill "An Act Eliminating Waiting Period under Employment Security Law" (H. P. 117) (L. D. 172) reported Leave to Withdraw.

Mr. Warren from the Committee on Retirements and Pensions reported same on Resolve Providing for State Pension for William Pelky of Winn (H. P. 697) (L. D. 997)

Mr. Walls from the Committee on Transportation reported same on Bill "An Act relating to Age of Motor Vehicle Operators" (H. P. 571) (L. D. 804)

Reports were read and accepted and sent up for concurrence.

Ought Not to Pass Tabled

Mr. Beane from the Committee on Judiciary reported "Ought not to pass" on Bill "An Act relating to Impoundment of Certain Motor Vehicles Involved in Accidents" (H. P. 352) (L. D. 511)

Report was read.

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

Mr. DENNETT: Mr. Speaker and Member of the House; As this bill is one of five which deals in the general area of the problem of the uninsured motorist, which has been

under study by the Legislative Research Committee, and this is the first to be brought in, and it is brought in with this unanimous "Ought not to pass" Report, I don't think at the moment we should discard it so lightly. Therefore, I wish that some of these other bills might be aired here in the House before this is taken up. I therefore move that it be tabled unassigned, and assure the House that it will be removed at the first opportune moment.

The SPEAKER: The gentleman from Kittery, Mr. Dennett, moves that the "Ought not to pass" Committee Report be tabled unassigned pending acceptance. Is this the pleasure of the House?

The motion prevailed.

Mr. Hancock from the Committee on Labor reported "Ought not to pass" on Bill "An Act relating to Disqualification for Benefits under Employment Security Law" (H. P. 589) (L. D. 836)

Mr. Letourneau from same Committee reported same on Bill "An Act relating to Application of Workmen's Compensation Act to Certain Employers" (H. P. 355) (L. D. 514)

Mr. Treworgy from same Committee reported same on Bill "An Act relating to Definition of Wages under Employment Security Law" (H. P. 753) (L. D. 1071)

Mr. Winchenpaw from same Committee reported same on Bill "An Act relating to Disqualification for Unemployment Compensation" (H. P. 650) (L. D. 941)

Mr. Lindsay from the Committee on Transportation reported same on Bill "An Act relating to Lights on Motor Vehicles Used as School Buses" (H. P. 416) (L. D. 600), which was recommitted.

Reports were read and accepted and sent up for concurrence.

Ought to Pass Printed Bills

Mr. Earles from the Committee on Judiciary reported "Ought to pass" on Bill "An Act to Create a Law Revision Commission" (H. P. 644) (L. D. 935)

Same gentleman from same Committee reported same on Bill "An Act relating to Notification by Sec-

retary of State in Motor Vehicle Cases" (H. P. 350) (L. D. 509)

Reports were read and accepted, the Bills read twice and tomorrow assigned.

Tabled and Assigned

Mr. Karkos from the Committee on Labor reported "Ought to pass" on Bill "An Act Repealing Certain Disqualifications of Benefits under Employment Security Law" (H. P. 397) (L. D. 580)

Report was read.

(On motion of Mr. Ervin of Houlton, tabled pending acceptance of the Committee Report and specially assigned for Thursday, April 16.)

Tabled and Assigned

Mr. Winchenpaw from the Committee on Labor reported "Ought to pass" on Bill "An Act relating to Duties and Powers of Department of Labor and Industry" (H. P. 209) (L. D. 300)

Report was read.

(On motion of Mr. Brockway of Milo, tabled pending acceptance of the Committee Report and specially assigned for Thursday, April 16.)

Ought to Pass with Committee Amendment

Mr. Lindsay from the Committee on Transportation on Bill "An Act to Prohibit Excessive Noise from Mufflers on Motor Vehicles" (H. P. 417) (L. D. 601) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" was read by the Clerk as follows:

COMMITTEE AMENDMENT "A" to H. P. 417, L. D. 601, Bill, "An Act to Prohibit Excessive Noise from Mufflers on Motor Vehicles."

Amend said Bill by adding at the end the following section:

'Sec. 4. Effective date. This act shall become effective on April 1, 1960.'

Committee Amendment "A" was adopted and the Bill assigned for third reading tomorrow.

The SPEAKER: At this time the Chair would request the Sergeant-at-Arms to escort the gentleman

from Carthage, Mr. Hutchinson, to the rostrum to serve as Speaker pro tem.

Thereupon, Mr. Hutchinson assumed the Chair as Speaker pro tem amid the applause of the House and Speaker Edgar retired from the Hall.

Divided Report Tabled

Majority Report of the Committee on Natural Resources reporting "Ought not to pass" on Bill "An Act relating to the Classification of Prestile Stream in Aroostook County" (H. P. 661) (L. D. 954)

Report was signed by the following members:

Messrs. BRIGGS of Aroostook

COLE of Waldo

FARLEY of York

— of the Senate.

Messrs. SAUNDERS of Bethel

WHITMAN of Woodstock

PERRY of Easton

— of the House.

Minority Report of same Committee reporting "Ought to pass" on same Bill.

Report was signed by the following members:

Messrs. JALBERT of Lewiston

HEALD of Union

WILLIAMS of Hodgdon

BACON of Sidney

— of the House.

Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Monticello, Mr. Jewell.

Mr. JEWELL: Mr. Speaker and Members of the House: I would like to table this bill to any day convenient next week. I was given to understand that we wouldn't have this bill before us until sometime the first of the week, and I am not fully prepared. Thursday, April 16 would be all right.

The SPEAKER pro tem: The gentleman from Monticello, Mr. Jewell, moves that both reports be tabled and specially assigned for Thursday, April 16, pending acceptance of either report.

Mr. WHITMAN: Mr. Speaker?

The SPEAKER pro tem: For what purpose does the gentleman rise?

Mr. WHITMAN: Mr. Speaker, I wish to debate the time of tabling.

The SPEAKER pro tem: The gentleman may proceed.

Mr. WHITMAN: Mr. Speaker and Members of the House: Yesterday we tabled a bill unassigned which is very similar and closely related to this bill, and I feel very sure that much of the debate will be very nearly identical to the bill now being tabled. For that reason I move that this bill be tabled unassigned.

The SPEAKER pro tem: The question before the House is the motion of the gentleman from Woodstock, Mr. Whitman, that the Reports and Bill be tabled unassigned. Is this the pleasure of the House?

The motion prevailed and the Reports and Bill were tabled unassigned.

Passed to Be Engrossed

Bill "An Act relating to Warrants on Sales and Use Tax Assessments" (S. P. 231) (L. D. 614)

Bill "An Act relating to Examination by Judge into Causes of Criminal Character of Prisoners" (S. P. 379) (L. D. 1105)

Bill "An Act Authorizing Informations at Terms of Court in Cumberland County" (S. P. 380) (L. D. 1106)

Bill "An Act Increasing Payments to Penobscot County Law Library" (S. P. 392) (L. D. 1136)

Were 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 Revising Election Provisions in Charter of City of Lewiston" (H. P. 844) (L. D. 1207)

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

(On motion of Mr. Jalbert of Lewiston, tabled pending passage to be engrossed and specially assigned for tomorrow.)

Amended Bills

Bill "An Act relating to Teachers and Other School Personnel for Mentally Retarded Children" (H. P. 142) (L. D. 198)

Bill "An Act Revising Certain Election Laws" (H. P. 857) (L. D. 1225)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Bill "An Act relating to the Pine-land Hospital and Training Center and the Commitment of the Insane" (S. P. 330) (L. D. 906)

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

Enactor Tabled and Assigned

An Act relating to Type of Lights on School Buses (H. P. 330) (L. D. 477)

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Brunswick, Mr. Lacharite.

Mr. LACHARITE: Mr. Speaker, with regard to item one, "An Act relating to Type of Lights on School Buses", since our discussion last week on this bill, I have been approached by several members of this House and also by some people from without with regard to giving this bill more serious consideration before we pass it to be enacted. I also understand that there may be an amendment offered to this bill. For those reasons, I would like to table this bill for one week from today.

The SPEAKER pro tem: The gentleman from Brunswick, Mr. Lacharite, moves that this bill be tabled pending passage to be enacted and specially assigned for Thursday, April 16. Is this the pleasure of the House?

The motion prevailed.

Passed to Be Enacted

An Act relating to Time of Enrollment of Voters (H. P. 858) (L. D. 1226)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

At this point, Speaker Edgar returned to the rostrum.

SPEAKER EDGAR: The Chair would take this opportunity to thank the gentleman from Carthage, Mr. Hutchinson, for his excellent services.

Thereupon, the Sergeant-at-Arms conducted the gentleman from Carthage, Mr. Hutchinson, to his seat on the Floor, amid the applause of the House, and Speaker Edgar resumed the Chair.

House at Ease

Called to order by the Speaker.

Orders of the Day

The **SPEAKER:** Under Orders of the Day the Chair lays before the House the first tabled and today assigned item, House Divided Report, Majority "Ought not to pass" and Minority "Ought to pass" of the Committee on State Government on Resolve Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation, House Paper 850, Legislative Document 1213, tabled on April 2 by the gentleman from Old Orchard Beach, Mr. Plante, pending acceptance of either report; and the Chair recognizes that gentleman.

Mr. **PLANTE:** Mr. Speaker and Ladies and Gentlemen of the House: Someone much wiser than I has said that governments, like clocks, go from the motion men give them; and governments are made and moved by men. To amend a constitution is neither undemocratic nor against any American philosophy. For example, the State of Maine's Constitution has been amended 84 times.

The birth of each new amendment developed according to the thinking and the conditions that existed at the time of enactment.

We feel that there is today a sincere desire throughout the State of Maine to abolish the Governor's Council. And we believe that such an intention is based upon intelligent and articulate reasoning.

The Governor's Council is a product of the distrust of executive authority displayed by the citi-

zens of Maine at the time our original Constitution was drawn up.

When one recalls their experience during the years preceding the Revolution, their attitude is justified. Royal Governors were agents of the King and came to be identified with oppression. Consequently, the early constitution framers sought to restrict the powers of their governors.

However, Governors today are agents of the people and responsible to them. These two facts coupled with the effective new media does not warrant any "bird dogging" of our governor. In fact, such action is in itself an insult to the Maine electorate. We feel that Maine citizens are qualified to select responsible individuals to the office of Governor. The method of political selection is not fair to the citizens of Maine regardless of political identity. Behind the party vote in joint convention are the nominations by seven county delegations to the legislature. Such county delegations have ranged in size from 27 members in Cumberland County to no more than 3 in Lincoln so that nominations by a bare majority might have the support of only two legislators. Members of county delegations make their selection before they have been officially sworn in as members of the legislature and because of the high turnover rate councilors are frequently selected by freshmen legislators-elect.

Choices of councilors by seven county delegation meetings are normally final. The assumption is so generally made that in December the nominees are invited to the state capitol to survey their anticipated duties as guests of the retiring councilors. The exceptions are extremely few and recent — In 1953 the Washington County delegation's choice was overturned and aside from this break from custom caucuses have chosen on their own discretion only two councilors and then only to break ties in two various county delegations, namely, Aroostook County and Knox County in 1951.

We feel, with the development of the State, the legislature has provided more effective departmental tools to cope with matters formerly handled by the governor and council. Important financial functions are

expertly handled by the Department of Finance and Administration with its Bureaus of Purchases, Public Improvements, Accounting, and so forth. Legislative oversight has been strengthened through a well developed audit system under the direction of an officer elected by us. More polished tools in the field of Probation and Parole point the way to a more professional approach to pardon matters.

It would seem that we are leaving to the Council more and more trivial matters or asking them to superimpose their approval on matters already well and carefully done.

Any honest student of government must admit that enlarged executive responsibility and accountability are inseparable, therefore, I move that the Minority "Ought to pass" Report be accepted.

The SPEAKER: The question before the House is the motion of the gentleman from Old Orchard Beach, Mr. Plante, that the House accept the Minority "Ought to pass" Report.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I, too, favor the Minority Report for one reason, one particular reason, I believe in government by the people, and in order to be government by the people you have to be elected by the people, and as the Council is not elected by the people, it is chosen by a very few, I am opposed to this type of government in the State of Maine or in any other place in the world, so I hope that the Minority Report is accepted.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Wade.

Mr. WADE: Mr. Speaker, I move that this Resolve and both Reports be indefinitely postponed.

The SPEAKER: The question now before the House is the motion of the gentleman from Auburn, Mr. Wade, that both reports be indefinitely postponed.

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

Mr. SANBORN: Mr. Speaker and Ladies and Gentlemen of the House: I have here a report given out by the Chairman of the Citizens' Committee at the public hearing of this

bill. This report is very similar to the one that you Ladies and Gentlemen have on your desks. This report is strictly an opinion, it is not based on facts. No observations were made by this Committee in their deliberations by the action of the governor and council in session.

I would like to read from this Report. "It is to be recognized that the council was organized at a time when all feasible steps were taken to check the power of the Executive." If check and balance were needed when government was small, it certainly is needed today when government is big. I quote again. "It is apparent that though the functions of the Council have become more numerous, they have become less and less significant." On the contrary, more and more important as the size of government grows. I quote again. "At present the citizens throughout Maine rarely know who their Councilor is." Whoever made that statement has never been an executive councilor. By the number of letters, personal calls and telephone calls I received when I was a member of the Executive Council, I found a great number of people who knew I was their Councilor, especially when there was something they wanted and could not get in to see the governor.

"Popular election would probably bring the Council into greater contact with those he represents." However, there is much to be said for enabling the voter to concentrate on fewer, rather than more candidates. That is quoted from the Report. Are they suggesting that we do away with the legislature and have only a governor?

I quote again. "Though improvements could be made in the selection as well as in the functions of the Council, it would still leave a withered vestige of government which no amount of alterations could make into a lasting or really effective branch of government." The Council is really an effective branch of our check and balance system. "The fact that the Council was established in part to avoid employing full time personnel to aid the governor is hardly a valid argument for today." I quote that from the Report. "This points up one of the most glaring and significant in-

adequacies of our present government. . .” and I quote that, “. . .namely, the lack of staff at the disposal of the governor.” The governor has a staff of seven councilors to help him. They are paid only when they are in session. If he sees fit to work them when they are not in session, it would cost the State nothing. Here is an opportunity to get a lot of free service for the State, a chance to economize instead of building a large, costly department.

I quote from the Report again. “Under no circumstances could these staff functions be fulfilled by a part time non-professional Council.” Most councilors are former legislators. Are we as legislators here qualified to act and make statutes for our law books?

I would like to read regarding pardons from a letter that I received from a judge in Texas. “In Texas we have a full time pardon board, while I understand that the Governor’s Council exercised the pardoning power in Maine. The full time pardon board in Texas costs about thirteen times as much as the entire expense of the Governor’s Council. This is certainly an undesirable condition in so far as Texas is concerned.”

I quote again. “Many of the appointments presently handled by the Council should be relegated either to the Personnel Department, other State Agencies or to the Governor.” That is not a true statement, the Council cannot appoint, they can only approve or reject.

Under Financial Powers, and I quote: “The duties of a financial nature now exercised by the Council are an unnecessary review of matters which are properly the business of the Financial Department, the particular state agency and the governor.” The Council is elected for two years, the same as members of this legislature. Is this Committee saying that the legislature is not capable of determining appropriations for departments?

I quote again under Insurance. “It has been a function operating without the benefit of any legislative procedures.” Previous legislatures have spoken and the statutes say that the placing of state insurance coverage is the responsibility of the governor and Council. When I was

a member of the Council and Ed Muskie was Governor, he called in a group of twelve experts to study the present insurance system. They unanimously reported that they could not suggest any better method than is now used to handle the necessary and required state insurance coverage.

I have a letter here from a judge in Texas, I would like to read that letter. They do not have an executive council in Texas. I will not give you his name, I think it should be kept confidential. “I would like to give a Texan’s viewpoint with respect to the pending bill to abolish the Executive Council commonly called a Governor’s Council which is now pending before the Maine Legislature. The writer well knows that the people of Maine do not need a Texan to tell them the manner in which their governmental affairs should be run. My views are merely a comparison between the system prevalent in my home state and the Governor’s Council which exists in Maine. For once Texas comes out second best. Some of the reasons which compel me to believe that the Governor’s Council is the more responsive system for handling the affairs of the Executive Department of a state are as follows:

“In Texas there is no responsible advisory body to the Governor. The only advisors whom he has in so far as the Executive or Legislative Department is concerned are those who are his political friends or appointees and those who have a personal ax to grind. He is likely to follow the advice of one individual who is in all probability what is called a “throne maker.” This one person obtains the Governor’s confidence and from that point forward everything which the Governor does is in all probability advised by the power behind the throne. Such power may be exercised for political opportunity, personal gain, or profit, and is oftentimes corruptly exercised for the benefit of certain cliques or groups. As I understand it, in Maine the Governor is not advised by one certain individual but by a group which is chosen by the legislature. In my opinion, this would be a great improvement over the system which prevails in Texas.

"Under the Texas system appointments are made by the Governor and confirmed by the Senate. The writer would much prefer the Maine system where the appointments are confirmed by the Governor's Council. In Texas if the legislature is not in session, the Governor can make an appointment, which is known as an interim appointment, and such appointment is to all intents and purposes a permanent one until the next session of the legislature. It is possible for such an appointee to hold office for a period in excess of one year under such an interim appointment."

Ladies and Gentlemen, that completes my comments.

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

Mr. PIKE: Mr. Speaker and Members of the House: I quite thoroughly agree with the gentleman from Gorham, Mr. Sanborn. There are two points, first I would like to be clear, I got a little confused but I think we are talking about the abolition of the Governor's Council, not the method of voting for the Governor's Council. Am I wrong, Mr. Speaker?

The SPEAKER: The gentleman is correct.

Mr. PIKE: There are two points that I think perhaps haven't been sufficiently emphasized on the function and the nature of the Governor's Council, and to bring them out I am afraid I shall have to compare the practice in this State with the practice in the Federal Government, of which, I take it, we are reasonably familiar.

One of them is the matter of advisors to the Chief Executive. Nobody, as I remember it, has yet claimed that the governor should stand up as a lonely peak without assistance and support or without advice. In our Federal Government the advice is given by a so-called cabinet which does not exist in the Constitution and, to the best of my knowledge, it does not exist in law. The members of that cabinet are charged with administrative functions, they are heads of operating departments in the Government. They are, in general, personal choices of the Chief Executive and it is customary that they leave with

the Chief Executive, they all hand in their resignation when he goes so that a new man, if he wishes, can start out fresh.

With us the heads of departments are either elected by the people or selected by the legislature. The terms do not coincide and it may very well be and perhaps has happened, that the department heads are not sympathetic with the governor. The main point is, however, that as administrative officers they have duties to their own departments which very frequently conflict with perhaps the other duty of giving unbiased, objective advice to the chief executive. If any of you doubt that, if any of you doubt that there is in-fighting and scrapping among members of the cabinet from the point of view of their duties as administrative officers, I would recommend to you, perhaps an outstanding example, the Secret Diary of Harold Ickes, self-named the "Old Curmudgeon," gives in considerable detail the rows between the people in the cabinet on the matters and powers of their own departments. It is a very normal thing when a thing comes up in a cabinet meeting for the secretary of this department or that to almost have to take the stand which his department wants and may benefit by rather than the stand which is perhaps to the best benefit of the Nation. If he doesn't he loses influence and standing with his own department when he goes back.

It does seem to me that in this State we have a heritage and a possession which should not be freely dispensed with. We have seven people who have no administrative duties who have probably good acquaintances, special acquaintanceship with their districts, who can and, I suppose do, never having been in the Council, I suppose do give unbiased advice to the governor, and I would suspect with the present complication of state government, the governor very frequently wants advice and he may very frequently want the special knowledge of the gentleman from the given area. Now, this should not be freely dispensed with.

Now, the other one is a subject with which I have some personal acquaintanceship, bearing several

scars from a Federal operation, is this matter of interim appointments. You see in this bill that the legislature not being in session, that the governor can make interim appointments which will last until the twentieth day of the next legislative session. Now, this is pretty bad in the Federal Government where the Congress meets every year and, I must say, meets a great part of the year. There the interim appointments last until the end of the next session. You can be an interim appointee for nearly a year. You go on your job, you try to do a good job. Doing a good job requires making decisions. Making decisions usually means pleasing one person and definitely displeasing many more persons, either members of the legislature, the Congress or the Senate or their constituents which is tantamount to about the same thing. Now, by the time you come up for confirmation, if you tried to do your job properly, haven't pulled any punches and made some decisions, you have created some frictions up there in the crowd that is going to sit on your appointment, and may very well have made enemies who don't want to see you around there. So, in the Congress in the Federal Government, you can be on the job for from six months to a year and then get thrown out. That doesn't happen very often but I am afraid that what does happen is that the appointee, being human with a pretty good eye to his permanence in office with perhaps having moved his family to the seat of government and put his kids in school, instead of calling his shots as he sees them, there is a terrific pressure on him to call his shots so that they will please the members of the body before which his appointment is coming up the next session. Now, bad as that is in the Federal Government, it is immensely worse here with our biennial session where one could reasonably be sitting on these same tether hooks for a good two years and be well settled and then suddenly find or being notified that he has immensely displeased the group which is going to sit on his confirmation. This we avoid completely, and I think it is a great thing about our Council. There is no such thing as an interim appoint-

ment and there is no need of an interim appointment in the State of Maine. That should not be lightly discarded.

One more horrible thought, having seen something of the time that is taken up, not to say wasted, in debating appointments, perhaps you will note now the appointment of an old colleague of mine, Lewis Strauss as Secretary of Commerce, he has been duly notified that it will take about six weeks of hearing before his case comes to a vote, and remembering quite acutely what happens to your operation when you are up there before a committee six to seven hours a day, I think that probably the Department of Commerce will not prosper during the six weeks, whether or not he is confirmed. But the horrible thought is that every one of these jobs, both major and minor, under this proposed law as I read it, will come up before the Senate, and as some of you may know, you can get about as excited about local matters as you can about the larger ones, I visualize the real possibility that the other body might have to sit one or two additional months just being cluttered up with these appointments. That wouldn't be so horrible from our point of view, but it would be horrible for us to have to sit up here for the same one or two additional months twiddling our thumbs waiting for the other body to have completed its business. There is a real possibility of that. I think I have overstated perhaps my case a little bit, I have overstated my time, and I thank you very much and I hope that the motion of the gentleman from Auburn, Mr. Wade, will prevail.

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

Mr. HEALY: Mr. Speaker, Members of the House, Members of the Senate: This being my bow in this esteemed company, I am not unmindful of the advice the mammal whale gave to her cub. "Son," says she, "remember always the surest way to get harpooned is when you are spouting." I don't plan to do much spouting here today, but I should like to call the attention of this House to an occasion when I was here in Augusta last fall and this group of seven iron men were

seated around the table there and the governor was on the podium, or what have you, gavel in hand and he had a stack of bills in front of him that high, (Motioning) anywhere from an item of \$2 for termite powder to a contract for \$250,000 to build a terminal down between Lincolnville and Islesboro, and the item for \$250,000 made no more progress than the item of \$2.

May I ask if in the State of New York or in the State of Texas, with their tremendous budgets, New York State, I believe, has a budget of \$2 billion, conceive if you will, the governor sitting around with his council to approve such items as I have referred to, when would they get through, may I ask?

Now, personally, I feel that we are top heavy in government here in the State of Maine. We could probably dispense with the Council and also the Senate. They only have one legislative body out in the State of Nebraska and it is limited to fifty members and, incidentally that is no peanut state, they raise about a third of the wheat crop in the country, and they produce five million head of cattle, they are twice the size of the State of Maine, not only in area but in population, and they have been doing pretty well since 1937. I would suggest that the proposition of the Governor's Council be abolished. I thank you.

The SPEAKER: The Chair recognizes the gentleman from Woodstock, Mr. Whitman.

Mr. WHITMAN: Mr. Speaker and Ladies and Gentlemen of the House: I want to go on record here today as being opposed to this bill and, for that matter, any other bill that calls for an amendment to our constitution without complete justification. It is my sincere conviction that the fundamental issues concerned in these proposals go a lot deeper than party lines or personal, political expedience. In my estimation, the Constitution of the State of Maine is a cherished institution which has endured for 138 years and served us very well during that interim.

Now, without adequate reason we are being asked to abandon certain checks and balances that were incorporated in that Constitution to preserve and protect all of the basic

fundamentals of our truly democratic form of state government.

There are many here who will expound the viewpoint that Maine is antiquated in retaining this so-called top heavy form of government. They will also say that this is the trend. This is the trend to the centralization of power within the executive branch. I would urge each and every one of you to take a good long look at some of the states which have proceeded in this direction and make a special note of some of the corruption and dishonesty in government that has followed their progress, or so-called progress, in this direction. It might be well to take a backward look at the State of Maine and note that at present we enjoy one of the highest reputations of integrity in our State of Maine here today. If this is the result of our top heavy form of government, then I say so be it. I fail to see why the State of Maine should be like the sheep that jumped off the cliff to self destruction simply because the rest of the flock has proceeded in that direction. I, for one, say that if the State of Maine must stand alone in preserving our integrity and self respect, then I say by all means let's do so.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Hendsbee.

Mr. HENDSBEE: Mr. Speaker, Ladies and Gentlemen of the House: Many years ago almost all states had an executive council. Down through the period of years they have been abolished for various reasons. We now find ourselves at the spot where we only have three left. You may call it the survival of the fittest, the last of the old guard or anything that you wish. I have a few facts that I would like to leave with you for your thinking.

New Hampshire, Massachusetts and Maine have executive councils. Massachusetts has an eight member council with a lieutenant governor serving as an ex-officio but voting member. They are elected for a two year term directly by the people from eight districts. They confirm appointments, hear pardon applications, approve contracts, all in a routine advisory capacity. They meet weekly for one hour.

In New Hampshire they have a five man council elected biennially by the people. They hear pardons, confirm appointments and visit institutions.

Now, Ladies and Gentlemen, in the State of Maine we have an executive council. They are not elected by the people. I came down here as a legislator to try and help do things for people. I believe as legislators we do represent towns and people, and I feel that here in the State of Maine, if we must have an executive council, why cannot the people have something to say about electing them. That is the point I would like to have clarified. I believe that the people in our State are just as good as the people in any other state, and I spent most of my life in another state. And I believe that the people should have something to say about electing an executive committee. I thank you.

The SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. Christie.

Mrs. CHRISTIE: Mr. Speaker and Members of the House: This bill is evidence of a definite trend toward more power in the hands of one man, the governor of the State of Maine. It is a dangerous trend, it is a trend toward dictatorship, it is a trend away from government in the hands of the people. Our early leaders, Washington, Lincoln and Jefferson were very much concerned to keep power in the hands of the people, to keep power at the grass roots, and this is my concern today, and because I felt that this is a trend away from that method of granting of power I am opposed to this bill, and I hope the motion of the gentleman from Auburn, Mr. Wade, prevails:

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Plante.

Mr. PLANTE: Mr. Speaker and Ladies and Gentlemen of the House: I would like to take just a few minutes in rebuttal to some of the comments that have been made.

In my original remarks I confined myself to what I believe was simply facts and figures, and I shall try to do so in this instance. First of all there was the question of pressure of appointments. I would like to add that this is not novel to

Maine. The individuals desiring the office of Attorney General this year were not exactly at ease. The constitution has endured, but then again, I would like to remind the members of this House that this same constitution has been amended eighty-four times.

I will admit, in session, the executive council continues to appear as a rather imposing board of directors. However, when you ask what important functions are performed, we have very few answers. I have stated that their functions have been reduced and I would like to give a few facts in relation to this.

The council was once an employment agency, however, in 1937 a civil service system was enacted. At one time councilors often determined where roads and bridges would be built, but in 1935 the State Highway Commission was established. The council still approves individual expenditures, but members are guided by a rubber stamp with the magic words "Approved by the Bureau of Accounts and Control."

There has been a question that if we do not preserve the governor's council that possibly corruption will increase within the government of the State of Maine. I do not wish to name cases in the past where with the council, or even if we hadn't had the council, we still had corruption in this State. We have never been free of venality in the past simply because we have had a governor's council.

A few years ago in Cumberland County's councilor district, for example, one hundred insurance agents received some share of the State insurance. Approximately a third of the agents did not write a policy in order to gain an appropriate profit, but chose instead to let the regular agents handle the paper work while they accepted a check for a commission anyhow. The fact that these checks are often less than \$50 does not dismiss questions of whether commissions are sometimes paid for when no services are rendered.

When the vote is taken, Mr. Speaker, I move that it be taken by roll call vote.

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

Mr. STANLEY: Mr. Speaker and Members of the House: I think perhaps there may have been some misunderstanding as to reports on the Committee which we had, the Citizen's Committee. I would like to go back a little bit to June of 1956 when the Public Administration Service brought in their report on the organization and administration of the government of the State of Maine. In that report it says, "In the report of 1930 on state administrative consolidation in Maine, the National Institute of Public Administration pointed out the need to curtail the powers of the Council and indicated that the future elimination of the Council would be expedient unless it could be made a purely advisory body." At the present time, twenty-five years after the submission of the report mentioned, the Council is still playing its traditional role and still has functions which in terms of good public administration belong to the governor or to his subordinates.

Maine, New Hampshire and Massachusetts are the only three states which have a Governor's Council. Massachusetts, whose Constitution served as a guide to the framers of the Maine Constitution, readjusted the powers of its Council in 1918 after giving serious consideration to its abolition. It is high time that Maine again follows the Massachusetts pattern if it is considered inexpedient to emulate the forty-five states which do not have a Governor's Council.

In the report it has been suggested several times that the PAS Report of 1930 and the PAS Report of 1956 recommended the abolition of the Governor's Council. This is not true. It did not recommend the abolition of the Governor's Council. They recommended that its duties be curtailed; in that respect I would be in favor of it. Someone has said that the powers of the Executive Council have been lessened over the years. The Public Administration Survey Service says that the powers of the Executive Council have been expanded by law until a gradual absorption of administrative functions.

The proposed report's proposed organization of the State of Maine, a chart in the PAS Report shows at the head of the page the electorate, next in order is the Governor, over at one side is the Legislature and following the Legislature it shows the Executive Council and the Auditor. After this report came out, the 98th Legislature set up a committee known as a Citizen's Committee to study the PAS Report. We have the report of that committee and their recommendations and reasons for them. The recommendations of that committee, one anyway, is that the Executive Council be abolished and that constitutional and statutory amendments be adopted to dispose of the existing powers and duties of the Council.

A resume of reasons that the Executive Council was established in 1820, the year Maine became a state, on the theory that a Council is a necessary checkrein on the power of the Executive. There were strong doubts even then that an Executive Council was a useful appendage of government. Those early misgivings were indicated by the words of one of the constitutional convention delegates as reported in the record of debates of the 1819 convention.

Here I quote: "I believe", said Dr. Rose, "we can get a Governor as capable of doing the business of the Executive alone, as other states. If we give him a Council, we not only incur a useless expense, but divide the responsibility, and open a door for intrigue." I would rather question whether it is a useless expense; it does serve a function which I think is very important to the people of Maine. As to having divided responsibility, and that opening the door for intrigue, I would submit that with one person at the helm, one person alone, that intrigue would be that much more enhanced. It would be much easier to have intrigue when one person has the latchkey instead of seven or eight. It says despite these misgivings the Executive Council was established, and certainly we in this Country of ours go along with what the majority want and fortunately the majority overruled those who felt the way Dr. Rose felt.

It says, "However, the present tendency in government is to give an elected executive adequate power to cope with his responsibilities. A system of checks and balances among the branches of government can be retained despite the elimination of the Council. The Council is an unnecessary fetter upon the authority of the Governor." The tendency may be that way but we have trends of things and I think we all remember that history repeats itself. I think it would be wise to continue to keep the Council as it serves a very necessary purpose, rather than being a fetter upon the Executive Authority. The Executive Authority could get out of hand without a Council as we have.

"It has become apparent that although the functions of the Council have become more numerous, they have also become less and less significant. It seems inevitable that this trend will continue and be a deleterious effect upon authority of the councilors and their status in state government." It has been said that we should keep government close to the people. If we eliminate the Council we are just taking it that much farther away from the people, because the members of this House are elected by the people, we are the elected representatives. The Councilors are our representatives when we are not in session. If we do away with the Council we are just taking government one step further away from the people.

It says, "Such functions as could be left, legitimately, with the Council are such that they can be performed equally well by some other branch of government." That may be true, but I doubt if it could be done as efficiently or as well as we have it done now.

"Although improvements could be made in the selection as well as the functions of the Council, it would still leave a withered vestige of government which no amount of alteration could make into a lasting or really effective branch of government." On that I would make no comment at all.

"One of the reasons for the establishment of the Executive Council was to avoid employing a full time staff for the Governor." Of course, the Governor has a full time

staff, but we still have all of these functions which can and should be taken care of by the Council.

"The Council function of hearing pardon cases along with the Governor is unnecessary." That I agree with.

"Many of the appointments in which the Council has a confirming role could be relegated to the Personnel Department, other State Agencies or to the Governor alone. Appointments which should be confirmed, such as Judges and Commissioners of Departments, could be confirmed by some other state body." Yes, they could be confirmed by some other State body but we have a body already. They give no reason why there should be any great change.

"The financial problems now reviewed by the Council are properly the business of the Department of Finance and Administration, the particular state agency involved and the Governor. Salary schedules are properly an administrative function. The Legislature and its elected official, the State Auditor, will continue to act as appropriate balances in this area." My last remark, and the one that is most significant to me in continuing to keep the Council, is that in the memory of the Commissioner of Finance, the financial statement of the State of Maine is put out each year, and the first that the Governor knows about it is the day that it is released to the Press. I don't believe there is another state in the Union where that particular thing happens, and I believe that the only reason that it is that way is because we have an Executive Council. That may seem like a small thing but it is an important thing to each one of us and to the people of the State of Maine, that there is no juggling of figures, that the financial report comes out exactly as the thing happens and it is given to the press and to the people just as it happens. And as I said before, I don't believe any other state has that same situation, and that is a big reason why we should continue to keep the Executive Council.

I think there are many things that the Council can do that perhaps they haven't done. There are things that could be eliminated, as I mentioned

here before, there are things that could be eliminated, but to eliminate the Council itself would be a backward step, in my opinion.

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

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen; I believe that we have nothing to gain by doing away with the Governor's Council but we do have so much to lose in representative government by such a surrender of the people's rights.

Inasmuch as the American form of government is a Republican form of government, that is, the sovereign people through their duly chosen representatives enact the laws, it follows that our forebears who founded this Maine form of government provided that these representatives of theirs should choose a committee to see that the laws they had enacted during the session of the Legislature were properly carried out, also to provide a check upon the acts of the man who had been chosen by them for Governor. This committee which our forebears provided for by the Constitution and called by them the Governor's Council, meant exactly what the term or name implies — a committee or council chosen by the peoples duly elected legislators from seven different sections of the State to act for the Legislature in their absence between sessions.

To choose this legislative committee by popular election would be like having a foreman in charge of a crew of men, and when some difficulty arose with one or more of the crew and the foreman had rendered a decision, they would go over the head of the foreman and apply directly to you. You know what would then happen — you might as well discharge the foreman, as his usefulness as a foreman would be nil from then on.

Human emotions and desires are pretty much the same with all of us and I am persuaded that our fellow legislators, who for the time are members of the minority legislative party, were they the majority party would not be throwing any of these monkey wrenches at our grand Maine Constitution. If your minor-

ity party members keep making the gains in the next years as they have since I have been a member of this Legislature, you will then be the majority party and if and when you are, I am quite sure you will feel the same as I do now about the wrecking of our wonderful time-tested and progress producing Maine Constitution which has so long protected the rights of all the citizens of our State.

This is not, should not, be a Party issue. This is an issue affecting the government of the People, for the People, by the People, against dictatorial government.

The SPEAKER: The Chair recognizes the gentlewoman from Yarmouth, Mrs. Knapp.

Mrs. KNAPP: Mr. Speaker and Members of the House: I think when the voters of our town elect us to come to the legislature they feel that we know what we are doing and are capable of steering our ship into a safe harbor through all the storms, and they are fully aware that we are capable of picking a good councilor; therefore, I am very much against the abolition of the Governor's Council.

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

Mr. BRIGGS: Mr. Speaker, I move the previous question.

The SPEAKER: The gentleman from Portland, Mr. Briggs, has moved the previous question. For the Chair to entertain a motion for the previous question the Chair must be authorized to do so by one-third of the members of the House. Will those who favor the Chair entertaining the motion for the previous question please rise and remain standing until the monitors have made and returned the count.

A sufficient number arose.

The SPEAKER: Obviously more than one-third having arisen, the Chair is authorized to entertain the motion. The question now before the House is, shall the main question be put now? This question is debatable with a time limit of five minutes for any individual member. Is it the pleasure of the House that the main question shall be put now?

The motion prevailed.

The SPEAKER: The main question before the House now is the motion of the gentleman from Auburn, Mr. Wade, that both reports on Resolve Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation, House Paper 850, Legislative Document 1213, be indefinitely postponed. A roll call has been requested.

For the Chair to order a roll call the Chair must have an expression of a desire for a roll call from at least one-fifth of the House. Will those who desire a roll call please rise and remain standing until the monitors have made and returned the count.

A sufficient number arose.

The SPEAKER: Obviously more than one-fifth having arisen, a roll call is ordered.

The gentleman from Casco, Mr. Moore, who would have voted "yes" was excused from voting as he paired his vote with the gentleman from Augusta, Mr. Barnett, who was absent but would have voted "no" were he present.

The gentleman from Fryeburg, Mr. Trumbull, who would have voted "yes", was excused from voting as he paired his vote with the gentleman from Sanford, Mr. Letourneau, who was absent but would have voted "no" were he present.

ROLL CALL

YEA—Bacon, Baker, Baxter, Berman, Bragdon, Brockway, Brown, Bangor; Brown, Cape Elizabeth; Brown, Ellsworth; Call, Carter, Carville, Caswell, Chapman, Gardiner; Chapman, Norway; Choate, Christie, Clark, Cousins, Cox, Crockett, Curtis, Danes, Dean, Dennett, Denison, Dodge, Dumaine, Dunn, Earles, Edwards, Stockton Springs; Emmons, Ervin, Frazier, Good, Graves, Hancock, Hanson, Bradford; Hanson, Lebanon; Hardy, Harrington, Haughn, Heald, Hobbs, Hughes, Hutchinson, Jewell, Jewett, Jones, Kennedy, Knapp, Knight, Lindsay, Linnell, Mathews, Mathieson, Mayo, Monroe, Morse, Parsons, Perry, Easton; Perry, Hampden; Philbrick, Pike, Rankin, Rollins, Rowe, Limerick; Sanborn, Shepard, Smith, Ex-

eter; Smith, Falmouth; Stanley, Storm, Treworgy, Turner, Wade, Walsh, Walter, Weston, Wheaton, Whiting, Whitman, Williams, Winchenpaw.

NAY—Aliberti, Beane, Briggs, Cahill, Caron, Cormier, Cote, Couture, Coyne, Cyr, Augusta; Cyr, Fort Kent; Davis, Westbrook; Desmarais, Dostie, Doyle, Dudley, Dufour, Dumais, Edwards, Raymond; Gallant, Harris, Healy, Hendricks, Hendsbee, Hilton, Jacques, Jalbert, Johnson, Karkos, Kellam, Kilroy, Kinch, Lacharite, Lancaster, Lane, Lantagne, Lebel, Lemelin, Lowery, Maxwell, Miller, Nadeau, Pert, Pitts, Plante, Porell, Prue, Reed, Saunders, Tardiff, Walls, Warren.

ABSENT—Barnett, Boone, Davis, Calais; Dow, Edgerly, Edmunds, Hodgkins, Letourneau, Maddox, Rowe, Madawaska; Russell, Young.

Yea 84, Nay 52, Absent 12.

Eighty-four having voted in the affirmative, fifty-two having voted in the negative, with twelve absentees and two excused from voting, the Reports and Bill were indefinitely postponed and sent up for concurrence.

The SPEAKER: The Chair now lays before the House item number two under tabled and today assigned matters, House Report "Ought not to pass" of the Committee on Judiciary on Bill "An Act relating to Discharge of Chattel Mortgages and Conditional Sales", House Paper 878, Legislative Document 1252, tabled on April 3 by the gentleman from South Portland, Mr. Earles, pending acceptance of the Committee Report; and the Chair recognizes that gentleman.

Mr. EARLES: Mr. Speaker and Ladies and Gentlemen of the House: With reference to this item which you have before you at the moment, I tabled this last week as a matter of courtesy to the sponsor of the bill who was then absent.

At this time, I would move the adoption of the Judiciary Committee's unanimous "Ought not to pass" Report.

The SPEAKER: The gentleman from South Portland, Mr. Earles, moves that the House accept the

"Ought not to pass" Report. Is this the pleasure of the House?

The motion prevailed, the Report was accepted and sent up for concurrence.

The SPEAKER: The Chair now lays before the House the third tabled and today assigned matter, House Divided Report, Report "A" reporting "Ought to pass" and Report "B" reporting "Ought not to pass" of the Committee on Judiciary on Bill "An Act relating to Restricting Certain Trustee Process Until After Judgment", House Paper 116, Legislative Document 171, tabled on April 3 by the gentleman from South Portland, Mr. Earles, pending acceptance of either report.

The Chair recognizes the gentleman from Portland, Mr. Kellam.

Mr. KELLAM: Mr. Speaker, Ladies and Gentlemen of the House: I move that Report "A", the Committee "Ought to pass" Report be accepted and I wish to speak briefly on the motion.

The SPEAKER: The gentleman may proceed.

Mr. KELLAM: Mr. Speaker and Members of the House: The present system of permitting the garnishment of wages on an original writ before the merit of the plaintiff's claim has been established, places too much power in the hands of the claimant. This bill will require that judgment be obtained before this extraordinary remedy be allowed. The purpose of litigation is to determine the relative merits of the case and to aid the prevailing party in obtaining satisfaction. The opponents of this bill refuse to recognize this principle, but rather insist that they should be allowed to determine the justice of their claim themselves.

I think we all realize that every plaintiff feels that he is right. However, court records will show that the plaintiffs do not always win.

Since this action is used mostly in collection cases, there seems to be some feeling that these defendants are primarily poor payers and so-called dead beats, and that adequate protection of the law should not be extended to them. This is not the case. In many instances there is adequate defense to the plaintiff's claim, but the defendant is at such a great disadvantage,

that he may pay a false claim or a larger claim than he rightfully owes.

When a trustee writ is served on an employer, the first notice to the principal defendant is when he is denied his pay. In many instances the employer is distressed over being burdened with this suit and threatens to discharge the employee unless the trustee is released. In any event, unless a release is obtained, the defendant will undoubtedly be unable to provide for himself and family. When faced with the possible loss of employment or the loss of groceries to feed his family, the defendant is in a very poor bargaining position.

By requiring a straight suit to be brought first, the defendant could defend this suit without injury to his job or undue hardship to his family. If the defendant has no defense, a judgment can be readily obtained on which to bring a garnishment proceedings. A person who adamantly refuses to pay his just debts is not worthy of our consideration, but for the innocent party to pay an unjust amount through fear or coercion should be an object of our concern.

The present law is a vicious process inherited from England back in colonial times. It is unfortunate that it is much more difficult to eliminate a poor law than it is to prevent the adoption of one. This law is a barbaric holdover from medieval times that was saddled on the older parts of our country and which has resisted removal, but this has been accomplished in the majority of states. This remedy is not available at all outside of New England. Massachusetts has restricted its process to the extent it is almost impossible to use. The Massachusetts Research Bureau has this year recommended its complete repeal.

I believe the only states that have our present laws are New Hampshire and Vermont. The federal government prohibits the use of trustee process against its employees, and the seamen that are under its protection. None of the newer states have this process. Wherever thinking men have considered this problem in providing laws for their government, it has universally been rejected.

Therefore, I hope this bill will pass to remove this injustice and block on our legal processes.

The SPEAKER: The question before the House is the motion of the gentleman from Portland, Mr. Kelham, that the House accept Report "A" "Ought to pass". Is this the pleasure of the House?

The motion prevailed, the "Ought to pass" Report was accepted, the Bill read twice and tomorrow assigned.

The SPEAKER: The Chair now lays before the House the fourth tabled and today assigned matter, Senate Report "Ought to pass" of the Committee on Towns and Counties on Bill "An Act Providing for County Bond Issue for Capital Improvements in Androscoggin County", Senate Paper 424, Legislative Document 1220, tabled on April 7 by the gentleman from Lewiston, Mr. Dumais, pending acceptance in concurrence; and the Chair recognizes that gentleman.

Thereupon, on motion of that gentleman, the "Ought to pass" Report was accepted in concurrence, the Bill read twice and tomorrow assigned.

The SPEAKER: The Chair now lays before the House the fifth tabled and today assigned matter, Bill "An Act relating to Certification by Automobile Dealers of Mileage of Used Motor Vehicles", Senate Paper 364, Legislative Document 1047, tabled on April 7 by the gentleman from Stonington, Mr. Shepard, pending passage to be engrossed; and the Chair recognizes that gentleman.

Thereupon, Mr. Shepard of Stonington offered House Amendment "A" and moved its adoption.

House Amendment "A" was read by the Clerk as follows:

HOUSE AMENDMENT "A" to S. P. 364, L. D. 1047, Bill, "An Act Relating to Certification by Automobile Dealers of Mileage of Used Motor Vehicles."

Amend said Bill by adding at the end, before the period, the following underlined punctuation and words: provided the vendee certifies to such total mileage

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

Mr. DUMAIS: Mr. Speaker and Members of the House: This amendment will not only make the automobile dealers a liar, but it is going to try to make a liar out of every person that owns an automobile and doesn't desire the mileage to be shown. Therefore, I would move that the bill and all its amendments be indefinitely postponed.

The SPEAKER: The question before the House is the adoption of House Amendment "A". The Chair recognizes the gentleman from Stonington, Mr. Shepard.

Mr. SHEPARD: Mr. Speaker, Ladies and Gentlemen of the House: I think it might be wise to take a few more minutes and review this L. D. 1047 again, I think there is considerable misunderstanding. This bill amends a section of the Revised Statutes dealing with individuals and firms holding dealer or transit plates. They are required under this section, as I explained day before yesterday, to already submit a notice of sale. This bill is asking them to include the mileage in place probably of the horsepower which is no longer necessary. It is useless information, and they would in that place put down the mileage, and then they would be responsible. It is certifying the mileage. I thought that was quite a responsibility to be placing on the dealer unless he received some authorization.

This amendment states that if the vendee, in this case being the seller to the dealer would certify that is the correct mileage, that relieves the dealer of that responsibility. Now how many times this would be used in the run of a year it is an unknown factor, but we do know of cases reported of dealers asking a premium for a low mileage car. People have been known to pay a premium for a low mileage car. This is an attempt to legalize this low mileage car. If I as a seller or any other individual is honest, honest or otherwise, will certify, then the dealer is authorized to sell that as a low mileage car without being on the hook.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Turner.

Mr. TURNER: Mr. Speaker, I would like to ask through the Chair, is this going to create an added expense to our Secretary of State's Department, and do they have to keep records of this?

The SPEAKER: Is the question being addressed to anybody in particular, Mr. Turner?

Mr. TURNER: No.

The SPEAKER: The gentleman from Auburn, Mr. Turner, has addressed a question through the Chair to anyone who may answer if he so chooses.

The Chair recognizes the gentleman from Sanford, Mr. Desmarais.

Mr. DESMARAIS: Mr. Speaker and Members of the House: I am one of the Committee that voted for the unanimous "Ought to pass" on this bill, and we had the — I can't seem to think right now, I must have had a tough night last night here — we asked the Secretary of State if this would be an added burden to his department or an increase in money and he said that it wouldn't because they already have this slip of paper which the dealer has to turn in when he sells the car. The Committee made a careful study of this bill, very carefully, we had two or three weeks of studying on this bill, and we believe that the only way that we could assure these people who are buying cars could tell the actual mileage there is on that car would be to pass this law, and that is the reason I went along with the bill, and I hope that the motion to indefinitely postpone does not prevail.

The SPEAKER: The Chair would remind the gentleman that the question before the House is on the adoption of House Amendment "A" There is no motion before the House to indefinitely postpone.

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

Mr. PIKE: Mr. Speaker, a mere matter of the English language, as I read it, I think vendee means buyer and vendor means seller. If I am not mistaken they have reversed the intent of the act by the amendment.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Shepard.

Mr. SHEPARD: Mr. Speaker, being in ignorance of the matter, I

raised this point with our Director of Legislative Research, Mr. Slosberg, and he said that vendee would be the correct term in this particular case asking the person selling to the dealer to certify. Now we still could be wrong.

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

Mr. DUMAIS: Mr. Speaker, to emphasize on the amendment and the bill a little further, I will go so far as to say that if I get a car from John Jones and John Jones says to me, this car has got 34,000 miles, I take my state report and I mark John Jones sold me the car and it has got 34,000 miles. I sell the car to Jim Smith. Jim Smith contacts the garageman of John Jones, he says I turned that clock back for John Jones, it was 74,000 but I turned it to 34,000. Jim Smith comes over to me and says you are a burglar, you're a thief, I'm going to sue you. So he sues me. So I turn around and I go to John Jones and I say to John Jones, you gave me a little beating on this automobile here, you lied about the mileage and this and that and I sold it as a bonafide 34,000 mile car and I find it has got 74,000 on it, so now if he sues me I have got to sue you. He is looking for a spot to hide himself into and I'm looking for a spot to get out of. That's why I can't understand this thing. Somebody must have had a notion overnight, it is an impossibility for us to go out and do these things. In the matter of a new car being driven from Detroit, the car may not register any mileage for the reason that through railroad strikes or something like that it would be impossible to bring a car up to Maine with 1200 miles and sell it as a new one, not that it has been damaged to any extent, but the mileage would show on it. Then we buy cars at auction in Concord, Mass. and we don't know, over there they are not compelled to go along with us and tell us, oh this is the original mileage, if you have got a Bible I'll swear on it. We don't carry a Bible as a rule, so that's why the whole bill has got me in a daze.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Turner.

Mr. TURNER: Mr. Speaker, it don't seem to me that the Secretary of State should have to keep records of this setting back speedometers. I know they do it a lot, but you take a dealer, some of his chauffeurs will be out running around in cars and they are apt to pile up 5,000 miles on top of that before they get the thing sold. I think this is an awful screwy bill and I move indefinite postponement.

The SPEAKER: The Chair must remind the gentleman that a motion to amend takes priority over a motion to indefinitely postpone.

The Chair recognizes the gentleman from Southport, Mr. Rankin.

Mr. RANKIN: Mr. Speaker, in order that we may clear the air and get at the bill itself, I move the adoption of Committee Amendment "A".

The SPEAKER: The adoption of House Amendment "A" is the question before the House.

The Chair recognizes the gentleman from Guilford, Mr. Dodge.

Mr. DODGE: Mr. Speaker and Members of the House: This bill does not require that you certify that that is the actual mileage as I understand it. If you do, then you have told them that is the mileage, but no one is required to do that. Your speedometer might have broken down or various things, you can say that as far as you know that is what is on the speedometer, but I can't tell for sure whether that is the mileage or not, but if you do have a low mileage car turned in by somebody that says that is the mileage, I have only driven it so long, then you will know you are getting a car that has low mileage on it and you are reasonably sure that that is honest, and no one needs to go to work and say that is exactly what the mileage is. Now I may be wrong in interpreting the bill, but that is what it looks to me like.

The SPEAKER: Is the House ready for the question? The question before the House is the motion of the gentleman from Stonington, Mr. Shepard, that the House adopt House Amendment "A". Will those who favor the adoption of House

Amendment "A" please say aye; those opposed, no.

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

The SPEAKER: The Chair recognizes the gentleman from Moscow, Mr. Cahill.

Mr. CAHILL: Mr. Speaker, with all due respect to those who are trying to pass a law that will certify the actual mileage on an automobile, I now move the indefinite postponement of the bill and all accompanying papers.

The SPEAKER: The Chair would advise the gentleman that automatically the motion now before the House is the motion of the gentleman from Lewiston, Mr. Dumais, that the bill and all accompanying papers be indefinitely postponed. Is the House ready for the question?

The Chair recognizes the gentleman from Sanford, Mr. Desmarais.

Mr. DESMARAIS: I request a division.

The SPEAKER: A division has been requested.

Will those who favor the indefinite postponement of the bill and all accompanying papers please rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Sixty-nine having voted in the affirmative and thirty-three having voted in the negative, the motion prevailed.

Mr. JALBERT: Mr. Speaker?

The SPEAKER: For what purpose does the gentleman rise?

Mr. JALBERT: To make a motion.

The SPEAKER: The gentleman may state his motion.

Mr. JALBERT: Mr. Speaker, I now move that we reconsider our action whereby we indefinitely postponed this measure, and when you vote, vote against me.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, now moves that the House reconsider its action whereby it indefinitely postponed Bill "An Act relating to Certification by Automobile Dealers of Mileage of Used Motor Vehicles". Senate Paper 364, Legislative Document 1047. Is it the pleasure of the House to reconsider? Will those who favor the motion to reconsider please say aye; those opposed, no.

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

The SPEAKER: The Chair now lays before the House the sixth tabled and today assigned matter, Report of the House Committee on County Estimates, tabled on April 8 by the gentleman from Ellsworth, Mr. Brown, pending acceptance of the Report.

The Chair recognizes the gentleman from East Machias, Mr. Denison.

Thereupon, on motion of that gentleman, on a viva voce vote, the Report was retabled and specially assigned for Wednesday, April 15, pending acceptance.

(Off Record Remarks by the Speaker)

On motion by Mr. Perry of Hampden,

Adjourned until one o'clock tomorrow afternoon.