

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

held these buildings, if they weren't using them, they obviously would pay no tax under this proposal, because the current use would be no use at all and the value of those buildings for not being used would be nothing. Similarly, you could take a piece of commercial property right in the middle of the city and grow hay on it, and while you were holding it, waiting to put up an office building, you could pay on the value of that quarter of an acre of land for growing hay. That, to me, would be absurd. So, I think the notion that you just wipe out market value appraisals in the property tax, it is not a sensible idea. It cuts too broad a swath to be workable.

The other problem with it is that right now you can compare the valuation to the market value and you can compare them to actual sales of comparable property, which gives you some basis for establishing whether the valuations are fair or not. If you do it on current use, you have no bench mark against which you can compare the values.

I agree that valuations for highest and best use creates serious problems for farmland and open space land, but to apply the same principle to commercial property, to me this just doesn't make any sense.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: On Friday last, I shared with you my rationale supporting the introduction of L. D. 2204 into this special session of the 107th Maine Legislature. At that time, I simply asked your serious consideration of the pending motion before us, which is acceptance of the majority "ought not to pass" report from the Committee on Taxation. I think that the concept embodied in L.D. 2204 is meritorious and I think that it is a concept which would not pass unanimously but certainly by a large plurality if this subject were presented to the citizens of the state in a referendum.

However, the wisdom of the Committee on Taxation and their fine explanation of the difficulties with this particular Bill has convinced me that this L.D. 2204 is perhaps not the vehicle to address the concept of taxation at current use. And again this day, I simply ask your serious consideration of the motion before us.

The SPEAKER: The pending question is on the motion of the gentleman from Auburn, Mr. Drigotas, that the House accept the Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Norris of Brewer requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Auburn, Mr. Drigotas, that the House accept the Majority "Ought not to pass" Report on Resolution Proposing an Amendment to the Constitution to Provide for the Assessment of All Real and Personal Property on the Basis of Current Use, House Paper 2028, L. D. 2204. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Bachrach, Berry, P. P.; Berube, Birt, Boudreau, Bowie, Bustin, Call, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Dam, Davies, Dow, Drigotas, Dudley, Farley, Farnham, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, H.; Gould, Henderson, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Immonen, Ingegneri, Jacques, Jalbert, Joyce, Kany, Kauffman, Kelleher, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, Mills, Miskavage, Mitchell, Morton, Nadeau, Najarian, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, T., Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Snow, Snowe, Spencer, Strout, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Usher, Wagner, Wilfong.

NAY Ault, Bagley, Bennett, Berry, G.W.; Blodgett, Burns, Byers, Chonko, Churchill, Clark, Connors, DeVane, Doak, Durgin, Dyer, Faucher, Goodwin, K.; Gray, Greenlaw, Hall, Hunter, Hutchings, Jackson, Jensen, Kelley, Kennedy, LaPointe, Mackel, MacLeod, McMahon, Morin, Mulkern, Norris, Perkins, T.; Peterson, P.; Post, Rollins, Shute, Smith, Sprowl, Stubbs, Truman, Tyndale, Walker, Winship.

ABSENT — Carey, Carpenter, Carroll, Carter, Curtis, Gauthier, Mahany, Webber.

Yes, 97; No, 45; Absent, 8.

The SPEAKER: Ninety-seven having voted in the affirmative and forty-five in the negative, with eight being absent, the motion does prevail.

Sent up for concurrence.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought To Pass" as amended by Committee Amendment "A" (H-941) — Minority (6) "Ought To Pass" as amended by Committee Amendment "B" (H-942) Committee on State Government on Resolution Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money (H. P. 1981) (L. D. 2170)

Tabled — March 1 by Mr. Cooney of Sabattus.

Pending — Motion of the same gentleman to accept the Majority "Ought To Pass" as amended by Committee Amendment "A" Report.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, Ladies and gentlemen of the House: Today before you you have a bill which is asking the people to vote on a constitutional amendment to allow a line item veto by the Governor of the State of Maine. It is an approach that many people in their years of work in the legislature have worked very hard to see the day when this could be possible. They have done it possibly for major reasons, one being that once the appropriation bill hits the floor of the House, it is known that it is never opened, that there never can be made changes in it. Therefore, the entire financing of our state in each legislative year is determined by ten men who sit on the Appropriations Committee.

What this bill is saying is that the Executive Office has a chance to checkmate and have through a check and balance system the right to veto items that the executive feels are not a priority need at this time, also the right to reduce items if financing to that extent is not available.

I would call it good legislation to pass such a bill today, and I hope this will show that we are a progressive legislature. There are 43 states in this country that have similar legislation.

My main concern is the way the bill came out of committee. It came out in two reports. One report says that it would take a majority to override the veto of the executive; seven signed that report. The second report states that it would take a two-thirds vote to override the veto of the executive; six on the State Government Committee signed that report.

The motion before us today is to accept the motion of the majority. I would ask for a division on that motion and would hope that you would vote against accepting the motion of a majority to override the veto. My reasoning is this. In our mechanism of government in the State of Maine, it usually needs two thirds to pass the appropriation bill. If an item is vetoed, then it turns into a majority for passing that one bill. I think we want to keep our tradition of two thirds to override an executive veto. It is in every other vehicle which we use.

With that, I would ask for a roll call and hope you will support me.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I, like every other member of this body, revere and appreciate the privilege to serve in here, and I, like every other member of this body respect the ability of this body to compete in government as an independent unit. I also respect the Chief Executive of this State, be it James B. Longley, be it Ken Curtis or whoever it may be two years from now. But for this legislature to stand here this morning and listen to the words of the gentleman from Calais, Mr. Silverman, who I believe two years ago was on the opposite side of the aisle in voting against this very measure, to weaken the ability of this legislature to deal with the strong Chief Executive, whoever he or she may be, I think it would be irresponsible of us who come geographically from different areas of the state, represent philosophically different viewpoints of people in this state, to stand here and arbitrarily, in my opinion, weaken the ability of this House to pass judgment on appropriation matters or any other matters that come before it in giving a governor the opportunity for an item veto.

I disagree with the fact that Mr. Silverman emphasized that ten men or women serving on the Appropriations Committee write the appropriation act. The fact is that ten men or women on the Appropriations Committee listen not only to the governor's budget proposals but also listens to us as individuals who come down here for our respective requests that are of prime concern in our own areas or in the general area of the state as a whole.

I disagree with the point that the gentleman raised that the appropriation act is not opened up. It has been in the past, sometimes to the objections of the committee but, nevertheless, they are willing to accept the majority of what this House or the other body may want to do in the general appropriations act. But to turn

around and give this type of applied pressure, which it could very well be, to a Chief Executive of this State, enabling him to write his own appropriation act is something that I cannot stand for in good conscience as a member of this body.

Mr. Speaker, I move the indefinite postponement of this bill, all its accompanying papers, and I request the yeas and nays.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the indefinite postponement of this Resolution and all accompanying papers and requests a roll call vote.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the motion of the gentleman from Bangor, Mr. Kelleher, to indefinitely postpone this bill and all accompanying papers. I am not really too interested in the esoteric arguments of whether it should be two thirds of the House to override the item veto or a majority of the membership.

What we are dealing with is a question of power and disturbing the delicate balance of power between the Executive and Legislative Branches. We have, over the last few years, given more and more power to the Executive Branch. I think we have gone far enough for awhile.

When the people who wrote the Constitution built in this balance of power, and it is obvious from reading our Constitution that the writers of that document were very concerned that too much power in the hands of one person was not a good thing. Here today we are considering transferring more power.

We can speculate about some of the adverse effects of this legislation. One very well could be that legislators could, in effect, be held hostage by the Executive Branch along the lines of — "Well, if you don't support this idea or this program or this tax plan, then your bill might be itemed out of the appropriations act. I would suggest, as Mr. Kelleher has suggested, that it is hard enough now to get your appropriations bill through the House, through the other body, past the appropriations table and then we would have to come up with, depending on whatever judgment was made, either a majority of both branches or two thirds of both branches, should that item be cut?"

We can all think of things that would be in an appropriations bill that we would like to see itemed out. We can all think of things that might be itemed out that we think should be left in. The power of item veto is the power to reduce the university to a second-rate institution. It is the power to prohibit by lack of funds accreditation for mental health institutes. It could severely affect whatever education program that the legislature decided it wanted. It could even do things like cut out the spruce budworm spray. As I said, some people can think of things they would want in and others out. But on balance, the legislature should have an equal voice in determining the kind of things we want to spend money on.

I would suggest to you that there are always times whenever this item occurs, whenever this veto business comes up, it has to be considered in part on the basis of the current political climate. I would suggest that we take the long view, not this governor, not the last governor, but any governor in examining whether we want this kind of transfer of power.

I suggest and I hopefully request that this bill be indefinitely postponed. We are

all aware that this is a constitutional amendment and the bottom line is two thirds enactment by the House and Senate. I think we can save ourselves a lot of time and maybe a lot of money by getting rid of this item today.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to oppose the motion that we indefinitely postpone this bill.

Just in answering perhaps the last speaker and the one before him, I cannot see in this proposal anything which gives the Governor too much power. As a matter of fact, I think it has very clearly been noted on many occasions, not only by the present Governor but by the Governor before him, that if anything, the Governor sits on the second floor and is amazed once he gets there at the little power he has.

I do not hold to the point that the legislature will be held hostage. That really frightens me that we are going to be held hostage. Forty-three states have the item veto power today, and I don't think that any of them are really held as hostages. I do not believe, for example, by passing this measure that we are taking one bit of power away from the legislature. The power is still there to override by a two-thirds vote, which has always been true of other items.

I want to say, too, that I oppose the majority report which calls for a simple majority, not a two thirds. Why, and I would ask this of someone on the State Government Committee, why, on this item alone, why do we single this one out alone as being the one item that just demands a simple majority? There is not much sense in even having an item veto if we go that route.

It would be my hope this morning that we would indeed defeat the motion of the gentleman from Bangor to indefinitely postpone this, to defeat the majority report and to pass the minority report, which to me is the responsible way to go.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker and Members of the House: I will apologize first. I am going to talk ten or twelve minutes, but it seems to me that the topic we have today is worth ten or twelve minutes, if we can spend days on specific items of behavior by the telephone company, on something that affects, as some of the speakers have very rightly shown, a major shift of a balance of power within our government, and when we may be amending our Constitution for years to come, I think it is worth our consideration.

When we talk about the item veto, we are not covering new ground. The idea has been around for some time, ever since, in fact, it became evident that budgeting processes and the complexities of running a modern government began to demand such reform. The item veto has become widely approved throughout the United States. As of last year, 43 states had adopted this procedure, and while a proposal is not necessarily a good idea simply because others endorse it, the opinion of such a large majority should not be totally ignored. And, what we should consider, in looking at the experience of other states, is that not one single state has chosen to reverse its stand once they have adopted the item veto. They found it to be successful.

So today, in looking at a proposal that has been before us so many times, in

considering an idea that refuses to die, it is worth a few minutes to see what has already transpired.

In this state, a broad effort toward governmental reform developed coincidentally with the resurgence of the Democratic party in the 1950's; many people felt that our constitutional procedures needed overhaul. Public pressure seemed to be in the direction of a constitutional convention, but conventions, as we all know, are apt to get out of control. So the 99th Legislature, who had, it is safe to say, little interest in changing the status quo, channeled this energy into a committee, a committee whose recommendations were to be subject to legislative review. Governor Reed appointed a constitutional commission in early 1960, and the commission spent a year holding hearings throughout the state and developing a series of reports recommending governmental reforms. It is safe to say that the majority of the commission recommendations were received by the 100th Legislature with something less than enthusiasm. The item veto was rejected in both houses with less than 15 minutes debate.

Such summary rejection of the commission's recommendations would lead us to suspect that the commission was perhaps a group of wild-eyed reformers. But the record reveals otherwise. This commission was in fact composed of ten of the most able and respected men in the state; let me call this distinguished roll. Many of them known to us today:

John Carey of Bath, subsequently a superior court judge, now deceased; Carleton Edwards from Gray, a minority floor leader; Stanley Snow of Auburn, a successful businessman and member of the executive council; Robert Marden of Waterville, attorney and subsequently president of the Maine Senate; Emery Beane of Augusta, legislator and assistant attorney general; Edwin Smith of Bar Harbor, legislative minority leader, subsequently a district court judge; George Varney of York, head of the Maine Turnpike Authority and subsequently a district court judge; John Ward of Millinocket, formerly both Speaker of the House and President of the Senate; Dr. Robert York of Gorham, outstanding University of Maine Historian; Fred Scribner of Portland, the chairman, a prominent attorney, counsel to the Republican National Committee and a Cabinet officer in the Eisenhower administration.

Even though their recommendations were largely rejected, these men took a firm position on the item veto. It is worth quoting:

"In the opinion of the commission, The most important amendment presented is that which would give to the governor the right of item veto over Legislation involving appropriations."

Here you have the opinion of a group of men, Republican and Democrat, business and professional, lawyer and layman alike, who were comparable in stature to the authors of our original constitution, and who were as concerned for their state as we are. Fifteen years ago, they felt that the time had come for the proposal which we have before us today.

But the efficient rejection of the item veto by the 100th Legislature revealed a pattern that has held essentially constant until today. The question had become political and it has remained so. The idea has been presented in every single

legislature since and has always been supported by one party and opposed by the other. Rarely have more than one or two members of one party voted for the issue, and conversely, only a fraction of the other party has ever failed to support it.

Consequently, in our debate, we may hear some comments about people who change their minds. I don't subscribe to such criticism. First of all, I defend anyone's right to change their mind. And, secondly, I don't think it is germane to our discussion.

There are really two issues at stake. First, and important to those who are concerned with the relationships between branches of government, is the question of power. This proposal will transfer to the executive some of the power that the legislature now enjoys.

The second issue is important to those concerned with the changing needs and efficiency of government. This proposal will make the executive more capable of dealing with the modern economy, and modern budget procedures. Both points of view are valid and both should be heard.

As far as the issue of power is concerned, from an historical perspective, there can be no doubt that the men who designed our Maine government intended the legislature to be the dominant branch. We need not dwell on it; the evidence of their intent is abundant. But, at the same time, there also can be little doubt that these same gentlemen would agree that government must be able to change. Most of them had themselves recently participated in a revolution and in the making of a new government, because the old government had been unable or unwilling to meet changed needs.

If the standard two-thirds majority were required, it is true that a stubborn governor, together with the support of a disciplined minority, could frustrate the will of the legislative majority. There is no doubt that insofar as money items were concerned, there would be a genuine shift of power from the leadership of this branch to the leadership of the executive branch. Many of us are reluctant to authorize such a shift. Enough, in my opinion, are reluctant to authorize it, but it means the defeat of the proposal. I don't see that the proposal with the two-thirds majority can possibly pass.

So I ask you to consider the other committee recommendation, the majority report, that of a simple majority override. With only a simple majority required to override an item veto, there is no reason to believe that the legislature would be emasculated or unable to fulfill its function. If a majority of the legislature wants a particular money item, then they can vote that item over the governor's objection. Any item rejected by the governor must be returned to this body, and if a majority of us insist, the question is resolved. In the final crunch, if the question comes down to a rock or a hard place, the legislature shall prevail.

My question to those who support the two-thirds provision is this: if you are willing to give the governor a lot of power, then why aren't you willing to give him a little power, as the majority provision would? A half a loaf, as we all know, is better than none. While perhaps the majority override is not ideal in the minds of those who really want to improve the management capabilities of the governor, it is certainly a giant step in the right direction.

Today, the society for which our state

government was designed 160 years ago no longer exists. When Governor King presented his first budget, government provided less than a half dozen services, nearly all concerned with public security, and the tax load on the average Maine citizen, according to Moses Greenleaf in his report to the Massachusetts legislature three years earlier, was only 27 cents per year (53 cents in Cumberland County, I might add). Just over 20,000 people voted that year. The value of our manufacturers was 235,000, and the entire executive department of Maine, exclusive of the militia, could fit with ease into the caucus club for lunch. At the halfway mark, by 1900, our total yearly state administrative expenditures, charity and corrections included, were still less than a million dollars, and you can throw the costs of the legislation into that total too.

But times have changed. Today, the governor of this state is responsible for estimating, recommending and overseeing a program, even allowing for inflation that is well over one hundred times as large in dollars, and several hundred times as extensive in terms of government activities. It takes a 510-page book just to describe the commissions, branches, bureaus, departments, offices, and the other paraphernalia of organization that make up the administrative branch of Maine today. Our budget last year had 8 policy areas, 14 major state goals, 30 different functions and 438 separate programs, each of which had three lines and some of which, where federal funds were concerned, had six lines.

Ladies and gentlemen, we are literally a billion dollar business. We can no longer ask that such a complex management task be undertaken without the proper tools, simply because we want to guard what we consider to be our legislative prerogatives.

The scope and complexity of government does not stand alone in calling for the item veto; our economy also demands much more of our executive. No one is today self-sufficient. We in Maine cannot control our economic destiny, we cannot do unto others — we are done to. Like it or not, we live in the matrix of a complicated, highly interdependent economy in which government has to take an increasing part. While state government only exercises a modest fraction of the impact on our society that the national government does, our state economy does demand an efficient executive.

While some of us who feel particularly close to our constituents may feel that we are the true voice of the people, the fact remains that the Governor most closely personifies public opinion. Our parties have no comprehensive, cohesive philosophy and they have precious little responsibility. To believe that people elect a majority in the legislature because they expect to have a party platform delivered is to believe rhetoric. Legislators are elected for local reasons and the only cohesiveness we find in our midst is one committed to the exercise of political power or local advantage. We do have influential and knowledgeable members who are known statewide, and we do have dedicated and conscientious leaders, but there is no one of us, or no group of us, who have withstood the test of a statewide election.

As the most clear representative of public intent, it is only proper that the Governor be able, within some reasonable safeguards, to carry out the program for

which we must assume he was elected. The item veto would clearly assist him (or her) in doing this. And interestingly enough, the item veto would tend to hold the Governor's feet to the fire of public review. A governor will no longer be able to disclaim responsibility for the approval of an act which contains specific provisions he wishes to publicly denounce. The public will no longer be placed in the position of resenting and distrusting the political process because the responsibility for a specific action cannot be clearly placed.

Finally, in the argument for the item veto, and perhaps fully as important as all the reasons that have already been presented, there can be no doubt that this measure will open the fresh air of exposure to the pork barrel. No longer will experienced legislative manipulators be able to hide specific items of expense within the larger appropriations package. In the final hours of a session, the legislature will no longer be offered a single package which contains not only the major goals of the year, but which also contains items of local advantage or items of waste.

Under this proposal the Governor could pick out the piece that he or she considered to be a rip off and send them back to us. And we can then vote on the item. Ninety-five percent of you must share with me from time to time an almost overwhelming urge to get a crack at some item that has been inserted into the completed appropriations bills in the last few days by some foxy legislative tycoon. The item veto will tend to give you that chance.

There is disillusionment, apathy and cynicism rampant in our republic. Each person who bears the title of politician labors under a contagious stigma, no matter how unjust such suspicion may be in his or her case. It does not suffice to act and speak with honesty and dedication, but rather we must be clearly seen by all to be conducting ourselves in conformity with the ethical principles upon which this state was founded.

Although change for the sake of change would be an expediency, a reasoned and statesmanlike improvement in the system will tend to restore a measure of public confidence and respect for which we may, each and every one, claim our full share of credit.

Ladies and gentlemen, today we have a chance to make a decision, free for the first time in 15 years of partisan considerations, a decision based solely on what we consider to be best for our people. This present legislature has already taken two giant steps of reform with the removal of the executive council and the establishment of the single member districts. Let's look at this idea in the same dispassionate light, uncluttered by party or personal egotism. Let's look at the issue squarely, let's see what it will really accomplish, and then let's vote on what we think is best for our state in the many years ahead of us.

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

Mr. CAREY: Mr. Speaker and Members of the House: I could not disagree with the gentleman from Gorham, Mr. Quinn, any more. As the mayor of the City of Waterville, I have a unique charter which gives me the item veto power. It is an awesome power. I have never used it and I hope I never have to use it. I am not prepared to speak for any ten or twelve minutes.

The gentleman has said that we get concerned with pork barreling. It is nice of him as a freshman to come up with solutions which will solve all of our problems. I have been sitting in this back row for the past ten years, and I know for a fact that if we were not taking care of some of those minor bills that could not stand by themselves, that amount to a thousand, two thousand or five thousand dollars in a \$400 million appropriation, then we could forget about getting 101 votes for passage of some of these matters that we have before us.

When he spoke about the 510-page book that brings out all the names of the commissions, boards and what have you that we have, he is obviously referring to this book that was passed out the other day and this book obviously does more than just list boards and commissions. It is actually the annual report of all of those boards and commissions, and this by itself is an improvement over what we used to have when we had scattered on our desks many multiple sizes both in content and in actual measurements, the reports that we used to have.

I can't see one liberal who can see beyond today supporting this particular item veto. I get concerned, for instance, about the trouble that came about when we tried to put together the supplemental package, and I can see that those items individually would have been shot down. Collectively, they were able to attain a measure of some success. I can see the Governor presented with an appropriation bill that has three parts to it, and any governor who is worth his salt, who is thinking at all, would veto one part at a time so that you could end up with an item veto on three separate measures without killing the bill collectively.

This does create tremendous problems and I would certainly hope you would support the gentleman from Bangor. He and I both appeared before the State Government Committee a few years ago when Governor Curtis was in that office and we could see that the Governor would not be in that office forever. It has been proven true. Governor Curtis did not stay in that office forever and we have another governor in that office now. And who knows, the next governor that we have might abuse the privilege.

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

Mr. BUSTIN: Mr. Speaker and Members of the House: Just briefly, I would like to address some of the arguments raised by the Minority Leader and my good friend and colleague from Gorham.

In the first place, the Minority Leader has indicated to us that he does not see how this item veto would grant any more power to the Governor, and I would suggest humbly that I have such respect for his intellectual prowess that I know he cannot be serious.

Secondly, he mentioned legislatures have not been held hostage in other states, and the argument that I made was not legislatures but legislators, individuals who are carrying money bills would be subject to extreme pressure. For example, we are changing now our Constitution so that gubernatorial appointments are ratified in the State's Senate. Is it untoward of me to suggest that in close votes and close situations that future governors might suggest to an individual Senator who is voting against the gubernatorial appointee that that money bill might, in a few months, be itemed out

and then he would go scurrying after 101 votes to pass it over the veto.

I am not one who is opposed to change. Yesterday, I voted and you voted for a reasonable change, a reasonable amendment to this Constitution. Founding fathers years and years ago could not have known of the complexity and the volume of the legislative business. So it is not unreasonable to give the governor five more days to consider whether or not those items should be accepted as they have been passed.

My good friend, Representative Quinn, has suggested that the governor, by virtue of statewide election, personifies public opinion, and me thinks he assumeth too much. Consider that the legislature is the group which is closest to the people. We all know that people are elected in this modern day and age by high-powered media campaigns. Sometimes, not always, but sometimes they are elected on general promises without any specific detail as to how they will be carried through, and very often when that specific detail appears, the people who supported an individual are sometimes dismayed.

I would also suggest that the Governor's Office is not as close to the people as the individual people in this body are, and that to shift the balance into that office from this branch and the other branch is a serious mistake. I hope we would keep the present balance of power and kill this bill.

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: It seems that we can assume that the Chief Executive of this state will exercise, given this power, as much restraint, as the mayor of any of its cities. It is most admirable that the Mayor of Waterville has declined to use the item veto which he has. It seems to me and I hope to you that a Governor of this state would be as responsible as the gentleman from Waterville.

The questions yet to be settled, if you look at the committee amendments and house amendments, the question is yet to be settled whether it is most desirable to have a simple or two-thirds majority.

I would urge each of you to look at the house amendments being offered by the lady from Waterville which, it seems to me, make a great deal of sense. The Governor of this state needs and is entitled to an item veto.

I would ask you to defeat the motion of the gentleman from Bangor.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the State Government Committee, and one who signed the "B" report, which is not before us, I hope you will not go along with the motion to indefinitely postpone. You see, the State Government Committee was not divided on the issue of the veto. It was unanimous for a bill that contained a veto provision. The division in the committee came on whether or not it should be a veto by the majority or by the traditional two thirds.

At one time in the committee there were ten votes for the two thirds, and somehow they evaporated through a little influence here and there, so, we have two reports, an "A" and "B", and "A" for a majority and a "B" for two-thirds. The two thirds being the traditional veto in the other states, the traditional override that we have in this

state, the traditional vote to override in the Federal Government in Washington, so we are not being inconsistent.

What effect is a majority when we come to the appropriations bills at the final end of the session, we always have to have 101 votes? Many of us have been held as hostage by these committees, that cuts up the pie at the end of the session, either you go along or you don't get your baby. It is a question of whether you are going to be hostage to the leadership or the Appropriations Committee or to the Governor. I don't think most Governors are going to abuse this privilege.

I hope, therefore, that you will not vote to indefinitely postpone. I would then move that we indefinitely postpone Committee Amendment "A" and get down to the amendment that does mean something, "B".

The SPEAKER: The Chair recognizes the gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to ask you to please support the motion of the gentleman from Bangor, Mr. Kelleher, to indefinitely postpone.

I feel that centralizing the budget process on the second floor or further centralizing the budget process on the second floor is not the proper move. The legislature has a constitutional responsibility to raise taxes and to spend those raised taxes and if we are not fulfilling our job, then perhaps we should make some changes, some internal changes, within the legislature. I do not believe that it is a healthy thing to centralize power on the second floor.

As the representative from Augusta, Mr. Bustin, has said, we are the representatives of the people who are closest to the people. They know what the priorities are in this state. I think that we should be addressing ourselves to some internal changes and not to a constitutional change which would give the Governor more power than he already has for the current budget process.

The SPEAKER: The Chair recognizes the gentlewoman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker and Members of the House: At the beginning, I went along with this bill, but in thinking it over, doesn't the Governor have what amounts to an item veto, through legislators, if there is some part of a bill he does not agree on, he can ask any legislator to put in an amendment to take care of his objections.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I would remind my good friend from Gorham, perhaps he is mistaken. This was not Jefferson's idea, that was Jefferson Davis' idea.

Just to straighten him out, I would hope this morning that you would go along with indefinite postponement of this thing, because I, like everyone else, feels that it transfers too much power to the executive and I am not concerned with the compromise on the votes whether it is two-thirds or a half. I think that we should kill Jefferson Davis' idea here this morning and I would ask for the yeas and nays. I may be a little premature because it is going to take two-thirds vote to pass this, to put it out to the people. I would ask for the yeas and nays on this question this morning.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and

Gentlemen of the House: I would like to read to you a quote which I am taking out of the record which I think expresses a good argument against this bill. The quote is, "I would point out briefly that the legislature is responsible for the raising and appropriation of monies. The Governor is responsible, primarily for making proposals and for administration. In a year when the legislature is desperately trying to reassert some of our own prerogatives, I would suggest this is the wrong time to give away one of our powers." That quote was from, now Senator Ted Curtis, who was then Representative Ted Curtis and House Chairman of the State Government Committee when he brought in the "ought not to pass" report of the State Government Committee in 1973 on the item veto. The item veto was killed at that time by a vote of 113 to 22. I happen to have been one of the 22 at that time who had supported the item veto and I have changed my position on it. I have changed it for one reason, that I never dreamt that we would have a Governor who would act to impound funds that this legislature had voted should be spent on programs.

As you all know, at the beginning of this session we had such a confrontation. That confrontation was never solved by the courts, but there is a bill which I and a number of others in this body have submitted that would deal with the question of impoundment but because I could never originally conceive of a situation like that I did at one time support the item veto, but now I can see the levels of possible abuse of power that a Governor could go to under our present laws. Therefore, I hope you will vote against this constitutional amendment.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: To add just a trifle of levity to the situation, since the majority leader chose to quote from our good friend from the other side of this capitol, I would remind him that one of the finest speeches that I ever read for the item veto was delivered by our own speaker two years ago and I was tempted to quote that. I will not go to that extreme but just point out to you that it depends on what the situation is, what the hour is or the time is and who happens to be sitting on the second floor.

Off Record Remarks

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. I am not opposed to the item veto because of the gentleman sitting in the second floor presently. I oppose it for the same reasons that I did two years ago and four years ago. It makes no difference to me who is occupying the chair down there, whether it be the speaker, the minority floor leader, who is a friend of mine or my father. I think it is a fact that this legislature should not put itself in a position of disarming its ability to govern from the legislative process that we have been elected to.

Time and again, I heard James Dudley in this House talk about how we have delegated our own authority to the Executive Council. Believe me this is more than delegating some mere approval to changes to seven men sitting down there, approving boards or commissions. Don't be taken in by the arguments that were presented here by my fine friend from

Calais. If you want to keep the integrity of this body at the level that it is in, I urge you to support my motion.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to take too much time this morning. I would suggest to the gentleman from Gorham, Mr. Quinn, that he inform me sometime as to what a legislative tycoon is. I mean, I have heard him mention bush league so much here that I am getting to the point where I believe him, but he being so very learned that sometime would you describe to me, not here, but elsewhere, what a legislative tycoon is?

Secondly, I would like to address myself to my very dear friend of long, long standing. I am wondering beside the massing of fortune, when he left me in 1949, to go into the massing of that fortune, I am wondering what else he thought of when he came back here, because I shudder at what he would have said years ago when he was in his right mind if this thing here had been brought up to his attention. I won't relate the words as to what I think his answer would have been.

As far as whoever is on the second floor now, it so happens that in a telephone conversation about four or five weeks ago, I just chided him and I said, "You know, I am glad you called because I was about ready to try to find you and try to deliver, you a bag of gold outside of your door." His answer to me was that "this is not his idea and he could care less." I will have a little more to say, of course, when the time is more propitious on this item. I just can't resist and I can see that cute little smile on the gentleman from Waldoboro's lips just what he did between the time he left me and the time he came back, just exactly what he did. I just sometimes wonder whether or not it is my same old buddy.

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

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I am a signer of the majority "ought to pass" report and I would just speak very briefly as to my reasons for signing that report. I don't feel as passionately as some of the speakers this morning, new members and veterans alike have been on either side of this issue. I don't think that if we do sign report "A" that this is going to immediately change in a dramatic way the balance of power between the executive and the legislative branch.

I do recognize, however, that there is something in the remarks, such as the gentleman from Augusta, Mr. Bustin, has made in a drastic change in that power balance and, for that reason, I would favor the simple majority override rather than a two-thirds. I can appreciate the remarks of several of the veteran legislators here this morning, on this issue, and particularly the resentment towards a proposal like this being defended by beginning legislators such as the gentleman from Waterville, Mr. Carey, expressed. I think it, however, is probably appropriate that a proponent be a new legislator whose record is unblemished, he has no past position in this to defend nor change in position, and I recognize the motion before us is by a gentleman who does have a consistent record in this regard. I think that those of us on State Government Committee have tried to look at this on its merits without consideration of the current incumbency, have tried to take a long range view of this and I would be reluctant myself to alter the balance of

power by going to a two-thirds override, but I think a simple majority is a good compromise in this rather delicate balance, the power between branches of government.

Therefore I ask you to defeat the motion of indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This is a very serious and fundamental question this morning and I will only take a couple of minutes.

I do frankly want to compliment the gentleman from Gorham, for a very learned and careful address on a complicated matter. I have no fear, by the passage of this bill, that we are giving away any power, no matter which way it goes two-thirds or the majority route. In my opinion, we are merely allowing a more careful scrutiny of individual items in a massive appropriations bill. I think the people of this state, I am persuaded the people of this state want that scrutiny. Certainly it is not going to be applied on every item in an appropriations bill, only those items which the Chief Executive, whoever he may be, feels are important.

I also think it is pretty wise to remember that the gentleman made no mistake about it when he said that the Chief Executive would have his feet to the fire too if he brings up an item of a certain appropriations bill, he is going to be subject to just as much scrutiny from the public as the legislature would be. I don't have the fears that are expressed here today. This body can still maintain its integrity in a supportive veto or it can vote it out either by a majority or two-thirds vote, it will always have the last say. I think the people of this state are interested in seeing a very careful look taken at all appropriations bills and this will give us an opportunity to do that.

I hope you will not support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I would simply ask each of you that you review yourself and think through each argument made, and I will cite the very able and persuasive arguments of the gentleman from York, the majority leader. He says that if the item veto is there then the kind of problem we had when the Governor impounded some funds for a program that we had already authorized would be compounded. I would suggest that they would be greatly relieved because if the Governor wishes to impound or hold or argue or refuse a veto it comes back here for a clear crystal public decision by either majority or two-thirds of the people under the present constitution within five days, under ten days if we change it to that effect. It would, to me, clarify the issue.

Briefly, my good friend, Mr. Norris, quoted me on Jefferson, and for a quick search through my notes, I didn't find that I had mentioned Jefferson. I would, however, point out that the item veto was believed to have originated with Henry Clay, who was a westerner primarily and who was very interested in constitutional procedures and that Jefferson Davis was primarily known for his advocacy of concurrent powers. And finally to the gentleman from Lewiston, who I respect so, I define a tycoon as a person of great importance and power who exercises influence from remote and high places.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House indefinitely postpone Resolution, "Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money, House Paper 1981, L.D. 2170. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bachrach, Bustin, Call, Carey, Carter, Chonko, Clark, Connolly, Cote, Curran, P.; Curran, R.; Davies, Fenlason, Flanagan, Goodwin, H.; Hall, Hennessey, Hobbins, Jalbert, Jensen, Kelleher, Kennedy, Laffin, LaPointe, LeBlanc, Mahany, Martin, A.; Maxwell, McKernan, Mills, Mulkern, Nadeau, Najarian, Norris, Powell, Raymond, Roide, Susi, Talbot, Theriault, Tierney, Twitchell, Wilfong, Winship.

NAY — Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Byers, Carpenter, Churchill, Connors, Cooney, Cox, Dam, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Finemore, Fraser, Garsoe, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hewes, Higgins, Hinds, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Joyce, Kany, Kauffman, Kelley, Laverty, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Martin, R.; McBreairty, McMahan, Miskavage, Mitchell, Morin, Morton, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Quinn, Rideout, Rollins, Saunders, Shute, Silverman, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Tarr, Torrey, Tozier, Truman, Tyndale, Usher, Wagner, Walker, The Speaker.

ABSENT — Carroll, Curtis, Gauthier, Teague, Webber.

Yes, 46; No, 100; Absent, 5.

The SPEAKER: Forty-six having voted in the affirmative and one hundred in the negative, with five being absent, the motion does not prevail.

The pending question now before the House is on the motion of Mr. Cooney of Sabattus that the House accept the Majority "Ought to Pass" Report.

Mr. Silverman of Calais requested a roll call vote.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: As chairman and the person making this motion, I would just like to review a few of the considerations, very briefly, that have influenced me in making this decision to support an item veto and support a majority override provision. It is my view that the item veto would be used most often when we are dealing with supplementary budgets, not so much with the part one budgets that deal with the meat and potatoes of state government but with the supplementary ones.

I can see that three types of issues are included in those budgets and might

receive the scrutiny of the Chief Executive if he would consider an item to veto. First there would be emergent and new needs that had been overlooked or left out of previous budgets. I would suggest that these things would generally not fall prey to an item veto.

Number two, that bills which are often our very best ideas and ideas for which we have worked our hearts out and have passed through great difficulty through both houses and which land on the appropriations table and we finally work them into a final budget that falls within the limits of our funds and includes our measures, those items are also in a supplementary budget bill.

Finally, I think we all know there are pork barrel measures that find their way into supplementary budgets, things that we all hold our nose a little bit on when we vote for the things that we have worked our hearts out for.

So, the question is, do we want to give an extension of the veto power to the Governor, which is a legislative power? We don't have any executive powers but the Governor does have the veto power and that is a legislative power. Will it help the legislative process if we give up any of that legislative power or any additional legislative power? It will achieve it if it is less than the two-thirds, which is an ultimate kind of power. It will achieve it only if it is a majority override situation and not a two-thirds override situation. The two-thirds override power is an ultimate power. The majority vote is a review kind of power. It is responsible and it is practical. It would be valuable in keeping state budgets in bounds and in making pork barrel legislation stand out on their own merits. They should be able to get a majority vote in order to achieve passage. I don't think many of them would if the Governor had the opportunity to pick them out and send them back to us. You can be sure that many of the issues that we work our hearts out for to get them into these budgets, if they were vetoed and the Governor had a power to veto items, and we could only override them with a two-thirds vote, that none of our best ideas would ever become government policy and would become programs in the government. It would be very difficult because they are often the most controversial type of ideas when they first begin. So, a majority vote would give him the opportunity to pick these out and allow them to be reviewed but not to use a hammer over us for our best work and our best ideas. So, I think that the motion before you to accept the majority report, which calls for a majority vote for an override is a practical and sensible solution to the balance of power questions that we have. Personally, I did not support the two-thirds override proposal that was presented to us in the last session. It was too much a delegation of our legislative prerogatives to the executive. I do feel that the idea before us on this vote is a creative idea that fits with our times. I urge your support of the majority report "A".

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the majority report "A". I have yet to be convinced of the wisdom of moving on a simple majority. It seems to me that the arguments we have heard this morning are very specious, indeed, for going this route of a simple majority override. I ask just two or three simple questions, why, is

this the only thing that we require a simple majority on? I suggest that maybe it is because there are a number of people who want to say that they are for the item veto but know full well that it will be totally ineffective if we accept Report A. On every other issue the Governor vetoes, it comes back for a two-thirds vote. I believe that is reasonable and even more reasonable in this particular case.

I want to talk to you just a little bit on a couple of arguments which I think were made and I feel are wrong. The gentleman from Augusta in his rebuttal suggested that he didn't say "legislatures" are held hostage but "legislators" are held hostage. I want to dispel that thought because I think we are all reasonably mature people and we know full well that under any system, even the system that we have today, there is that old story of "you scratch my back and I will scratch yours" and this is nothing more than the extension of that idea along the line of an item veto in a budget.

I am suggesting also that because of the tremendous complexity of today's budget, we have all admitted, whether you are pro or con on this issue, when that budget comes to this House, it is practically impossible for each individual legislator to look that budget over carefully, item by item, and know what he is doing. In most instances, I think we agree that we take the expertise, the experience of the Committee on Appropriations and accept their judgment as being final.

On the other hand, the Governor has a staff, a finance office to work with him and can go through the budget very easily compared to what the individual legislator can do and can ferret out items which he believes are not in the best interest of the state.

I believe, frankly that this item veto will strengthen government in Maine, not weaken it. And as I said in my original speech, I believe that the two-thirds vote is very necessary because it is historical, it has gone on in the other states, I find no great problems in the 43 states where they have the item veto or in the other items which come through that the Governor normally vetoes, the two-thirds seems to have worked well and I mean, at this very moment in time, if we really believe in the item veto, then you have to go for the two thirds. A simple majority might just as well not have one.

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

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

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I make one final plea. If we defeat the present motion before us, and I can see all the previous green buttons are going toward the defeat this time, that this means the only choice we have left is the two thirds. I think it is fairly safe to say that the two-thirds provision will not pass this legislature, because too many people feel that it would give too much power.

I would plead with you to consider approving the majority and I would ask the gentleman from Nobleboro, who gave a very astute argument on a very simple question, if he is willing to give the Governor a lot of power, then why won't he give the Governor a little power?

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion from the gentleman from Sabattus, Mr. Cooney, that the House accept the Majority "Ought to pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEAS — Bachrach, Burns, Chonko, Clark, Cooney, Cox, Curran, P.; Curran, R.; Dam, Davies, Dow, Drigotas, Dudley, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Hennessey, Hinds, Hobbins, Hughes, Ingegneri, Jacques, Jensen, Kany, Leonard, Lewis, Lynch, MacEachern, Mitchell, Morin, Morton, Nadeau, Najarian, Peakes, Pelosi, Peterson, P.; Peterson, T.; Post, Powell, Quinn, Rolde, Saunders, Smith, Snow, Spencer, Talbot, Theriault, Tierney, Tozier, Usher, Wagner, Wilfong, Winship.

NAYS — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Bustin, Byers, Call, Carey, Carpenter, Carter, Churchill, Connors, Connolly, DeVane, Doak, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Garsoe, Gould, Henderson, Hewes, Higgins, Hunter, Immonen, Jackson, Jalbert, Joyce, Kauffman, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Laverty, LeBlanc, Lewin, Littlefield, Lizotte, Lovell, Lunt, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBrearty, McKernan, McMahon, Mills, Miskavage, Mulkern, Palmer, Pearson, Perkins, S.; Perkins, T.; Pierce, Raymond, Rideout, Rollins, Shute, Silverman, Snowe, Sprowl, Stubbs, Susi, Tarr, Teague, Torrey, Truman, Twitchell, Tyndale, Walker, Winship, The Speaker.

ABSENT — Carroll, Curtis, Gauthier, Norris, Strout, Webber.

Yes, 57; No, 88; Absent, 6.

The SPEAKER: Fifty-seven having voted in the affirmative and eighty-eight in the negative, with six being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted.

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

Mr. BUSTIN: Mr. Speaker, I move that we reconsider our action whereby we accepted the minority report and ask for a division.

The SPEAKER: The gentleman from Augusta, Mr. Bustin, moves that the House reconsider its action whereby the Minority Report was accepted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Bustin of Augusta requested a roll call.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Augusta, Mr. Bustin, that the House reconsider its action whereby the Minority "Ought to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Bachrach, Bennett, Boudreau, Bustin, Call, Carey, Chonko, Clark, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, DeVane, Drigotas,

Fenlason, Flanagan, Goodwin, H.; Hennessey, Hobbins, Hughes, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kennedy, LeBlanc, Leonard, Lynch, MacEachern, Martin, R.; Mills, Mitchell, Morin, Mulkern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Peterson, T.; Post, Powell, Raymond, Rolde, Saunders, Smith, Spencer, Susi, Talbot, Theriault, Tierney, Tozier, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Bagley, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Bowie, Burns, Byers, Carpenter, Carter, Churchill, Connors, Connolly, Dam, Doak, Dow, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Finemore, Garsoe, Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hewes, Higgins, Hinds, Hunter, Hutchings, Immonen, Jackson, Kauffman, Kelleher, Kelley, Laffin, LaPointe, Laverty, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Mackel, MacLeod, Mahany, Maxwell, McBrearty, McKernan, McMahon, Miskavage, Morton, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Quinn, Rideout, Rollins, Shute, Silverman, Snow, Snowe, Sprowl, Strout, Stubbs, Tarr, Teague, Torrey, Truman, Twitchell, Tyndale, Walker.

ABSENT — Carroll, Curtis, Gauthier, Norris, Webber.

Yes, 63; No, 82; Absent, 5.

The SPEAKER: Sixty-three having voted in the affirmative eighty-two in the negative with five being absent, the motion does not prevail.

Thereupon, the Resolution was read once.

Committee Amendment "B" (H-942) was read by the clerk and adopted.

On motion of Mrs. Kany of Waterville, the House reconsidered its action whereby Committee Amendment "B" was adopted.

The gentleman offered House Amendment "A" to Committee Amendment "B" and moved its adoption.

House Amendment "A" to Committee Amendment "B" (H-943) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, would the gentlelady from Waterville please explain what her amendment does?

The SPEAKER: The gentleman from Sanford, Mr. Nadeau, posed a question through the Chair to the gentlewoman from Waterville, Mrs. Kany, who may answer if she so desires.

The Chair recognizes that gentlewoman.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to call your attention to House Amendment "A" to Committee Amendment "B". This amendment removes from the Committee Amendment the power of the Governor to reduce one or more items of appropriation of money in the bill. The amendment leaves intact the Governor's ability to object to one more item of appropriation of money in the bill. In other words, the item veto is left in tact but it would no longer allow the Governor or any Governor to reduce the amount within a particular item. As the Minority Floor Leader indicated, 43 states now allow a Governor the power of an item veto but only 8 states allow the reduction. I do not believe that it is necessary to give this extra power to a governor and I hope you will go along with passage of this amendment.

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

Mr. BUSTIN: Mr. Speaker, a question to

the gentlelady from Waterville or any member of the State Government Committee as to whether any thought was given to the power of the Governor to increase any particular appropriation? We may run into such things as the Committee on Maine's Future that might be underfunded or the appropriation for the Executive Branch or perhaps even the salary level of the Personnel Director. Was there any thought given to that?

The SPEAKER: The gentleman from Augusta, Mr. Bustin, has posed a question through the Chair to any member of the State Government Committee who may answer if they so desire.

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

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I suggest that the question is rhetorical.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to answer the gentleman's question. Some thought was given to this and, of course, the Governor does have at his disposal a contingency fund for such purposes when the legislature is not in session.

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support Mrs. Kany's amendment. The Governor has, in addition to the contingency fund, the ability to go before the Appropriations Committee. The matter of the Governor's increases, as Mr. Quinn says, really is rather rhetorical.

The Kany amendment is an important amendment because, though many of us support the necessity of an item veto for the Governor of this State, the right to decrease, coupled with an item veto, is, in fact, the power to write the budget on the second floor to reverse our traditional rules, to present the legislature with a budget to which it can respond and I would ask you to support Mrs. Kany's amendment.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Now, a question becomes rhetorical and it is not rhetorical. Suppose a Governor would pluck out one, two or three, five or seven amendments into the budget, the Part II budget and it would create a hike in the tax, who would take care of that situation then?

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of Report B, I would go along with the amendment offered by the gentlewoman from Waterville, Mrs. Kany.

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

Mr. JALBERT: Mr. Speaker, I am asking a very serious question here. We may have a budget on our hands, we go home and one, two or seven items are plucked out of that budget, what happens is that it means additional taxes. What happens if they pass, if they are upheld, and there is no money to pay for them? There is no rhetoric there. I would like an answer to that question.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and

Gentlemen of the House: In District 30, removal of items does not raise taxes.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: For the record, I must say that I commend the gentlewoman from Waterville for this amendment, I see nothing wrong with it at all. I think we are keeping intact the original intent of the bill and I certainly do agree with the amendment.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: Maybe Mr. Quinn doesn't understand the question as some of us would. Some parts of the budget include the funding mechanisms so that it includes the actual revenues that are required as well as the expenditure measures. Now, suppose the Governor were to veto an income tax part of an appropriations bill which would deny us the revenue? Now, even in District 30 that would apply.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I stand to be corrected by the gentleman from Waterville but I believe that this applies to line and I think if you cut a line item, I am not being facetious, I am being serious, I think if you cut a line item, you are in no case cutting only a tax raising measure without cutting the equivalent expenditure for which that tax is proposed and in the overwhelming majority of the cases you are cutting expenditure items.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: That is obviously good, well, sound wishing. The Governor would have the ability to cut anything item by item, whether it was all revenue or all expenditures or a mixture of both.

Mr. Quinn of Gorham was granted permission to speak a third time.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: If there were a circumstance where he were to cut an item of taxation, exactly the same provision would occur as occurs when he cuts an item of expenditure. It would go back to the legislature in our present posture for two thirds of us to override this.

The SPEAKER: The Chair recognizes the gentlewoman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker, any line veto that any governor might make, wouldn't that have to be while we are in session and we would have to vote on all of them under this bill?

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: That is exactly why I asked the question. Not necessarily at all, and while we are talking about it, we talk about item by item line veto, he can cut out separately every item and every penny in that budget, that is what that would call for.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: There is one thing that didn't happen to me when I was gone over the years since I first knew my friend, the Representative from Lewiston, Mr. Jalbert, and that was the spirit and the

knowledge of reality. The gentleman knows full well, and this is just a red herring we are dragging across this whole issue, to cloud the vote that we have just taken on Amendment "B" and I think that in all due honesty, this gentleman knows exactly what would happen and so would the lady from Old Orchard, that this is so far from a possibility that it is ridiculous.

The SPEAKER: The Chair recognizes the gentlewoman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker, Ladies and Gentlemen of the House: I am not kidding, I was under the impression that if you give them a line veto, it has to be voted here before we go and he couldn't just arbitrarily cut it off after the legislature is out of session. I am not being funny, I believe it. I want to make sure that this cannot happen. I am not talking about particular person in the Governor's office but I want to know is, is it so that he could just cut it out after we've adjourned?

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that the legislature would probably see that the governor had the appropriation measure in his hands at least five days before we left the capitol, or ten, whatever figure it is. I am sure that we would send it down to give us ample time to respond to any veto. We certainly wouldn't send it down the last day, adjourn sine die and all go home.

Mr. Jalbert of Lewiston was granted permission to speak a third time.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask the good gentleman from Nobleboro, Mr. Palmer, to visit the library with me and show me in the last 50 years where the appropriations bill has gone down for the Governor's signature inside of three days before we have adjourned either house.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I didn't plan to get into this but to further add to the confusion, as a matter of fact, if we looked back to when we came in session, the Governor had item vetoed some items without having the power of the item veto. That is the state of affairs we were in with the supplemental budget when we came into session. He had, arbitrarily vetoed some items in the budget and that is what all the hassle was about, and this is before he was even given the item veto. So if you are worried or can stand up and say that he or anybody else wouldn't do it, I think that is a fallacy. It has been tried already without the item veto power in his hands.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Inasmuch as I think this is the third time I have heard the Governor accused of impounding funds, I would just bring to our attention the fact that he did not impound funds. He had objections to certain aspects of the supplemental budget and let's not let the record stand as accusing the Governor of having impounded funds: that never took place.

I think we are just being subjected to a lot of confusion. I think that there has got to be an assumption here, that we as a legislature would be completely irresponsible and if the Governor as Governor, any Governor, would be

completely irresponsible for you to take one degree of fear from the red herrings that are being dragged across the trail right now.

The SPEAKER: The pending question is adoption of House Amendment "A" to Committee Amendment "B" thereto. All in favor of adoption of House Amendment "A" to Committee Amendment "B" will vote yes; those opposed will vote no.

A vote of the House was taken.

117 having voted in the affirmative and 2 having voted in the negative, the motion did prevail.

Committee Amendment "B" as amended by House Amendment "A" thereto was adopted and the Resolution assigned for second reading tomorrow.

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

An Act to Establish Assessments upon Certain Public Utilities and to Authorize Use of the Funds Generated by those Assessments to Pay Certain Expenses of the Public Utilities Commission. (H. P. 1910) (L. D. 2097)

Tabled — March 1 by Mr. Kelleher of Bangor.

Pending — Reconsideration. (Returned by the Governor without his approval)

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First, I apologize for being on my feet so often this morning, but it is just one of those days that there have been some issues that have come into this body that I happen to take an interest in. In the lateness of the House, I hope there is no less interest with you men and women in the House looking at this item veto message that came from the Governor's Office to this body a couple of days ago.

I cosponsored this bill with Representative Spencer of Standish and Mr. Smith of Dover-Foxcroft. This particular item was heard before the Public Utilities Committee. It came out with a unanimous report. It was one of the rare bills in my four years that I have been on the Public Utilities Committee where everyone seemed to be in accord with the intent and the support of it. The big four, meaning Bangor Hydro, C.M.P., New England Tel and Tel, and Maine Public Service supported this, the small telephone companies association in the state supported it as well as the water companies.

If you look at the statement of fact, I think it will give you a good idea what the intent of this legislation was. Out of the General Fund now is appropriated some \$450,000 to operate the Public Utilities Commission. As it said in the Statement of Fact, this money and budget was geared for more tranquil times.

We all know what the work of the Public Utilities Commission is. I have spoken many, many times on the floor of this House how understaffed it is with professional people and having the ability to deal with the problems that are confronted each and every day and each and every year.

The bill that was submitted by Representative Spencer, Mr. Smith and myself would put an assessment on the utilities where the cost would be passed back on the consumer amounting to one cent for every \$10 involved in his or her utility bill. Believe me, this bill that I have before you this morning, that I am asking you to override, we overrode this same bill a year ago in this body, in fact improves