

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

Excused, 0.

71 having voted in the affirmative and 73 in the negative with 7 being absent, the motion did not prevail.

Subsequently, the bill was passed to be engrossed as amended by Committee Amendment "A" (H-1154) as amended by House Amendment "C" (H-1249) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the seventh item of Unfinished Business:

An Act to Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections (S.P. 916) (L.D. 2353) (C. "A" S-632)

TABLED - March 24, 1992 (Till Later Today) by Representative ANTHONY of South Portland.

PENDING - Passage to be Enacted.

On motion of Representative Anthony of South Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 2353 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-1248) and moved its adoption.

House Amendment "A" (H-1248) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-632) and House Amendment "A" (H-1248) in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative MELENDY of Rockland, the following Joint Order: (H.P. 1762)

Ordered, the Senate concurring, that Bill, "An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine citizens," H.P.1707, L.D. 2388, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

Representative Marsano of Belfast requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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: A roll call has been ordered. The pending question before the House is passage. This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed

will vote no.

ROLL CALL NO. 382

YEA - Adams, Aliberti, Anthony, Ault, Bailey, H.; Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Gwadosky, Hale, Handy, Hastings, Heesch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lebowitz, Lemke, Lipman, Look, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Bailey, R.; Barth, Carroll, J.; Duplessis, Farren, Foss, Garland, Graham, Gray, Greenlaw, Hanley, Heino, Hepburn, Hichens, Ketterer, Kutasi, Libby, Lord, Luther, MacBride, Marsano, Nash, Parent, Pines, Reed, G.; Salisbury, Savage, Small, Spear, Stevens, A.; Whitcomb.

ABSENT - Bennett, Bowers, Duffy, Gurney, Merrill, Ott, Ruhlin.

Yes, 111; No, 33; Absent, 7; Paired, 0; Excused, 0.

111 having voted in the affirmative and 33 in the negative with 7 being absent, Joint Order (H-1762) received passage. Sent up for concurrence.

BILL HELD

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (EMERGENCY) (H.P. 1748) (L.D. 2436)

- In House, Read Twice under Suspension of the Rules and Passed to be Engrossed without Reference to a Committee.

HELD at the Request of Representative GWADOSKY of Fairfield.

The SPEAKER: The Chair would call you attention to the matter which is listed as "Bill Held." If you remember, this was also on your calendar yesterday as a bill held. Therefore, it is not before this body any longer, it is in the other body.

The Chair laid before the House the following matter: RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the House of Representatives (H.P. 1660) (L.D. 2337) on which the Majority "Ought Not to Pass" Report of the Committee on State and Local Government was read and accepted in the House on March 23, 1992; Came from the Senate with the Minority "Ought to Pass"

as amended Report of the Committee on State and Local Government read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "A" (H-1173) in non-concurrence which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Representative Lemke of Westbrook, the House voted to recede.

The same Representative offered House Amendment "B" (H-1175) and moved its adoption.

House Amendment "B" (H-1175) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: The proposal that I am putting before you today, hopefully, does two things.

Number one, it represents a compromise between the proponents and opponents of simple reduction of legislative size.

Number two, I believe it presents us with an historic opportunity to reform the way we do the people's business.

With your indulgence, first I would like to address what kind of a compromise this is and then secondly, I would like to give you the basic argument in behalf of a unicameral legislature because this is what this amendment does. It reduces the size of the House of Representatives from 151 to 149 members and secondly, it creates a one House unicameral legislature.

I mentioned compromise a minute ago, I believe what this represents is a compromise between the basic arguments for reduction and the basic arguments against it. As I understand it, the two major arguments for reduction of legislative size are cost and efficiency. There is data in behalf of cost and there is divided opinion in terms of efficiency but for the sake of argument, let's accept both. Reduction in size would give you reduction in cost and efficiency.

There are counterarguments which we heard the other evening in behalf of keeping the legislative body relatively large. One, you preserve the principle of representation, which is particularly important in a state structured geographically like the State of Maine, particularly for rural constituencies.

Secondly, there is the argument that a small legislative body would be overly susceptible to the influence of lobbyists. There is another argument that relates to cost in another way — if you have too small a legislative body, the cost would be prohibitive for members to run and serve. Those, as I understand it, are the arguments on both sides.

The amendment I have presented would allow for a net reduction in legislative size. At the same time, it would preserve a legislative body large enough to be truly representative and not overly susceptible to the special interests.

What are the advantages of a unicameral legislature? Very briefly, number one, it would give us a simpler form of organization of government, it would eliminate the complexities caused by two Houses and duplication of effort.

Secondly, it would reduce that duplication of effort and waste of time and money involved.

Thirdly, a one House legislative body would make it easier for the public and the press to follow

legislative procedure. The visibility that would come from this would make our job easier and, at the same time, it would induce a greater degree of accountability. It would not be possible, ladies and gentlemen, to play some of the games that we do play with a bicameral legislature.

Fourthly, I think it would create a much more responsive body.

At first blush, this may seem to be a radical proposal but there is a history. The State of Nebraska in 1937 adopted the unicameral form of legislature and the track record since then is there. If I may put on the Record briefly, this is from the unicameral option in the publication "The Future of State Legislatures" published by the Humphrey Institute of Public Affairs, University of Minnesota, 1986. "The Canadian and Nebraska unicameral systems suggest that a one House legislature need not imply hasty procedures. The Nebraska procedure provides what seems to be more than adequate a system of internal checks and balances to preclude the passing of hasty or ill-considered legislation. The procedure is highly visible, accessible and one which provides for a great deal of deliberation. The Nebraska experiment is largely the work of the advocacy of Senator George B. Norris, one of the great progressives of early 20th Century American history." I provided you with a handout which summarizes his wisdom on this. I will not read that into the Record, you have it before you. I think he makes, and I hope you agree, a fairly compelling argument.

Since 1937, there has been no serious effort whatsoever to change the form of government they have. In the State of Nebraska, and there are many other reports but I am not going to introduce them, the evidence is that it works.

There are, however, two problems with the Nebraska experiment — if you still have what I might call the legislative size pink slip that I passed out yesterday or the day before, you will note that the Nebraska Legislature is the smallest in the nation with 49 members. The only criticism that has been raised in Nebraska are questions about the legislature precisely relates to this, that it is too small and, therefore, there is the question of the influence of lobbyists. The amendment that I have proposed would not have that problem but, at the same time, would be a unicameral form of government.

It was mentioned in the quote and I will mention it just briefly that there are other examples of unicameral forms of government. All of the Canadian Provincial governments are unicameral and for most of their history they have been. Quebec in 1968 was the last to adopt the unicameral form. It has worked in Canada.

In Europe on the state and provincial levels, all of the legislatures are unicameral. As we know on the level of city or municipal government for a very long time, all of the forms of government have been unicameral. In fact, the Parliament which is often alluded to, the British Parliament, is a masked form, if you will, of a unicameral legislature, since the House of Lords long ago lost any effective power, period, so that the House of Commons directly elected is the legislative body in Great Britain. In fact, unicameralism is not unknown in our history, a number of Colonial governments were unicameral, most notably Pennsylvania. Of the original framework of government, we had the Articles of Confederation

which was unicameral. The State of Vermont remained unicameral until 1835. There are other speakers today, I understand, who will address the historical background so I am not going to stay with that at this time beyond saying that there is a background.

Pointing out one other thing on the handouts that I gave you, because I think two things are illustrated, one, yes Maine is among the top 20 percent, if you will, in terms of size and that strikes you. If you then distill it and look at the legislative size of the New England Legislatures, you will see that Maine is very much in line and in fact is smaller, but all of the New England Legislatures are relatively large. There is an historical reason for that, it relates to English constitutional history, it relates to the Puritan background, it relates to, if you will, the development of Yankee common sense and that was, that in New England, unlike any part of the country, we developed town by town, township by township, and the idea was to preserve the link between everyone of those towns in representation in the general court or whatever the name of the legislature was. That is part of New England's history and I may sound exceedingly provincial but I think New England was right because this does maintain the principle of representation.

There is in today's Press Herald, and some of you may have seen it, an editorial which has a headline, "History Is On the Side of Smaller Legislature." Rightly or wrongly, the people relate size to inefficiency. My daughter is much more familiar with the lingo nowadays but I think the response to that is "naught." The fact of the matter is that history is on the side of large legislatures if you are concerned with preserving the principle of democracy.

The mention here is of efficiency — democracy is not always, as I think we know and see, the most efficient form of government but it is the type that works better than all others. Our arguments on behalf of efficiency should never negate the need for democracy and to maintain its principles.

I would just say that this editorial is an example of a problem that we confront. The people may very well, at this point if you conducted a poll, think that by reducing the size of the legislature would make things better. Why wouldn't they? They constantly read editorials like this that tell them that. They have not heard or it has not gotten out to them the counter balancing arguments. I am willing to bet if they did, they would support a unicameral legislature. It says here that the idea of a unicameral legislature is not a bad one, that it deserves discussion and says, "Why go for it because the Senate will probably oppose it?" Men and Women of the House, I think we have to be more than reactive. I think too often in this House that we are reactive and why not? Problem after problem, issue after issue, we are always reacting, we are not proactive. In many ways, I think we are prisoners. We are prisoners of concerns for expediency. This is the most expedient thing, maybe if we do this, it will work. We have seen again and again that that doesn't work. Perhaps the editorial writers have all said that this is the way to go so we had better go that way — that isn't the best way to act.

The good Representative from Ogunquit the other day made a point on the floor and it is a valid point and that was, maybe the legislature won't be held by reduction in size but the perception is there that it will help. We have to deal with perceptions, I know

that, I am a historian, the perception of reality dictates what we do but we cannot be prisoners simply through perceptions. The people expect more of us than simply reacting, they expect us to be responsible to come up with constructive leadership. Many years ago, John Kennedy wrote a book about this called "Profiles in Courage." You don't always react, you sometimes have to take a stand.

One other point and I will mercifully (I am sure to you) sit down. To me, the one argument and the only argument that has been made against a unicameral legislature, which is strong and should be addressed, is that it would do away with the system of checks and balances, that the system of checks and balances in a bicameral legislature is necessary. Men and Women of the House, that was a good argument 200 years ago when it was made by our founding fathers. There are reasons for it. One reason is that after the Revolution, as a result of the Revolutionary experience and the strong attitude against executive authority, either by the King or Royal Governors, all of the state legislatures were much more powerful, the legislative branch and the governors. The governors, by law, were weakened, there was no balance between the executive branch and the legislative, that is the historical record. The feeling was that internal checks, therefore, had to be created within the legislative branch because it was so powerful. That in fact was an argument that Madison made in the Federalist papers — well ladies and gentlemen, 200 years later, the pattern of development has been increased power of the governors so that the argument originally on this level is moot. It no longer applies. The real checks and balances should be where the real checks and balances always should be, between the three branches, legislative, executive and judicial.

Secondly, on the national level and in a number of states, the feeling was that they couldn't allow the government to be too democratic, Democratic with a small "d." Our founding fathers were a little bit afraid of or worried about letting the people have a direct voice. That is why they wanted a Senate on the national level. The feeling was that you would have different constituencies and there would be a balance, the upper body, if you will, would be more conservative, more aristocratic; the lower would be more democratic directly from the people. If that argument ever made sense or ever had support, it was invalidated by 1964 with the Supreme Court decision of Reynolds vs. Simms, where both Houses of all legislatures have to be apportioned on the basis of population so the base for both Houses is the same. It is not different so that argument also no longer applies.

I made a promise and I will adhere to the promise but the one thing I would say in closing is, that what may seem to be a very radical, very visionary proposal, I think upon analysis, upon thoughtful consideration, actually makes a great deal of common sense. What we would be doing is, not simply reducing size, which is arguable that that does anything one way or the other, what we would be doing is undertaking real, substantive, meaningful reform. That, I think, is what the people out there really want. What they want is for us to reform the way we do business, to be more responsive, to be more effective and I sincerely believe that this proposal would allow that.

On this, don't think small, we are talking

reduction, don't think small, let's act big, if you will, on this issue. Let's respond to a window of opportunity, let's open up the windows to the winds of change in this state. The people of the State of Maine, I think, will be very pleased if we do that and history will record that the 115th Legislature, which probably has had to deal with more problems, more consistently on a daily basis, than any legislature since 1880, that this legislature can say, we not only reacted to events, but we acted to master them and move the State of Maine forward.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the wonderful comments of the Representative from Westbrook. I can see why he has a PhD in history because his history lesson to us this morning is very much appreciated.

I have a particular interest in this legislation and plan to vote to adopt House Amendment "B" because in 1979, one of the first things I did as a member of this body in the 109th Legislature, was to sponsor a bill for a unicameral legislature. It isn't a new proposal. It is a rather old proposal that is sort of picking up steam across the country. There is no need to have bicameralism in our state houses, not since Reynolds vs. Simms, not since the Supreme Court made their determination in one man/one vote. We see vestiges in the Senate where the presiding officer recognizes a member as a Senator from a county. As the Representative from Westbrook alluded to, counties chose in this state two members to serve in the Senate; in the towns, chose members to serve in the lower body, the House. That is why when we are recognized by the presiding officer, it is the Representative from a particular town. But, since Reynolds vs. Simms, we can have a Senator representing three or four counties as is often the case because of the district that has been apportioned to them.

Our founding fathers had, in one hand, a terrific amount of faith in people but, in the other hand, had a fear of direct democracy unchecked. Madison was in favor of a popularly elected lower house. The House of Representatives in our Constitution details that. But, at the same time, in order for the state, the larger states and the smaller states to be able to get along and to get the Constitution ratified, he had to go along with an upper body, an appointed represented body. Until 1916, until George W. Norris in the progressive era, the United States Senate was an appointed body. We, the legislature, elected them from our state houses and sent them to Washington for a six year term. They were not elected by the people. That was amended in the Constitution by the people of the United States and since 1916, they have been popularly elected.

There is no reason to have bicameralism when everyone in the other body represents everyone that we do on the same basis, a district representing one man/one vote.

If you reduce the size of this body, which was what the original bill called for from 99 to 59 to 139 or 149, you still keep intact two administrative structures, two staffs, roughly equal in expense. We have an administrative staff, they have an administrative staff. We have printing, they have printing. Just to reduce the size of the body makes a short term, one-time saving, period. To abolish the other body, they save long time administrative

savings because it is a duplication of effort. While we think it is a check on us, there is nothing we can't amend here in our own rules, the House Rules, that call for a longer period of time for bills to be considered.

Your city council and your town meetings are unicameral. Augusta, my city, abolished a bicameral legislative body in the early 1960's. We had a board of aldermen and a city council and we abolished it. We have solely a city council. All of our cities have unicameralism, as was mentioned earlier in this debate by the Representative from Westbrook. Why can't this legislature seriously consider one House?

In the tradition of New England town meetings, the Massachusetts Legislature, the House, is called the Great and General Court. There were 240 members until 1970, I believe, 240 members in the Great and General Court of Massachusetts. As the good Representative has explained, every township could bring issues of concerns to the general court. We think of courts as judicial bodies but our founding fathers, the colonialists, deemed the House of Representatives to be the Great and General Court.

The western states, the newer states in our Union, have small legislative bodies but what was never mentioned in this body when we debate reducing the size of the House is that they have strong county government. They elect ten or fifteen county commissioners to administer their districts. They administer fire and police protection and hospitals and general aid. They raise taxes, they pass laws.

We really do not have that setup in our county government. They cannot pass any laws, they rely on the legislature and the towns to do laws in this state. They are not the same form of county government according to our New England tradition as the western states have. They have another layer of government that is very costly, we have the legislature.

One and a half percent of the cost of running our state bureaucracy is the legislature, supposedly a co-equal branch of government. I hear the debate raging in the press, in this body, outside, of how inefficient the legislature is because of its size. How awfully inefficient it is to run a legislature today because of salaries, because of the number of bills that we print.

Let me ask you, in the history of democracy from Ancient Greece to the United States of America, the longest living democracy under a Constitution in the history of mankind, what democracy has ever failed because it was too large? Which one of the countries that enjoyed democracy, whether it be Greece or the United States, failed because its legislative body, where the people spoke freely, failed because it was too large? I don't know of any. A lot of them failed when they got too small, specially when they got to the number one and that is called dictatorship.

We have a check on the executive. I enjoy a healthy debate between the executive branch of government and the legislative branch of government. If the executive thinks the legislative is too big, he has every right as a free citizen of this state to make those views known, but think nothing less of it than a debate between two branches of government. No matter how political it is, the executive, be he Republican or Democrat, would love to have more control over the legislative branch of government. It is nothing more than an historical debate, one which our founding fathers expressed so coherently

when they put the checks and balances in. It is not always a political debate.

So, I rise this morning to support House Amendment "B." I urge its adoption. Unicameralism has worked in Nebraska, a state in geography very similar to our own and in population and it can work in Maine. We can make it work no matter what the number is but we do not have to have bicameralism. Bicameralism is not that efficient. We can prove to the people of the United States that two states can do it.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: As a member of the State and Local Government Committee, I certainly have seen this issue, actually twice in the last two years and have been an outspoken opponent to reducing the size of the House. My concerns, as I have expressed often, are that rural people, I believe, would be underrepresented by reducing the size of the House.

I want to thank Representative Lemke for bringing this particular amendment before us because it does in fact resolve that issue for me because the issue of rural access is very important and by maintaining a House of reasonable size, and I think this House is of reasonable size, given the layout of our state and the way our state is put together, then that is successful. What it also does is create additional effectiveness within our system.

We have looked at restructuring government department by department in a rather arduous process over the past few weeks. I see this as an opportunity for us to restructure our own department.

I would take exception with the comment about abolishing the other body. I would like to see this as a building process, a process in which a new body is in fact created as opposed to abolishing one and keeping the other. I think that is really important because these kinds of processes, any kind of restructuring, should not be seen as just tearing apart and tearing down but creating something that will work better than what we have currently. I would urge you to support this amendment.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I have the Nebraska rules that I had requested about six months ago and I am going to vote against the pending motion, not because I don't think reform is not needed, in fact I do, but because I don't think the motion in front of us does in fact create reform. If you believe that by virtue of the fact that we go to a unicameral legislature that that is reform in and of itself, then you vote for the pending motion but I do not feel that.

My good friend from Westbrook said the State of Nebraska was a good example. Well, the State of Nebraska has several pieces of reform that I think we as a legislature should look at but they do not require a constitutional amendment.

First of two major points — one, in terms of size of this body and the other body, we can deal with that as part of the redistricting issues and deal with it within our system without amending the Constitution. The Constitution talks about 151 members in the House and 35 in the Senate. In terms of other reforms, Nebraska elects from their full

legislature, the full unicameral legislature, a committee on committees of 13 members of which all the districts in that state are equally represented. That committee recommends to the full unicameral legislature what the membership of every committee will be in that legislature and the full body votes on those recommendations. Then for each committee, the chairs are elected by secret ballot of the full legislature, not by any one member, not by any two or three members. That is done through the rules of that body, it is not done by a constitutional amendment. Also, the committees themselves are vested with a great deal more power than we currently have within our own committees. They can meet on any issue, attend public hearings; create public hearings, create public discussion and create legislation without going through any other entity or having a bill referenced. To me, those are important reforms. Some of those things, if not all of them, can be done without a constitutional amendment. If I thought for a moment that having a unicameral legislature, which primarily the purpose and the reason for the savings is downsizing of the legislature, creates a more equitable and democratic (small "d") process, I would probably support it. I can't see that happening with this bill. I think there are reforms that we can do without a constitutional amendment and without all of the unanswered questions and I think we ought to do that.

I would urge indefinite postponement of this amendment and ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion to indefinitely postpone House Amendment "B." I commend the sponsor of this amendment because this is a genuine opportunity to reduce the size of the Maine Legislature and to continue to have Representatives throughout the State of Maine.

Two nights ago on March 23rd, I rose and said that I was voting against the pending bill, L.D. 2337, because there are more questions than there were answers. When a piece of legislation comes to you and says that we will reduce the size of the Maine House of Representatives to 99 to 123, what does that mean? The question within the committee was, why? The second question within the committee was, how? The question that I had was, how many Representatives will represent Maine citizens north of Bangor in the rural areas of this state? How many Representatives will there be west of Augusta in the western rural part of this state? I believe that this is a good alternative.

The press has said and has been a proponent of reducing the size of the legislature, not naming either the House or the Senate, that this would be a good idea to cut costs. I believe that the sponsor of this amendment has said to you and has very poignantly said that it will reduce the overlap, the duplication of staff, the duplication of all of the functions that go on. One of my questions was, would the pending bill that we were talking about two nights ago save money? The answer was no, when in other states they are paying \$100,000 staffing allowance in order for legislators with very large districts to continue to be in contact with their constituents? What about accessibility. That question has been answered for me. The size and the

role of joint standing committees — well, with 149 legislators, those standing committees could be of somewhat the same size and they would be divided in a partisan fashion with the minority and majority according to percentages.

The good Representative from Lewiston has said, you do not need a constitutional amendment. I don't find that an accurate statement, you need a constitutional amendment to reduce the size of the Maine Legislature. In his further comments about the State of Nebraska, where incidentally, all legislators are called Senators and there are only 49 and I think that is too few, that those issues can be decided by Joint Rules. I believe that the questions would be answered and I believe that Maine people would be adequately represented. I don't want to think of this in terms of abolishing anything. I want to think of this as there will be 149 candidates out there running for the Maine Legislature. One hundred and forty-nine people will commit themselves to public service representing the people of Maine throughout this state and there would not simply be a heavy representation from the urban areas of this state as the bill in fact indicated could happen.

I urge you to not support indefinite postponement of House Amendment "B", it is a very valid piece of legislation and proposal for us to consider.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: As always, Representative Lemke does a very well-informed job in describing his position on issues dealing with democracy whether it be a debate over direct democracy or indirect democracy, recall or whatever, he always does a job that is very well-informed.

The concerns I have had — I have thought about this issue a lot because I was very much persuaded by a lot of things that he had to say with the unicameral court but I ultimately came down to one thing, frustration, frustration over the process. You can call us a unicameral body or a bicameral body but the fact of it is that it comes down to putting on a different set of clothes. You have the same thing.

I think Representative Boutilier is correct when he says that we have to look carefully at the system of a unicameral body and look at what they have as a system as a whole and what we as a bicameral type system have not done. Have we exhausted all the possibilities of reforming our own system?

One of the major ingredients of both of these types of bodies comes down to size. Nebraska, I believe, has the same population as Maine. They have 49 members, we have the same population and we would have 149 members, they are both extremes.

The criticism I have heard with both systems, bicameral versus unicameral is size. That is the common ingredient. One of the things that we can reform within our current system to be an analogue of the unicameral system is size. This is something we already have in place.

If you adopt the unicameral notion, you might also ask yourself, is it correct what the other body does that has 35 members or is it correct what this House does that has 151 members? I think we can agree that we all disagree on a number of items and neither one of us is right all the time and that debate goes on. What happens when you reduce the size is you actually are under more scrutiny by your

constituents, you have much more of a direct democracy, a direct democracy so that you are less influenced by lobbyists because you are the person that is trying to compromise all these special interests out there to meet a happy medium. When we have a size of 149 with a unicameral system, that tends then again create factions, small factions that can never come together to meet some kind of unified compromise that essentially helps a little bit, hurts a little bit.

I think that before we take a drastic step to go to a unicameral system is that we have to look at our system that we have in place. I would suggest that one of the things that the people are saying out there is that we have to reduce size. I would suggest that we could reduce size within our current system and we could achieve the very same thing that we would have with a unicameral system, the difference is that we have got a substantial history with our current system to be able to adopt it to the State of Maine and for the people of the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: If we are going to go back in time, I would like to go back to when Maine became a state and some compromises were made. One of those major compromises was that each of the 16 counties would be represented by two Senators. Today, our House and Senate are apportioned according to population. The terms are identical, the county boundaries are no longer the determining factor. As the good Representative from Augusta stated, back in 1964 the Supreme Court of the United States ruled that both Houses of the state's legislature must be based on population. Thus, the basic purpose of the Senate is no longer valid. In fact, the distinction between the two bodies is artificial and elitist. This dualism, as we all know, is very costly and not really needed. If we are sincere about realizing some savings by reducing the number of legislators and the staff, unicameralism, I believe, is the most meaningful system without jeopardizing the genuine democratic representation.

We have talked about Nebraska. I would like to look at nation states as diverse as Denmark, Finland, Israel and New Zealand that manage their national affairs with a unicameral body. I believe it is time for the people of Maine to have a chance to end this exclusive to Maine. I believe we should stop passing the paper and the dollars, let's save some tax dollars and make our legislative body more effective and efficient.

I would only urge you to support House Amendment "B" of L.D. 2337 for a unicameral form of government.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Men and Women of the House: I would like to have you know that I have been supportive of a unicameral form of government since the early 1960's when the now deceased Judge Nicholas Danton was a member of this body and presented this form of government. He told me at that point in time, "Carl, if you should ever serve in the legislature, you will see what I mean." Well, I have served for six terms and in those six terms, I have witnessed many situations that I feel would have been avoided had we had a unicameral form

of government.

Most of you here, even the last session and many sessions before that, you have seen ourselves milling in the hallway in the darkness and lateness of the night, just waiting for the other body to enact legislation. Not only that, but waiting for all that paper work to be sent to the printers to be printed and then to be forwarded to us. To me, this was a complete waste of time, whereas I felt all along (as many others) that the procedure had it been enacted with just a unicameral form of government that we would have obtained the same results. I definitely am for this amendment.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I hope that you will support this amendment, I think it is a good compromise. One of the reasons I rise to say anything is because I had a Joint Order in that would create a unicameral legislature and it is up to the State and Local Government Committee to consider that.

I will say that a couple of my perceptions or visions were a little bit different. I wanted to create one unicameral legislature out of the two bodies, change the name, and rather than reducing the size, I wanted to add ten members. We would still be, if we did that, reducing the overall size of the legislature by about 25. I do believe very strongly in maintaining democracy at the grass roots and, while it is unrealistic to do what the founding fathers intended, namely to give each town its own Representative, I think we should stay as close to that as we possibly can and maintain a really good New England tradition in that respect.

I do agree with Representative Lemke very strongly that if we have a unicameral legislature, it is much easier for the people to follow what is going down in their representative body and to ascertain who is responsible for what, which gives them a little more accurate information to help them in determining whether or not they want to send this one or that one back to the legislative body.

With respect to duplication of effort, I could not agree more with Representative Lemke. I think in fact, if the people out there knew how much time and energy is expended bouncing legislation back and forth between the two bodies, that they would be rather shocked. Of course, what costs time and energy, costs money. We could save all that time and energy and put that energy into something more constructive and save money by consolidating efforts and staff by creating a unicameral legislature. We would avoid a lot of confusion and hassle if we did that. About everything else that I think there is to cover has already been covered so, for me, I am being relatively brief.

I would address one question to the Representative from Lewiston, Representative Boutilier. I wonder if the unicameral legislature in Nebraska is a full-time legislature or not?

Once again, please support this amendment, I think it is a good compromise.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I am not going to add to the argument, I think the argument has been made well on both sides but I am going to make a point of clarification in response to a query that may be unspoken on many of

your parts. Why the number 149? The reason for that — again I will make reference to my pink sheet — is that if you look at this and you want to do the calculation, 149 is the exact median in terms of sizes of state legislatures throughout the country. I thought that was an adequate number. That is the reason for 149. Obviously, it parallels quite closely with the size we have of 151 and I don't want to leave the impression that the reduction is only going to be a couple of seats. Obviously, the net reduction is about 40 seats. So, what we have here is a compromise. I hope it is a compromise that you will accept.

I am not going to recapitulate the history of the State of Nebraska but like the State of Maine, they didn't create their constitution in one piece without amendment over the years. I consciously tried to give what I thought was good about Nebraska but not totally replicate it, I think its size was too small and, therefore, I thought 149 preserved the principle of representation while, at the same time, allowing for the net reduction.

Representative Boutilier of Lewiston moved that House Amendment "B" (H-1175) be indefinitely postponed and further requested a roll call vote on the motion to indefinitely postpone.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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 Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: I would hope that we do not indeed postpone indefinitely any further discussion of Amendment "B" presented by my friend and near seatmate, Representative Lemke. I think if we need any proof that a single House body can govern itself well, pay attention to the affairs of the citizens of the State of Maine and do the job that needs to be done, we need only look around our own chamber at the very careful attention we have been paying to this one subject for the entire length of this debate. This rarely happens on a day when there has been so much stuff on the table before us and so much stuff yet to be presented to us on the agenda awaiting us.

Other people have well laid forth the groundwork and I would like to address what I was able to find in the original intent of the founders of the state in the year 1819. Mr. Lemke, I think, has fairly well set forward the choices and the one reason why we may want to be considering, does smaller necessarily mean better? Does smaller necessarily mean cheaper? Does smaller necessarily mean more efficient? I think the question is a question of quality. Why are we proposing to reduce the size of the legislature? Is it a desire to punish the institution or a desire to improve the institution?

I went back to the original debate of the 1819 convention that founded the State of Maine and found that they are readily available in most libraries in the state in a book this thick, one inch of which is devoted to what was described by the members of that founding body as the most important clause of the entire constitution, that was the one respecting

legislation and representation. There was a great deal of talk in 1819 about reducing the size of the legislature because the Mainers then meeting were speaking about the only legislature they knew, that of Massachusetts, which in 1819, had 700 members. Therefore, there were various motions made upon the floor of that convention to reduce the size of the House of the legislature as best as they saw fit for a very scattered rural state which they knew we would be. Various motions at different times carried to make it either 200 members or 300 members or to finally settle upon about 1500 human beings represented by one legislator, about 150, as we have it today.

They cited several things to make sure that the evils of the big city legislators would not ever be able to overwhelm the important things they felt would be represented by those people who came from rural areas. In fact, they said this, "Suppose six new towns are clasped together for the purpose of sending one Representative? Well, these towns being six miles square making 216 square miles, say these towns send one man and the best they can find among them, an honest old farmer, a steady plow jogger and he attends and sits silent all session and all the year if he goes, unless he is requested to give his yea or nay, then say that the town of Boston sends three and they will take care that they are men of information and the best information, men who have spent their whole lives in study, men who are profound politicians, the most able and eloquent orators. The question is, who will be the best represented, the two square miles in Boston or 216 miles in the woods according to their wealth and position?" Therefore, the founders decided it was best to have a fairly large body at least in the House to make sure that those 216 square miles in the woods in fact were well and effectively represented. In fact, their greatest fears in making that body was that there would be people too young serving in it. In fact, went further on to say this, "Of all the arts in civilized society, none is of so much important as that of making laws. None requires more extensive knowledge of a particular object. When then and how is a boy, just from under family government, with his freedom suit stiff as buckram on his back to acquire all this vast extensive knowledge of legislation? They ought to have some acquaintance of mankind on the ordinary manner of doing business. I do not like to see a legislature," said this particular legislator, "filled with young men, men with no experience, there would be no want of men over the age of 25 and short of the age of imbecility through years or bodily infirmity to fill all the future legislatures of our State of Maine."

I tend to think the result they created, this particular body, the House, indeed lived up to that challenge and that promise. Look around you, men and women of the House, and notice how I phrased that, men and women of the House. The number of women present today, the number of the very young and the very old who have served here, people of color, representatives of our own native North Americans.

The bill before us today, Amendment "B", is no threat to either party and indeed is a challenge to either party. If you have any doubt how rich in fact we are, as a result of the founders and their thinking and a result of the votes at home that brought us here, then just look around fellow members of the House. If you have any doubt that a

unicameral legislature would have people of quality, look at your seatmates, people like the millwrights like Dick Tracy and Herb Clark, lawyers as different as Dana Hanley and Susan Farnsworth, grocers like Will Bell, farmers like Willis Lord, John Nutting, Bob Spear, Walt Whitcomb, educators like Charlie Heino or Omar Norton, or scholars like William Lemke. I rest my case.

Please do not indefinitely postpone Amendment "B" and let us go forward with the work before us.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: It would probably be a lot easier for me to have stayed in my seat and not said anything on this particular issue but since the other Representative from Westbrook has introduced into evidence the book "Profiles in Courage" and since I have already read it a few times myself, perhaps even though it would be easier to not say anything, I just have to. One of the chapters in "Profiles in Courage" that I liked best of all was the chapter regarding the Senator who in spite of tremendously popular sentiment to remove the President of the United States in the impeachment proceedings against President Johnson and even though ultimately would ruin his political career, he had the courage to go against the sexy, apparently popular mood and to cast his vote in the opposite direction. In my judgment and from listening to what has been said, I suspect that I will be well on the short end of this particular vote but this is only my view and my own opinion. I do not have, (oh, I think I do have but I don't express it as well) the historical background that has been put forth here today but I did spend quite a bit of time or a little bit of time in Nebraska and a lot of time with one of its 49 Senators. He did me the favor of spending quite a bit of time with me because I was interested in their system. I can tell you that the same problems that exist here, exist there, maybe in a different way, but if you think things will go all that much more smoothly and that they will be no differences between people and that it will be more efficient, I can tell you that that isn't necessarily so.

I am troubled. I have a long statement because I thought we would be talking about just the idea of reducing the size of the legislature and I realize that is not what is on the floor at this very moment. I get very tired of hearing legislators, either by their silence or by just getting up and agreeing with what is in the press about the inefficiency of this body. It is slow, there is no question about it. My two seatmates will tell you that there is nobody that gets any more frustrated than I do when things go slowly. I would submit to you that in fact this legislature and the ones before us, and I would assume the ones after us, have done a lot of wonderful things for the people of the State of Maine because of the action between and interaction between the two bodies.

The press, and I admit there is a lot of it, gives you the impression that the public at large out there feels that we are too big and that is the reason that things are the way they are right now. I submit to you that neither the size of our body or the terms of office or the fact that we have two houses, none of those have anything whatsoever to do with our economic problems, they are there and they exist and they exist everywhere.

I guess I will sit down and just say to you that I am going to cast a vote to indefinitely postpone this bill. I was going to cast my vote to vote against it, I will subsequently vote against reducing the size of the legislature and I will stand up to anybody today and in November. If it should be the reason I don't return in January, so be it, but I just could not stay here and sit and not say anything and let you know that this Representative does not agree with it for any of the reasons that have been expressed to you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Lewiston, Representative Boutilier, that House Amendment "B" (H-1175) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 383

YEA - Aikman, Ault, Barth, Boutilier, Butland, Cahill, M.; Constantine, Crowley, Daggett, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Goodridge, Greenlaw, Gwadosky, Hanley, Hastings, Hichens, Jalbert, Kutasi, Lawrence, Libby, Look, MacBride, Marsano, Merrill, Mitchell, E.; Murphy, Norton, O'Gara, Pendexter, Pines, Powers, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Small, Stevenson, Tamaro, Tupper, Whitcomb.

NAY - Adams, Aliberti, Anderson, Anthony, Bailey, H.; Bailey, R.; Bell, Bennett, Carleton, Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, DiPietro, Duffy, Erwin, Farnsworth, Gean, Gould, R. A.; Graham, Gray, Hale, Handy, Heeschen, Heino, Hepburn, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lebowitz, Lemke, Lord, Luther, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, J.; Morrison, Nadeau, Nash, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Rand, Richardson, Ruhlman, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Skoglund, Spear, Stevens, A.; Stevens, P.; Strout, Swazey, Tardy, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth.

ABSENT - Bowers, Donnelly, Dore, Gurney, Lipman, Macomber, Simpson, The Speaker.

Yes, 46; No, 97; Absent, 8; Paired, 0; Excused, 0.

46 having voted in the affirmative and 97 in the negative with 8 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, House Amendment "B" (H-1175) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1173) and House Amendment "B" (H-1175) in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 968)

ORDERED, the House concurring, that Bill, "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State," H.P. 1669, L.D. 2345, and all its accompanying papers, be recalled from Engrossing to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following item was taken up out of order by unanimous consent:

MATTER PENDING RULING

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "B" (S-527) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities (S.P. 42) (L.D. 66) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "B" (S-527) as amended by Senate Amendment "A" (S-535) thereto and Senate Amendment "B" (S-555) TABLED - March 4, 1992 by Speaker MARTIN of Eagle Lake. PENDING - Ruling of the Chair.

The SPEAKER: The Chair will rule that the bill is improperly before the body. The Chair will also rule that amendments have been prepared which will bring it into compliance with the rules.

The pending question now before the body is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Minority "Ought Not to Pass" Report.

The Chair recognizes that Representative.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: You will have an opportunity today to vote for the infamous L.D. 66. I believe that before we start our discussion and debate on this issue we need to understand and I do believe that there is not one member in this House that does not believe that the state should fund any directive so-called mandates to the municipalities of this state. All of us understand our responsibility towards our towns and our cities, all of us understand our responsibility to our constituents and all of us, I believe, adhere to this standard with the utmost of our ability. We are here because of those constituents, those individuals whose government this is and all of us I believe here in the Maine House of Representatives want to do the right thing. Sixty-five or seventy members of this body, ten months ago, said to several of us that they were opposed to L.D. 66. I hope you remember who you are because there has been no lobbying effort on this bill as far as I am concerned. However, there has been a special interest group out in the hall and, unfortunately, they have chosen this as their primary issue. They have chosen this over other issues that in fact could reduce the property taxes for the men