

MAINE STATE LEGISLATURE

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Legislative Reform in Maine

An honors essay for the Department of Government

by Steve Hammond

Bowdoin College, 1974



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LEGISLATIVE REFORM IN MAINE

In his preface to American State Politics: An Introduction, published in 1956, V. O. Key, Jr. terms as modest his goal of "opening up the discussion of the major problems (of state politics), of suggesting modes of investigation, and of stimulating further inquiry."¹ Although the goal of the work may well have been modest, the ramifications of those ideas presented in American State Politics are far from modest. The wealth of state politics and government research triggered by Key's work is proof of the book's major significance. Today there is no question but that the discussion has been opened up, the inquiry stimulated. In fact, the need to introduce the major problems of state politics and government has been supplanted by the need to sufficiently limit the scope of an examination of these problems. Only through such a limitation is the currently available mass of state government research reduced to a manageable quantity.

The method used in this examination to insure a realistically limited topic is the establishment of geographical and institutional limitations. This essay is concerned with the government of the State of Maine only, and specifically with the reform of the legislative institution in that state. There are three advantages to these fundamental limitations. First, they render the study practicable. Writings on legislative reform constitute a literature distinguishable from the main

¹V. O. Key, Jr., American State Politics: An Introduction (New York: Alfred A. Knopf, 1956), p. v.

body of state government works. An examination of both this literature and the history of legislative reform in Maine represents a significant, but realistic, undertaking.

Second, focusing on reform of the Maine Legislature allows the study to be of practical significance. Since 1960, two interim committees of the Maine Legislature and a single public interest group have studied the problems of legislative reform in Maine. But these studies offer only a snapshot view of these problems in 1960, 1970, and 1973.¹ By investigating the reports of these three studies, together with the literature of legislative reform, this inquiry gains both an historical and a theoretical perspective uncommon to earlier studies. The result is a broader, more exhaustive study of the problems of legislative reform in Maine. The goal of this examination, therefore, is not to comparatively rate the progress of legislative reform in Maine (the 1970 Citizens Conference on State Legislatures study, for example, ranked the Maine Legislature as the thirtieth most effective state legislature), but to determine if and why the basic weaknesses of the Maine Legislature have persisted over the last decade and a half. To what extent has the Maine Legislature been reformed? Does a closer examination of the literature of legislative reform and the history of that reform in Maine offer any explanations of why the Legislature has or has not succeeded in reforming itself?

A third advantage of considering the problems of legislative reform in Maine is the independent perspective this inquiry can

¹The dates of the Interim Committee on Legislative Procedure, the Citizens Conference on State Legislatures, and the Special Interim Committee on Legislative Structure and Procedure, studies, respectively.

provide. Three groups have traditionally concerned themselves with the problems of legislative reform in Maine: individual legislators, legislative special and interim committees and commissions, and citizens research organizations. Yet each of these groups lacks in one way or another the independence of this study. The individual legislator, for example, presents his reform recommendations cognizant of the fact that his suggestions must often be modified before they become palatable to other lawmakers. This political short-sightedness is also common to legislative special and interim commissions and committees. These commissions and committees are concerned less often with the question of "what is best for the Legislature" than with the question of "how close to the goal of that which is best for the Legislature can our recommendations come while still possessing a moderate chance of political survival?" Finally, citizen research group studies of legislative reform are often characterized by a hermetic approach. In the case of the Citizens Conference on State Legislature's 1970 study, for example, an arbitrary norm was constructed against which all fifty state legislatures were measured. In its report of that study, State Legislatures: An Evaluation of Their Effectiveness, the CCSEI warns that

...the merit and plausibility of the present evaluations depend directly upon the reasonableness and acceptability of the underlying criteria. For this reason, we give substantial space to the various doctrinal assumptions made in the evaluative work. But we make no claim to either completeness or finality in the assignment of these criteria. ...The study produces "answers" and not "the answers"....¹

¹ The Citizens Conference on State Legislatures, State Legislatures: An Evaluation of Their Effectiveness (New York: Praeger Publishers, 1971), p. 6.

Although these self-imposed limitations are necessary to a computerized study of legislative effectiveness, they are of no value to this examination. While the model agenda for reform of the Maine Legislature presented in Chapter III can be interpreted as a norm, it is both narrower (insofar as it is constructed for application to the Maine Legislature alone) and broader (inasmuch as it draws from the literature of legislative reform, all three recent studies of Maine legislative reform, and Maine legislative records) than the one developed by the CCSL. In short, freed from what the CCSL terms as "limitations on political evaluation, applicability, and completeness and finality",¹ as well as from the political short-sightedness of individual legislators and special and interim commissions and committees, this essay can examine the problems of legislative reform in Maine from a perspective distinct from its predecessors.

With the reasons for and advantages of this study, presented, there remains, by way of introduction, a need for explanation of the procedure to be followed in the following chapters. The investigation of the problems of legislative reform in Maine involves a four-step process of cataloguing, synthesizing, comparing and concluding. Chapter II of this essay catalogues the literature of legislative reform. This survey of pertinent reform studies and writings has two goals: it will help define the ultimate goals of legislative reform as well as point out those reforms considered essential by legislative reformers. In the course of its survey, Chapter II will establish the reinstatement of legislative policy-making and oversight of the bureaucracy as the

¹Ibid., pp. 4-5.

ultimate goals of legislative reform. It will furthermore reveal that reformers agree that the essentials of legislative reform are increased legislative resources and public visibility. Finally, given this consensus among legislative reformers, Chapter II will offer the conclusion that the basic problem of legislative reform in Maine is not "what needs to be done", but "how to do it?"

Providing the "how" of legislative reform in Maine is the goal of Chapter III. There a model program for reform of the Maine Legislature will be synthesized from the recurrent essentials of reform revealed in Chapter II. To deal with the "how" problem, the synthesis proposes a hierarchy of reform proposals in which establishment of a permanent citizens legislative review commission is presented, developed, and defended as the central issue of legislative reform in Maine. Chapter III will present the argument that establishment of such a commission would insure continued visibility of the problems and issues of legislative reform, and so would educate both legislators and the public of the importance and persistence of reform issues. By offering this alternative to the traditional pick-and-choose approach to the problems of legislative reform, the model program presented in Chapter III will provide an agenda for reform of the Maine Legislature specifically tailored to the "how" problem.

In order that the ideal program for reform of the Maine Legislature might be compared with the record of the actual progress of legislative reform in that institution, Chapter IV will provide a "History of Legislative Reform in Maine Since 1961." Not only will this summary present what has been done, but also,

through a close examination of legislative debates, it will provide insight into the reasons why lawmakers chose to enact or kill specific legislative reform proposals.

Finally, through a comparison of Chapter III's ideal and Chapter IV's reality, Chapter V will provide certain conclusions regarding the problems of legislative reform in Maine.

Chapter II

After a third of a century of power flowing from the people and the states to Washington, it is time for a new federalism in which power, funds, and responsibility will flow from Washington to the states and the people.¹

On August 8, 1969, President Richard Nixon delivered the above comment in the course of his speech on "Welfare Reform-Shared Responsibility". In that speech, the President presented the concept of New Federalism as a major change in federal policy. Although Mr. Nixon's New Federalism accelerated the growth of the states responsibilities, it is doubtful that it marked, as the President contended, a rounding of "the corner from a dismal cycle of dependency toward a new birth of independence."² The fact is that political scientists had been signaling the rebirth of the states' role in the federal system for more than a decade before Nixon claimed to lay the cornerstone of a New Federalism.

In July, 1967, the Research and Policy Committee of the Committee for Economic Development had noted the long-developing new importance of state governments, a result of the states' steadily increasing fiscal power:

The cost of state operations, as such, is rising steeply. Total direct expenditures in current dollars nearly tripled, from \$10.8 billion in 1952 to \$31.3 billion in 1965.... Expansion continues at 7 to 10 per cent annually. Excluding defense, the national government's purchases of goods and services as a share of the GNP fell from 3.8% in 1940 to 2.3% in 1966, while the corresponding state-local share of GNP rose from 9.0% to 10.3%.³

¹Richard Nixon, "Welfare Reform-Shared Responsibility", Vital Speeches of the Day (September, 1969), 674-8.

²Ibid.

³Committee for Economic Development, Modernizing State Government (New York: Committee for Economic Development, 1967), p.13.

As many as eleven years before the CED report, V. O. Key, Jr. had interpreted this increased fiscal power of the states as evidence of a new federal-state relationship. Key observed that

from these broad trends the paradoxical conclusion emerges that, as the prophets of doom proclaimed the passing of the states during the ferment of the New Deal, state governments were... in general enjoying a boom as such things go in governmental circles.... As their epitaph was being written, the states,... were taking on a new and different role.¹

For Key, these new responsibilities demanded of the states more effective systems of political management and leadership. But for a significant group of contemporary political scientists, the most important demand placed on the states by their new responsibilities is legislative modernization:

At the heart of the issue-- whether state governments will respond responsively or not-- are fifty state legislatures and the thousands of legislators.²

Legislatures are the main, although not the only, "drag" upon the capacity of states to function as full partners in the federal system. They are hampered and hamstrung by a host of restrictions on their powers and operations. ...The grave shortcomings of state legislatures as instruments of a responsive and honest government must be laid squarely at the door of the American people.³

Here is indication of the need for legislative reform. In order to achieve what Donald Herzberg terms "a more viable federal system", state legislatures must be capable of effectively

¹Key, *op. cit.*, pp. 5, 7.

²Donald G. Herzberg and Jess Urzuh, Essays on the State Legislative Process (New York: Holt, Rinehart, and Winston, 1970), p⁴.

³The Citizens Conference on State Legislatures, The Sometimes Governments (New York: Bantam Books, 1971), pp. 23, viii.

discharging their increasing responsibilities.

Legislative reformers point to two areas in which unreformed legislatures are ineffective-- policy-making and oversight of the state bureaucracy. Until recently, the problem of policy-making by not only the state legislatures but state executives as well was dismissed as a thing of the past. Said Key:

Doubtless within the states the element of new, broad policy bulks less large within the total governmental task than it does in the federal sphere. The work of state governments consists in higher degree of the unglamorous chores of administration.¹

Most contemporary political scientists, however, have reaffirmed the importance of policy-making at the state level. Asserted the CED's Research and Policy Committee:

We favor vigorous and effective state governments. Each should be able to initiate solutions for major public problems, either independently or in collaboration with other governments. Each should also be capable of well-coordinated execution of policy decisions.²

But the need for effective policy-making at the state level leads straight back to the need for effective legislatures, for as James Fesler observes,

Lawmaking is central to policy making.... Under the principles of representative government, it is the state legislature that is expected to settle most policy questions. If it is to perform its important role satisfactorily, it needs to be reasonably representative..., responsive to the interests of the community that is the state, and rational in assembling and considering the appropriate facts, opinions, and policy alternatives.³

¹Key, op. cit., p. 17.

²Committee for Economic Development, op. cit., p. 19.

³James W. Fesler, ed., The Fifty States and Their Local Governments (New York: Alfred A. Knopf, 1967), pp. 32-3.

The first goal of legislative reform, then, is to insure that the legislature remains or becomes an effective policy-making apparatus of state government.

The second goal of legislative reform is the re-establishment of the legislature's function of oversight of the state's bureaucracy. Because oversight of the bureaucracy is in effect an extension of the legislature's policy-making function, it is of equal importance to the latter in insuring effective state government:

...the legislature must review and evaluate the conduct of administration and the effects of state programs. It cannot merely abandon enactments to the executive branch, on the assumption that its job is completed once a bill becomes law. It has to check continuously whether departments and agencies are operating efficiently, whether they are performing effectively. It must determine the effects programs have, and at just what costs. Only then can the legislature decide, more sensibly than before, on reducing some programs and abandoning others....¹

Given these two goals of legislative reform, reassertion of the legislature's policy-making and oversight-evaluation functions, what needs to be done? Among legislative reformers, a consensus exists as to this question's response. Reformers agree that increased legislative resources and increased visibility of the legislature before its public are needed to achieve these two goals. According to Donald Herzberg,

The legislature has to provide itself with the resources necessary to do the job. Experts agree that these resources include increased information, staff, physical facilities, and increased use of legislative committees....

If we are to expect legislators to react to

¹ Donald Herzberg and Alan Rosenthal, eds., Strengthening the States: Essays on Legislative Reform (Garden City, New York: Doubleday and Co., 1971), p. vii.

the needs of their constituents, we must make increased resources available to them. The latter include resources that any business would consider essential.¹...

Most of all, improved legislatures are dependent on an aroused citizenry. Time and again, a handful of individuals armed with positive suggestions for improvement have succeeded in upgrading and modernizing state legislatures. This is the area where many of the nation's most pressing social problems must be met. To continue to disregard the legislatures is political suicide.²

Herzberg's formula for legislative modernization represents one variation of what a survey of legislative reform literature reveals to be a consensus of opinion on the essentials of reform. In both general reform writings and specific reports of those organizations directly involved in the legislative reform process, the need for increased legislative resources and visibility is consistently underlined. As Alan Rosenthal observes:

If state legislatures are in need of improvement, the first question to ask is what kind of improvement is necessary.... Diagnosis and prescription have been reiterated time and again....

It is remarkable, in fact, how ideas of legislative improvement have carried over virtually intact. These extremely durable ideas constitute the contemporary agenda for reform. Although variously phrased and differently stressed, depending on time, place, and source, the program includes the following items. 1) Elimination of many constitutional limitations on the authority of state legislatures.... 2) Increase in the frequency and length of legislative sessions, without limitation of time and subject.... 3) Reduction in the size of

¹ Herzberg's essentials include: 1) Use of computers and improved research, 2) a private office for legislators, 3) a telephone for each legislator with sufficient long distance allowances, 4) a secretary to assist him in communicating with his constituents, 5) a research or administrative assistant to help develop a legislative program, 6) a car or mileage allowance which will allow the legislator to travel to meetings and to meet with constituents.

² Herzberg and Unruh, op. cit., pp. 7, 8, 13.

of legislative bodies.... 4) Increase in compensation and related benefits.... 5) The adoption of more rigorous standards of conduct.... 6) Adequate space and facilities.... 7) Improvement of legislative operations.... 8) Strengthening of standing committees.... 9) Increasing the number and competence of legislative staff.¹

Claudius Johnson (American State and Local Government) and the CED's Research and Policy Committee (Modernizing State Government) each offer a five point synopsis of legislative reform needs only marginally different from Rosenthal's contemporary agenda for reform.

This consensus regarding the essentials of legislative reform does not exist solely among nationally-oriented reformers. Conclusions drawn by such regional organizations as the New England Assembly on State Legislatures are consistent with those of nationally-oriented groups. In its State Legislatures in New England Politics, the Assembly lists fifteen recommendations for legislative modernization, including proposals for enhanced fiscal authority, development of home rule provisions, adoption of annual sessions, competent professional staff, salaries commensurate with legislative responsibilities, training sessions for freshmen legislators, and adoption of an enforceable code of ethics.²

Furthermore, since 1960, three studies (two by legislative interim committees, and one by the Citizens Conference on State Legislatures) have addressed themselves to the problems of legislative reform in Maine, and all three have indicated that

¹ Herzberg and Rosenthal, op. cit., pp. 3-4.

² The New England Assembly on State Legislatures, State Legislatures in New England Politics (Durham, New Hampshire: The New England Center for Continuing Education, 1967), pp. 111-2.

the essentials of legislative reform in Maine are not far afield from those outlined by nationally-oriented reform groups.

In December, 1960, the Interim Committee on Legislative Procedure to the One Hundredth Maine Legislature sought to insure, through the implementation of its recommendations,

...the elimination of the most persistent brakes, bottlenecks, and logjams which clog the legislative machinery.... The Major items: method and time of introducing legislation; elimination of local fish and game bills; better control of the flow of legislative business; additional staff to serve the Legislature.¹

Convinced of the persistence of the issues of legislative reform, the committee further concluded that

...this field of Legislative Rules and Procedures deserves classification as a continuing task and responsibility. In support of this conviction legislation will be introduced to create a permanent Committee on Rules and Procedures of the Legislature.²

More than a decade later, in January, 1973, a report by the Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature showed how little the problems of legislative reform in Maine had changed since 1960. The 1973 report held that:

1. The Legislature cannot perform its role as an independent decision-making agency without acquiring additional staff....
2. Legislators should recognize the fact (that the Legislature has been meeting for annual sessions), and plan and organize to gain the maximum productivity during its biennial life.
3. ... (Legislative) leadership positions ought to be defined carefully; and the positions ought to be reviewed periodically....
4. Committee procedures should be reviewed periodically....
5. Changes should be made in the internal procedures

¹The Interim Joint Committee on Legislative Procedure, Report to the One Hundredth Maine Legislature (Augusta: 1960), p. 2.
²Ibid., pp. 10-11.

of the two houses in a number of areas....

6. A Compensation Commission ought to be established....

7. A Legislative Review Committee should be appointed

... to continue the work of evaluating the effectiveness of the Legislature.¹

Thus, more than a dozen years after the 1960 report, the 1973 Special Interim Committee found the Legislature's biggest need still to be increased resources.

Although the 1973 report made mention in its conclusion of "the need for better public relations for the Legislature",² both interim committees were designated by the Legislature to evaluate the internal needs of the Maine Legislature, and therefore did not consider the need for increased visibility of the Legislature before the public. A study which did consider this need, and the need for increased resources as well, was the 1970 legislative evaluation done by the Citizens Conference on State Legislatures. In its evaluation of the effectiveness of the Maine Legislature, the CCSL listed as its first reform recommendation the creation of a citizens commission on the legislature. In its recommendations for internal improvements, the Conference's recommendations directly paralleled those of the two interim committees. The CCSL called for increased legislative resources through recommendations for removal of constitutional limitations on legislative sessions, reduction in the size of the Maine House, establishment of legislative management committees, increased staff support, improved press facilities, higher rates of legislative compensation, stronger regulation of legis-

¹The Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, Legislative Reform in Maine: Some First Steps (Augusta: 1973), pp. 3-4.

²Ibid., p. 21.

lator conflicts of interest, and the transfer of the audit function to the Legislature.¹

A survey of legislative reform literature therefore confirms the existence of a consensus among legislative reformers. The writings of these reformers recurrently underline the need for increased legislative resources and public visibility. In formulating specific recommendations to achieve these goals, each reformer arrives at proposals which may vary from, but are never contradictory to, the proposals advocated by other reformers. The Citizens Conference on State Legislatures, for example, perceives the Legislature from the exterior, and so proposes to provide for continued legislative review by the creation of a permanent citizens commission on the Legislature. Limited to an internal perspective on the problems of legislative reform, the 1973 Special Interim Committee concludes that the best way to insure the same legislative review is through the establishment of a legislative review committee. In short, a study provides a different perspective on the same problem. In certain areas findings of the several studies fail to overlap. The list of recommendations issued by the New England Assembly on State Legislatures, for example, includes a proposal for orientation programs for freshmen legislators. Other studies fail to mention this area of legislative reform. However, it is significant that none of the recommendations peculiar to a single study are in conflict with other reform proposals. Nowhere in the reform literature surveyed in this chapter is a reform recommendation supported in one study and refuted in another.

This absence of contradictions among reform recommendations

¹The Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., pp. 225-30.

has an important impact on the formulation of a model program for reform of the Maine Legislature presented in Chapter III. The survey presented in this chapter indicates that the issues of legislative reform are unlike those of other policy areas. The similarity of findings of reform groups implies that, unlike the formulation of welfare, education, or transportation policy, formulation of legislative reform policy involves the determination not of what needs to be done, but of how to do it. The issue of continued legislative review again offers a good example. The persistence of recommendations for establishment of a permanent legislative review committee (or citizens commission) of the Maine Legislature contained in all three reform studies of that institution indicates that the problem is not whether establishment of such a committee is a valid issue of legislative reform (as, for example, the establishment of a state income tax would be an issue of taxation policy), but how can legislators be made to recognize the persistence of the need for legislative review which these recommendations move to satisfy.

Affording special attention to the "how" problem will be a significant consideration in the synthesis of proposals for legislative reform in Maine presented in Chapter III. By developing the implications of the consensus revealed in this chapter, Chapter III will provide a series of reform recommendations which constitute a model program for reform of the Maine Legislature especially equipped to deal with the "how" enigma.

Chapter III

The reform literature surveyed in Chapter II will be used in this chapter to formulate a model program for reform of the Maine Legislature. The fact that reformers agree on the basic elements of legislative modernization means that this synthesis, if it is to provide anything more substantial than a restatement of Chapter II, must go beyond simple identification of the component parts of a "contemporary agenda for reform of the Maine Legislature. Alone, such simple identification could offer little more than an updated variation of those recommendations found in the 1960 and 1973 Interim Committee reports on legislative structure and procedure and the CCSL evaluation of the effectiveness of the Maine Legislature. While such an updating is not without merit, the poor track record of those recommendations (see Chapter IV) indicates that it will take more than an updating to transform recurrent proposals for legislative reform into enacted legislation. As Larry Margolis (director of the Citizens Conference on State Legislatures) observes:

...It is time that we put more effort into implementing the changes which everyone admits are necessary. It takes no trick or special insight at this late stage to realize that state legislatures need more time and opportunity to do their work-- longer, more frequent and less restricted sessions; adequate offices and other facilities; more and better staff; higher pay in keeping with the importance and dignity of the task; and better sources of information and ideas concerning the problems that need to be settled.

These are obvious things. Of course, they need to be tailored to the particular conditions of a given legislature. But the big question is whether these changes will be made fast enough to keep pace with the growth of the crisis facing state government.¹

¹Larry Margolis, "States on the Spot", National Civic Review, (1968), p. 304.

This shift in emphasis from identification to implementation represents the factor which most separates the program for reform developed in this chapter from those developed in both earlier interim committee and CCSL studies.

While the approach to the problems of legislative reform presented here rejects Margolis' now or never plea for urgency¹, it also denies the buffet-style approach to legislative reform of which past studies have been guilty. By offering a list of x-number of reform proposals (the 1973 Interim Committee report lists seven recommendations, the CCSL evaluation thirty-one, the New England Assembly on State Legislatures, fifteen, etc.), recent reform studies invite legislators to pick and choose from among reform proposals. Because priorities are seldom established within these reports, legislators often chose to act on those recommendations which are least controversial. Such proposals are most often of a short-range, immediate-impact nature, and consequently represent those recommendations least important to the overall problems of legislative reform.

Encouraging legislators to pick and choose from among proposals for legislative reform invites a piecemeal approach to the problem. Jess Unruh asserts that "the success of any legislative modernization effort depends upon the groundwork that is laid. Anything that fragments and factionalizes is destructive."²

¹The article, written in June, 1968, states that "we are talking about significant changes along the lines outlined earlier, and about getting it done in two, three, or four years. This is roughly the probable time limit for the current level of public interest in legislative reform before attention shifts to some other national goal or the verdict is rendered that the states simply cannot do the job. (Ibid.)

²Harzberg and Unruh, op. cit., pp. 21-2.

Unruh's comments echo recurrent warnings by legislative reformers that "no single (change) will make much of a difference at all. But taken together and skillfully implemented they will create conditions under which legislatures... can become effective."¹

Developing an alternative to the traditional pick and choose approach to legislative reform is, therefore, the first central consideration of the program for reform of the Maine Legislature presented here.

This synthesis further emphasizes that legislative reform is more than a salary increase or another committee staffer-- legislative modernization must be understood as an important policy area which (like such policy areas as Welfare, Education and Transportation) is made up of a plexus of problems and issues in constant need of review and revision. Studies designed to provide this review were presented to the Maine Legislature in 1960 and 1973; but the history of legislative reform presented in Chapter IV clearly indicates that such evaluations as those done in 1960 and 1973 are needed more often than once every thirteen years.. Providing for more frequent (i.e., constant) legislative review is the second central consideration of this synthesis of reform proposals.

Continuing legislative review can be achieved by placing added emphasis on those reform recommendations which carry long-range aspects. The significance of this shift of emphasis can be seen through an examination of the fate of the proposals contained in the report of the Special Commission on Legislative Compensation to the One Hundred and Sixth Maine Legislature. According to

¹ Herzberg and Rosenthal, op. cit., p. 13.

Commission chairman Richard Morgan, several members of the Commission considered the recommendation for the establishment of a permanent compensation commission to be the most important of the Commission's proposals. Yet the One Hundred and Sixth Legislature left this recommendation untouched, although it did act on a modified version of the Commission's most short-range proposal for a salary increase. Had the Commission treated the problem of legislative compensation as an evolving issue of the larger problem of legislative reform, its report would have placed more emphasis on the central need for creation of a permanent compensation commission. Instead, however, the report gives the most basic problem of legislative compensation a cursory treatment in its final pages:

Whatever differences exist within the Commission on the question of moving immediately to annual full-time salaries, there is no doubt in anyone's mind that the legislative compensation picture in Maine will need regular review in the future.¹

It is perhaps unrealistic to expect such a commission to begin its list of reform recommendations with a proposal which would appear to call for the establishment of that same commission as a permanent organ of the Legislature. Yet, in allowing legislators to pick and choose from its recommendations, and in failing to underline the importance of long-range legislative compensation reform, the Commission's report limited its own impact.

Furthermore, the Compensation Commission report is hardly alone in holding until its final pages a discussion of basic issues of legislative reform. Both interim committee reports

¹The Commission on Legislative Compensation to the One Hundred and Sixth Maine Legislature, Legislative Compensation in Maine: Some First Steps... (Augusta: 1973), p. 8.

place at the bottom of their respective lists of reform proposals that recommendation which would insure continued visibility of reform issues. The 1960 Interim Committee found that "this field of legislative rules and procedures deserves classification as a continuing task and responsibility."¹ Similarly, the final recommendation of the 1973 Special Interim Committee proposes that "a Legislative Review Committee... be appointed at the end of the regular session of the 106th to continue the work of evaluating the effectiveness of the Legislature."² Neither of these key recommendations were implemented by the Legislature.

To avoid this traditional pitfall of presenting this central need for continued legislative review in a last-but-not-least recommendation, this program for reform of the Maine Legislature gives top priority to its proposal for the establishment of a permanent citizens legislative review commission. Although all three reform studies of the Maine Legislature called specifically for the establishment of either a citizens commission or a legislative joint committee, all three failed to emphasize the pivotal role such a body could play in legislative modernization. In its seventh recommendation, the 1973 Special Interim Committee held that

The Legislature should establish a Legislative Review Committee to:

- a. Review and evaluate the performance of the Legislature at the end of each session and to make recommendations to permit the Legislature to continuously improve its work; and
- b. To explore such other questions as might effect the performance and functioning of the Legislature.³

¹ Interim Joint Committee on Legislative Procedure to the One Hundredth Maine Legislature, op. cit., p. 10.

² Special Interim Committee on Legislative Structure and Procedure, op. cit., p. 4.

³ Ibid., p. 20.

This recommendation is paralleled by proposals for the establishment of a permanent Committee on Rules and Procedures of the Legislature and a Citizens Commission in the reports of the 1960 Interim Committee and the CCSL study respectively.

While all three studies hope to achieve the same goal of continued legislative review through a permanent review committee or commission, they disagree on whether this group should be composed of legislators or citizens and whether establishment of this review board constitutes a high or low priority issue. Unsurprisingly, both legislative interim committees recommend the creation of a permanent joint committee of the Legislature, while the CCSL calls for the creation of a commission "comprised of from twenty-five to thirty-five leading citizens, representing various fields of activity, interest groups, and areas of the state."¹ The CCSL report also disagrees with both interim committees on the importance of continued legislative review. While the recommendation for establishment of a citizens commission is listed seventy-third in the CCSL's general recommendations for the states, it is listed first in the Conference's Maine recommendations.² Both interim committees, in contrast, place no special emphasis on the need for continued legislative review.

Formulating a recommendation for continued legislative review therefore includes determining the importance of the recommendation and resolving the question of who should make up that committee, citizens or legislators. This chapter's opening discussion of the need for a shift in emphasis to long-range

¹ Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., p. 168.

² Ibid., p. 227.

reform proposals explains the reasons for placing this recommendation at the top of this agenda for reform of the Maine Legislature. No other proposal contains a greater potential for increasing the visibility of the problems and issues of legislative reform before the public and the Legislature; consequently, no other recommendation is as important to insuring the modernization of the Legislature. It is significant that the 1973 Interim Committee study concluded that "the suggestions contained in this report constitute a first step for the Legislature to take if it is to become the central force in setting policy for the State of Maine."¹ Yet nowhere does the study's report underline the importance of its seventh recommendation (see page 21), the proposal which alone could insure that the Legislature continue past the first steps of reform.

There are four reasons for opting for a citizens commission over a joint legislative committee. First, whether composed of citizens or legislators, the legislative review body would be instrumental in increasing the visibility of the issues of legislative reform before the Legislature. But a citizens commission could also insure increased visibility of these issues before the public. As the CCSI report observes:

...the Legislature needs to educate and inform the electorate if it is to solve the operational, procedural, and facility problems that retard its development as an effective and responsive part of state government.²

¹Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., pp. 21-2.

²Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., p. 227.

There is, however, no mention of increased visibility of the issues of legislative reform before the public in the HIS reform study, even though report concluded that "other questions which merit consideration include... the need for better public relations for the Legislature."¹

Second, a legislative review commission composed of the prominent citizens mentioned in the CCSL recommendation could insure an optimum of bipartisanship in consideration of the problems and issues of legislative reform. This advantage is of particular significance when considered together with the next benefit of a citizens commission.

The findings of a citizens commission would insure increased visibility of the problems of legislative reform before the public; similarly, a citizens commission could take under consideration a wider range of reform problems. This third advantage would eliminate the need for the permanent compensation commission called for in Part V of the 1973 Compensation Commission report, for example. The problem of legislative compensation would be periodically reviewed by the citizens commission. The problem of ad hoc legislative reapportionment commissions would be similarly eliminated.

Finally, solving the problem of continued legislative review through the establishment of a permanent joint legislative committee would conflict with the general assertion among legislative reformers that the number of state legislative committees should be reduced. Although the number of committees of the

¹Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., p 21.

Maine Legislature (twenty joint committees) falls within the acceptable range of most reform studies. (the CCSI report, for example, states that "ideally, there should be ten to fifteen committees in each house, parallel in jurisdiction"¹), establishment of another committee would be counter-productive inasmuch as it would place increased demand on an already thinly spread legislative staff.

In light of these considerations, the establishment of a citizens legislative review commission appears the best solution to the problem of continued legislative review. The duties and purposes of such a commission are best outlined in Recommendation 73 of the CCSI's The Sometimes Governments:

As a means of cultivating generalized support for the legislature as an institution, a citizens commission should be created, by joint resolution of the legislature, to study its operations, facilities, and needs and to recommend improvements. The appointive power should be consigned to the speaker and the president pro tem on an equal basis and should include consultation with the minority leader of each house. The citizens commission should conduct its review over a two-year period, resulting in recommendations to the legislature and the public concerning the role the legislature is expected to perform in development of a truly effective state government. A key function of the commission is to educate the citizenry to problems, opportunities, and needs of the legislature. This purpose is best served by having the commission do much of its work through public hearings A commission composed of from twenty-five to thirty-five leading citizens... can contribute much to the development of public support for a more dynamic legislature.²

Three additions to the CCSI recommendation would help improve the effectiveness of a citizens legislative review commission.

¹ Citizens Conference on State Legislatures, The Sometimes Governments, pp. cit., p. 157.

² Ibid., pp. 167-8.

First, the CCSL recommendation fails to treat the problem of finances for a citizens commission. To be effective, the commission must have a budget sufficient to allow the acquisition of a small research staff. Second, a citizens legislative review commission is only as effective as its members. A political consideration which could insure an active commission is the pre-designation of a limited number of the commission's delegates. By instituting, for example, the dean of the University of Maine Law School, the chancellor of the University of Maine, the president of the Maine Teachers Association, as well as the presidents of Maine's bar association, AFL-CIO, Chamber of Commerce, and Common Cause, as pre-designated members of the citizens commission, the latter would be moderately insured of an active membership. Third, given this kind of membership, the commission could more easily develop its own constituency. Because an effective Legislature would benefit such interest groups as bar associations, unions and citizens groups, the commission could draw on the support of such organizations to gain political clout through a developed constituency. With leaders from these groups sitting as members, the citizens commission would be more effective in cultivating that kind of support. These three additions to the CCSL recommendation could round out the needs of an effective citizens commission.

It should be stressed again that the recommendation for establishment of a permanent citizens legislative review commission outlined above is of singular importance to the future of legislative reform in Maine. Unlike all other reform proposals developed later in this chapter, only this recommenda-

tion is of a truly long-range significance. This recommendation would guarantee a continued review of such problems discussed in the second group of reform proposals as increased staffing, legislative compensation, and facilities. Conversely, the implementation of a recommendation for increased salaries in no way insures that other problems will be dealt with. While there may be no panacea to the problems of legislative reform, the establishment of a permanent citizens legislative review commission would at the very least provide continued diagnosis of the issues of legislative reform.

The second group of reform proposals is made up of the recurrent essentials of legislative reform outlined in Chapter II. Of these essentials, none is more crucial than the need for increased staff support. As Alan Rosenthal observes,

On the subject of staffing, there is virtual unanimity among reformers and substantial consensus among practitioners. Staff will provide the information necessary for the legislature to do its job.¹

This unanimity exists among the three reform studies of the Maine Legislature as well. Recommendations for increased staff support are found in both the 1960 and the 1973 Interim Committee Report, and the 1970 CSEL study. Still, formulation of a specific recommendation in this area requires charting a middle course between two extremes, for a comparison of the 1973 report's staff support recommendations with those contained in the CSEL report highlights the highly divergent definitions among reformers of what constitutes "adequate" staff support. For the 1973 Special Interim Committee,

¹Hersberg and Rosenthal, op. cit., p. 8.

The most important thing the 106th Legislature can do is to provide itself with additional non-partisan staff.... As an immediate first step the six professional positions authorized by the 105th Legislature ought to be filled. ...These positions ought to be filled by people who would work for the Legislature on a full-time basis.¹

While the report calls for increased staff support in other areas, its recommendations contrast sharply with those contained in the CCSI's evaluation. According to the Conference,

- a) ...The range, volume, and level of (the Legislative Research Bureau, the Legislative Finance Office, and the position of Legislative Reference Librarian) are in dire need of expansion. This can be accomplished most directly by enlarging the present staff and by increasing salary levels and qualifications.
- b) The Legislature should consider, immediately, the staffing of major committees. All remaining committees should be staffed as soon thereafter as possible.
- c) Staff assistance should be provided to all leaders of both majority and minority parties. Such assistance should include a secretary and an administrative assistant at the professional level, with space to work reasonably adjacent to the offices of members and leaders.
- d) As soon as possible, a start should be made toward providing each member (majority and minority on an equal basis) with secretarial and professional staff assistance.²

It is clear that the 1973 Special Interim Committee recommendations represent minimum guidelines-- the report offers these recommendations with repeated qualifications of "immediate first steps". The CCSI report, too, offers its recommendations as minimal requirements, but a closer examination reveals that the fourth of these proposals (recommendation "d" above) is in fact extravagant. The report's assertion that "every state legislator should have at least one full-time professional assis-

¹Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., pp. 5-7.

²Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., pp. 228-9.

tant"¹ is invalid, at least in application to the Maine Legislature. The fact that the report recommends the same amount of rank-and-file staff support for members of the New York Assembly² as for the Maine Legislature is indicative of the study's over-estimation of the staff needs of Maine's legislature.

A second indication of over-estimation can be seen in the CCSL's failure to provide a program for gradual development of the Legislature's staff support. As Alan Rosenthal warns,

Staffing a legislature is no simple matter. First, there is the problem of recruiting and training able assistants. As Bolton writes: "It takes careful effort to develop a professional staff that understands the intricacies of the legislative process and combines subject-matter skills and political sensitivity." Second, there is the problem that legislators themselves have in coping with the assistance offered by staff. Bolton notes that "it takes time for legislators to learn how to use staff effectively."³

In the conclusion of his essay on "The Consequences of Legislative Staffing", Rosenthal contends that

Legislators simply must try to anticipate what will happen if they create a new staff here or augment an old one there. Thinking in terms of workload and efficiency is not satisfactory. Far more is involved. It requires legislators to take into account the potential advantages and disadvantages of one arrangement in comparison with another, so that they can get the types of staff that will serve them most effectively.⁴

Given these considerations, providing each Maine legislator with his own private secretary and research assistant seems superfluous. It becomes clear that implementation of the first three of the CCSL recommendations for increased

¹Ibid., pp. 63-4.

²See The Sometimes Governments, p. 271.

³Herzberg and Rosenthal, op. cit., pp. 9-10.

⁴Ibid., p. 88.

staff support, i. e., parts a, b, and c of the list on page 28, would satisfy the current needs of the Maine Legislature. Furthermore, deletion of recommendation "d" of that list brings the CCSL recommendations by and large in line with the long-range findings of the 1973 Special Interim Committee:

 Serious consideration should be given to assigning... Key legislative officers professional staff assistance. ... (The Legislature should provide) professional staff-- first to the "major" committees, and later, to the other committees.¹

Once having provided itself with enough staff to fill its basic needs, the Legislature could best insure a continued understanding of its staff needs by establishment of a citizens review commission. The commission could monitor staff innovations as they are implemented and guarantee a flexible, developmental approach to future staffing needs.

In no area is the problem of providing for future review more necessary than in that of legislative compensation. Providing for this review through a citizens commission has already been suggested. In considering specific recommendations for adjustment of current legislative salaries, the CCSL and the 1973 Special Interim Committee report offer parallel recommendations. According to the CCSL report:

 Maine's current (1971) yearly salaries of \$25000.00 should be doubled immediately and increased again within the next few years as other improvements are made.²

For its part, the December, 1973, report of the Compensation Commission held that:

 ...members of the Maine House and Senate (should) receive a salary of \$5000 for the regular session and

¹ Special Interim Committee on Legislative Structure and Procedure, to the One Hundred and Sixth Maine Legislature, op. cit., pp. 13-14.
² Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., p. 229.

\$2500 for the special session.... The present \$25 per diem for attendance at committee meetings out of session should be retained.... The Commission proposes a combined meal and housing allowance of \$25 per day...; a (\$200 per year) allowance for each legislator to help pay for mileage and clerical help away from the State House; ... a budget of \$12,000 to provide a secretarial pool of five clerks available to legislators for constituent business,... needed only while the Legislature is in session.¹

Implementation of the recommendations contained in Parts II, III, and IV of the Compensation Commission report² would provide for the immediate needs of the Legislature. In providing for future needs, the establishment of a permanent compensation commission (recommended in Part V of the Commission's report) is a desirable goal, but, as before, the citizens commission outlined earlier could effectively discharge the duties of such a compensation commission.

Nowhere do the findings of reform theorists vary more widely from the findings of reform studies of the Maine Legislature than with the problem of adequate legislative facilities. Reformers at large consistently call for more adequate space and facilities. The two Maine interim committee reports, because they treat the problems of legislative structure and procedure, failed to review the problems of inadequate legislative facilities. It is surprising, however, that only scant mention is made of the problem in the CCSL's 1970 report. That report offers a total of five general recommendations for improving legislative facilities, but concludes that only one of those five is important enough to warrant a second accounting among

¹Compensation Commission to the One Hundred and Sixth Maine Legislature, op. cit., pp. 4-7.

²An exception is the Commission's recommendation for the creation of a secretarial pool for legislative constituent business. See discussion, page 35.

specific Maine recommendations.¹

The fact that legislative leaders negotiated for increased office space in the most recent series of office reshufflings within the State House is indicative of the kind of role the Legislature plays in securing new facilities.² While the leadership does play a part in determining whether or not the Legislature will receive increased office or committee space, it is clear that rank-and-file members play a minimal role in determining what, if anything, is done about this crucial reform issue. Since no study has been done on the Legislature's specific need for improved facilities, it is difficult to formulate specific recommendations in this area beyond the CCSL's suggestion for improved press facilities.³ It is clear, however, that improvement is needed. The Legislature should begin to take an active role in determining and acquiring what facilities it needs. A citizens commission could assess these needs and advise the Legislature on the best means of meeting them.

The most traumatic of the recurrent essentials for legislative reform is reduction in size^{of} state legislatures. Most reformers agree on the need for this reduction, and many maintain that the maximum membership of an effective lower house to be one hundred or less. The CCSL report, in concurrence, calls for the reduction

¹It is interesting to note that the CCSL study calls for one secretary and one assistant to be provided for each legislator, but does not call for individual offices for these lawmakers.

²This reorganization was largely the result of the move of the Maine State Library from the State House to the new Cultural Building. Thus, the leadership acquired the new space because it became available, not because it had been actively sought.

³The problem of press coverage is similar to that of inter-ethnic programs-- inadequacies exist on both sides of the partnership. Although the Legislature provides inadequate press facilities, press organizations tend to provide insufficient staff to allow

in size of the Maine House of Representatives to a membership of one hundred or less. The 1973 Special Interim Committee, too, holds that "the problem of the size of the Legislature... should be reviewed again."¹ Inordinate size has several disadvantages:

A legislative body that is too large usually finds it difficult to function without strict discipline, or an extremely centralized operation, either of which defeats the purpose of a large membership-- to be accurately representative of the varying views and interests of all the people.... "It is," as John Wahlke has remarked, "fairly obvious that a body of several hundred persons can discuss any matter only if almost every member agrees to say almost nothing. It is less obvious, but equally important, that personal and informal methods of dealing with its business are more possible for small than large groups...." In a large house, it is entirely possible for a freshman member to go through an entire session without being able to identify, let alone know, every Member of his own party. A large legislature tends to spawn scores of committees in an effort to give everybody something.²

A citizens commission has considerable potential in dealing with as delicate an area of legislative reform as reduction in membership. A permanent citizens legislative review commission could provide a bipartisan evaluation and so offer an equitable solution to the problem. But more importantly, it could generate needed public support, as well as support from its own constituency, to bring increased pressure to bear on an otherwise unwilling Legislature.

The problem of providing for more efficient committee operations is another recurrent essential of legislative reform. Most reform authors stress the need for a reduction in the number of legislative committees. The Maine Legislature's

for adequate coverage of the legislature. For a discussion of this problem see Thomas B. Littlewood's "What's Wrong with State-house Coverage?", the Columbia Journalism Review, March/April, 1972.

¹Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op.cit., p.21

²Citizens Conference on State Legislatures, op. cit., pp. 66-7.

committee system is generally hailed as a good one, but reform studies of that institution indicate that there is still room for improvement. Both the 1973 Special Interim Committees and the 1970 CCSI report recommends the establishment of sessional standing committees as permanent interim sub-committees of the Legislative Research Committee.¹ This change would allow for a continued development of expertise among committee members of the several standing committees throughout the biennium. Implementation of this reform proposal would also increase the Legislature's normally low public visibility during interim periods.

Another committee reform, Maine recommendation #12 of the CCSI report, would provide for open committee meetings:

The rules of each house should prohibit secret meetings except in matters which could affect the security of the state, or which could unnecessarily damage the reputation of individuals in matters. Such exceptions should be sparingly and responsibly employed.²

Such a recommendation would represent an effort on the part of the Legislature to open its doors more widely to the public.

Other proposals for "letting the public in" are similarly consistent with the goals of legislative reform. Included among these recommendations are suggestions for increased publicity of committee meetings and better recording of committee proceedings, as well as provision of a committee manual of rules and regulations.³ Other recommendations integral to committee reform,

¹The reasons for establishing these committees under the LRC are administrative. For an explanation of this organization see "Recommendation 2" of the 1973 Special Interim Committee report.

²The Citizens Conference on State Legislatures, op. cit., p.158.

³The 1960 Interim Committee study submitted just such a manual entitled "Suggestions for Rules and Regulations for Com-

such as the basic need for increased committee staff, have been previously examined.

Both the 1973 Commission on Legislative compensation and the Special Interim Committee recommend upgrading legislators' capabilities to service constituent problems. The former calls for a \$12,000 appropriation to provide a five clerk secretarial pool "available to legislators for constituent business."¹; the latter suggests that;

The legislature should also consider the establishment of an office of constituent services. Many legislators have indicated that they spend much of their time while they are in Augusta performing tasks requested by their constituents. ...However, (this work) does demand a substantial amount of the legislator's time, and therefore, pulls him away from his policy-making function.²

Establishment of an office of constituent services would also develop, as would the use of sessional committees as interim sub-committees of Legislative Research, a continuing presence of the Legislature in Augusta. The Compensation Commission recommendation, which states that the secretarial pool "would be needed only while the Legislature is in session"³, would deny this advantage; implementation of the Special Interim Committee recommendation is therefore the best solution to the problem of constituent services.

mittees of the Maine Legislature". See appendix "c" of the December, 1960, report on legislative procedure.

¹Commission on Legislative Compensation to the One Hundred and Sixth Maine Legislature, op. cit., p. 7.

²Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., p. 9.

³Commission on Legislative Compensation to the One Hundred and Sixth Maine Legislature, op. cit..

The preceding section offers recommendations for ameliorating legislative weaknesses in major problem areas. A separate group of reform issues, which because they are either issues of the past (reapportionment, sessions, home rule), or of no immediate interest in the present (unicameralism, legislative internship programs), or treat such specific problems as to be of a lesser significance (legislative manuals, freshmen lawmaker orientation programs), warrant a less-detailed discussion.

Although reapportionment is and will remain an important issue of legislative reform, the Supreme Court's several rulings throughout the Sixties on legislatures' responsibility to reapportion (specifically Baker v. Carr, 1962, and Reynolds v. Sims in 1964) have drastically improved the representativeness of state legislatures. Consequently, "struggles over reapportionment are practically behind."¹ The issue has become one of "how can the legislature learn to reapportion itself" rather than "will the legislature reapportion?" One obvious solution is that a citizens commission could provide the bipartisan reapportionment^{plan} normally drawn up by an ad hoc reapportionment commission.

The fact that lawmakers in the regular session of the One Hundred and Sixth Legislature moved to appropriate funds for the first half of the current biennium only has a significant impact on consideration of recommendations for annual sessions of the Legislature. The 1973 Special Interim Committee report states that:

¹Worsberg and Rosenthal, op. cit., p. 75.

Since the mid-1960's, the Legislature of the State of Maine has not been meeting once every two years for a limited session. Rather, it has met every year.... In order to achieve the greatest legislative productivity, ...members of the Maine Legislature (should recognize that they) will be expected to work on an annual basis.¹

With the additional flexibility acquired by the adoption of Article CKV of the Maine Constitution in 1970, "Providing for the Convening of the Legislature at such Times as the Legislature Deems Necessary", there is no immediate need for reform of the current flexible biennial session system. As Kenneth Palmer notes:

...There is sufficient power and precedent now to recess the Legislature to a given date, rather than to adjourn sine die. The primary reason why this precedent is not invoked more often than it is seems to revolve around the problem of compensation. Spacing the small legislative salary over a period of twenty-four months instead of concentrating it in the first months of the regular session... would make the salary even less attractive than it is at present.²

Again, a permanent citizens commission could best determine when and if annual sessions would be desirable.

With the adoption in 1969 of Article CXI of the Maine Constitution, to "Provide for Municipal Home Rule", the problem of home rule by and large became an issue of the past. It should be remembered, however, that the principal of home rule is consistent with the goals of legislative reform, and that other legislation which would further develop the autonomy of local governments in Maine should therefore be given consideration for its potential of lightening the legislative

¹Special Interim Committee on Legislative Structure and Procedure, op. cit., p. 9.

²Kenneth T. Palmer, et al, The Legislative Process in Maine, (Washington, D.C.: American Political Science Association, 1973), pp. 5-6.

workload. According to the New England Assembly on State Legislatures:

Legally, in fact, (towns and cities) are mere creatures of the state and may be not only created but altered or abolished at its will. Local governments, in short, possess only those powers of local self-government which are spelled out in the Constitution or which the Legislature has seen fit to bestow. Even in those states where it is guaranteed in the Constitution, "home rule" so called, is usually quite restricted.¹

Consequently, concludes the Assembly,

We favor the development of home rule provisions which give local governments adequate power, relieve the state legislature of the burden of acting in matters affecting the governmental structure of a single municipality and do not impede the state legislature from developing regional and intergovernmental cooperation.²

Two reform issues of marginal interest in the near or immediate future are unicameralism and legislative internship programs. While certain reformers are convinced that unicameralism is the key to the future of legislative reform,³ it is doubtful that recommendations for a unicameral Maine legislature will be given serious consideration in the near future. In The Legislative Process in Maine, Kenneth Palmer observes that:

Maine has always had a bicameral legislature. There have been occasional proposals for a unicameral legislature but these have met with little favor. In support of a 1967 resolve to change the Legislature to a one body system, the sponsor argued that since

¹New England Assembly on State Legislatures, op. cit., p.48.

²Ibid., p. 49.

³See Cass Haruh's "Unicameralism-- The Wave of the Future", in Streamlining the States.

⁴See the discussion of Legislative Document # , Chapter IV, page

all legislative seats must be based on population as a result of U. S. Supreme Court decisions, no good reason remained for two bodies. . . . Though cogently presented, the case for unicameralism persuaded less than a third of the members, and the proposal was soundly defeated.¹

Recommendation #5 of the New England Assembly on State Legislatures' State Legislatures in New England Politics offers a similar conclusion: "we are aware of the advantages, as well as the disadvantages, claimed for the unicameral legislature but, . . . there is little support for the idea in New England."² Consequently, the issue of unicameralism should, at least for now, be seen as a secondary issue of legislative reform. Furthermore, if unicameralism is, as Uhrh believes, "the wave of the future", it is clear that establishment of a citizens commission would mean periodic review of that question in the future.

Legislative internship programs have several advantages in promoting legislative efficiency. Most importantly, internships compliment legislative staff support. But they also help to develop a better relationship between the legislative and the academic communities. Says Donald Herzberg:

If the experience is a good one the politician will come to recognize the kind of contribution that professionals can make directly to operation, and the intern, either as a teacher with his students, or as a student communicating to other students, will bring back a picture of politics and government as a stimulating and honorable way of life. Both, hopefully, will increase the movement of well-trained and highly dedicated people into public service.³

¹Kenneth T. Palmer, op. cit., pp. 1-2.

²New England Assembly on State Legislatures, op. cit., p. 112.

³Herzberg and Rosenthal, op. cit., p. 92.

But the issue of legislative internship programs, while of more immediate interest than unicameralism, will not become pertinent to modernization until the later stages of legislative reform. One reason for this is the delicate conditions necessary to a successful program:

The administration of an internship program involves a variety of problems because of the nature of the program's objective-- bringing together the two worlds of the student and the practitioner. In order to bring about the most successful union of these two worlds, it is absolutely vital to have a university or college sympathetic to the goals of the intern program, as well as good students, a knowledgeable faculty advisory, and, of course, a state governmental unit not only willing to take an intern but also aware of the limitations of the program. Rare, indeed, is the intern program that has all of these factors and is operating near an optimum level.¹

Another is the circle of poverty that exists between the legislature and the universities. The backward legislature is more often dismissed than diagnosed:

...One of the inherent weaknesses on any internship (is) the failure of the intern to bring to his position sufficient background to perform his job satisfactorily. While there are many exceptions, the fact remains that many colleges and universities simply do not give students adequate coursework in American politics or state and local government. These inadequacies quickly become apparent when the student is put in an intern position.²

Given these considerations, it is clear that legislative internship programs would be best implemented once the Legislature has acquired and adapted itself to sufficient staff support. Ideally, a developing interest in legislative reform in Augusta would be paralleled by a similar interest on Maine

¹ Herzberg and Urub, op. cit., p. 88.

² Ibid., pp. 24-5.

campuses-- the end result being a Legislature capable of making effective use of internship programs and campuses capable of providing competent candidates to man them.

Other recommendations which treat less pressing issues of legislative reform, but which nonetheless merit inclusion in this synthesis include suggestions for:

--distribution of Maine legislative manuals. The 1973 Special Interim Committee report calls for consideration of "the possibility of publishing some kind of manual for legislators similar to the one published for the 103rd or the legislative index which was published during the 102nd."¹ Even though The Legislative Process in Maine, published in December, 1973, by the American Political Science Foundation, represents just such a manual, it is significant that the Ford Foundation and not the One Hundred and Sixth Legislature commissioned that study (even though lawmakers of the One Hundred and Sixth received copies of the work during this year's special session), and that the printing of the manual last December represents the only planned publication of the work. The Legislature should provide for continued publication and distribution of such a manual as The Legislative Process in Maine, not only for legislators, but also for libraries, educators and the general public.

--orientation programs for freshmen legislators. The concept of these programs is consistent with the goals of legislative reform. There is little doubt that as the Legislature

¹Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., p. 21.

becomes more and more modernized, it will become increasingly important that freshmen legislators be made aware of the increasing facilities and responsibilities that await them. The New England Assembly on State Legislatures recommends that

...first-term legislators who comprise a large part of each of our state legislatures be initiated into their duties ~~before~~ taking office. These training sessions may be conducted by each legislative chamber or, as in five of the six New England states, by the political science department at the state university.¹

The Legislature should review the concept of orientation sessions in order that these programs be developed to best serve incoming lawmakers.

This chapter has presented a contemporary agenda for reform of the Maine Legislature formulated from what Chapter II proved to be the recurrent essentials of legislative reform. Unlike the three most recent studies of legislative reform in Maine (by the 1960 Interim Joint Committee on Legislative Structure, the Citizens Conference on State Legislatures in 1970, and the 1973 Special Interim Committee on Legislative Structure and Procedure), this synthesis went beyond simple identification of the issues of legislative reform by establishing a hierarchy of reform recommendations.

Thus, the establishment of a permanent citizens legislative review commission, presented in prior studies as equal or less important than other reform recommendations, is presented, developed, and defended here as the dominant issue of legislative reform. The reform proposals which constitute the second level

¹New England Assembly on State Legislatures, op. cit., p. 112.

of this hierarchy, i.e., those which treat major problem areas, confirm the central role of a citizens commission-- be it in relation to staffing, compensation, facilities, reduction of House size, committee reform, or constituent services, the complexity of reform issues underlines the need for continued legislative review.

A third group of reform recommendations which treat future, past or narrow reform issues, represent the lowest level of this reform hierarchy. The need for continued review in these areas further supports the need for establishment of a permanent citizens legislative review commission.

This discussion has presented a model program for reform of the Maine Legislature. Given this formulation of a contemporary agenda for reform in Maine, to what extent has the Maine Legislature succeeded, in real terms, in moving towards this ideal? The answer to this question lies in a closer examination of the history of legislative reform in Maine. Such an examination is the goal of Chapter IV.

Chapter IV

The synthesis of an ideal program for reform of the Maine Legislature presented in Chapter III sets the stage for the history of legislative reform in Maine developed in this chapter.

For most reformers, contemporary interest in legislative reform dates from the United States Supreme Court decision in Baker v. Carr that federal courts could hear litigation concerning state reapportionment:

As long as state legislatures remained malapportioned-- and generally dominated by rural interests-- there had been little impetus to reforming legislative organization and operations. That would only make them more effectively unrepresentative. But with the prospect that legislatures would become far more representative of the citizenry at large and presumably far more responsive to the needs and problems of that citizenry, legislative reform became a very urgent issue.¹

In Maine, however, contemporary interest in legislative reform predates, if only slightly, the Baker v. Carr decision. The publication in December, 1960, of the Interim Joint Committee on Legislative Structure report marks a major first step toward legislative modernization in contemporary Maine. The study was presented to the One Hundredth Maine Legislature in January, 1961, the date which serves as the point of departure of this chapter's reform history.

"What reform proposals were thrown into the legislative hopper from 1961 to the present and what was their fate?" are important considerations of the reform history which follows.

¹ Citizens Conference on State Legislatures, The Sometimes Governments, op. cit., p. 27.

But beyond the pure "facts and figures" of legislative reform in Maine since 1961, a substantial part of this history is devoted to examination of legislative debate on reform issues over the last decade and a half. The reform history presented here can thereby begin to provide answers to questions of why or why not did the Legislature chose to enact specific reform proposals.

The One Hundredth Maine Legislature considered a myriad of reform proposals, including legislation for annual sessions, establishment of a legislative internship program in the Maine Legislature, increased travel and per diem (special session) allowances for legislators, municipal home rule, House and Senate apportionment, and required roll-call voting on final passage of all bills. Of these several proposals, only three (annual sessions, legislative internship program, and compensation legislation) received extensive debate on the floor of the Legislature.

Two bills, proposed an ammendment to the Maine Constitution to provide for annual sessions of the Legislature. One of these two, I.D. 1604, was rewritten by the State Government Committee and returned to the House with a majority ought-to-pass report. The several pages of debate on the issue of annual sessions to be found in the Legislative Record of the One Hundredth Legislature indicates that lawmakers heard extensive debate on both sides of the issue. Furthermore, a closer examination of that debate makes manifest the fact that lawmakers of the One Hundredth were attacking or defending the concept

of annual legislative sessions with the same arguments that would be used throughout the Sixties and early Seventies. According to one opponent:

Why do we oppose these annual sessions of (the) Legislature? I believe there are several points to make. The first point, I, for one, feel very strongly that this would add to the cost of State Government. Number two, I feel that over a period of years, it would give rise to a class of professional politicians in the State. I will agree that we are mostly amateurs, and I think it is a pretty good thing that we are, because I think that in most cases we base our opinions and our decisions upon our common sense rather than professional political expediency. Three, I feel that annual sessions as set forth here would not accomplish what they intend to do. ... Fourth and lastly, it is my honest and sincere opinion that there are a lot of people who grace this legislature once every two years, who definitely... would not be able to attend annual sessions.¹

As for proponents of annual sessions:

...In passing, I would like to make reference to the terminology... professional pols. I know that it is not my good friend Bill's thinking that he would accuse the good members of the Legislature from 1820 to 1881 of being professional pols when we had annual sessions in those days.... Maine is unfortunate... because they lose many, many times valuable members..., and I feel that their experience is needed after they have picked up over a period of one term the experience that they have sought and worked for.... State Government has grown, its intricacies have grown to a degree where now we must place our house back in order every year in the interest of good and better government.²

Consistently, the same arguments appeared in legislative debates from 1961 to the present. Presented to every regular session and to several special sessions, proposals for annual legislative sessions became one of the most perennial of reform bills. As with each of its heirs, the 1961 proposal was defeated.

Another reform proposal to receive a favorable report of

¹One Hundredth Maine Legislature, Legislative Record—
1961, Volume III (Augusta: Daily Kennebec Journal, 1961), pp. 2264-5.
²Ibid., pp. 2268-9.

from the majority of the State Government Committee only to be ultimately defeated was L.D. 985, "A Resolve to Create a Maine Legislative Internship Program". This legislation, generated by the offer of a Ford Foundation matching grant to the State of Maine, states as its purpose:

To provide the State Legislature with several well qualified people to do research and prepare reports for some of the major committees. Between sessions they would continue such work, in preparation for the next legislature. After serving a ten month internship, the former interns might be available to the state in a variety of ways, such as permanent legislative staff employees.¹

It is interesting to note the reaction of some legislators to this reform proposal:

Now the serious part of the document, these students are to be under a professor of government. At present this professor is very much against all present methods of operation. A few of the things he is against, he is against the Governor's Council, he teaches unicameral government,.... Over a period of years these students could be indoctrinated with extreme ideas. Get a few of them back here in government, and what would happen? I don't believe that we should appropriate money to study the downfall of our present system. This bill is extremely dangerous in many ways....²

Proponents of the bill were quick to point out that fourteen other states had been offered similar grants; nine of these states had decided to participate in the Foundation's program, the other five had yet to reach a decision. Still the measure was defeated.

The Legislature similarly killed both compensation proposals to be brought before it in 1961. Proposals to increase the five cent per mile travel allowance to seven cents and to

¹ Maine Legislative Documents-1961, Volume 3, L.D. 985, p. 1.
² 1961 Legislative Record, op. cit., p. 1509.

double the ten dollar special session per diem allowance were indefinitely postponed. Said one opponent of increased compensation:

...You (legislators) knew fully well what to expect when you came here. While that could be argued, that is not essential to this particular case. But what I am going to ask of this House is, that I know you are making a sacrifice in coming up here for special sessions, but I am going to ask you to continue to make that sacrifice for the good of your state.¹

After moderate debate, both bills were rejected.

While the One Hundredth Legislature did act favorably on several of the procedural recommendations contained in the December, 1960, Interim Joint Committee report (revisions were made, for example, on Joint Rules numbers 1, 10, 11, and 19b, as suggested in Appendix E of the interim committee report), more important proposals for establishment of a Committee on Rules and Business of the Legislature and legislation providing for municipal home rule were defeated. Other reform proposals were quickly defeated by ought-not-to-pass committee reports.

Despite the poor record of reform recommendations presented to the Regular Session, the Special Session of the One Hundredth Maine Legislature saw the enactment of two pieces of reform legislation. L.D. 1646, "To Correct Inconsistencies in the Apportionment of the House of Representatives", was enacted with little debate, resulting in the first House reapportionment since 1955. L.D. 1669, "AN Act to Provide for a Legislative Finance Officer", was also enacted after a brief debate.

Several pieces of reform legislation which failed passage during the One Hundredth Legislature reappeared during the One

¹ Ibid., p. 1152.

Hundred and First. These included proposals for four year Senate tenure, required roll-call votes on final passage of bills, annual legislative sessions, increased legislative compensation and legislative reapportionment. Legislation in only two of these reform areas, reapportionment and compensation, survived.

In the wake of the 1962 Supreme Court decision in Baker v. Carr that "the constitutional requirement for equal protection of the law demanded equitable apportionment of state legislatures"¹, the One Hundred and First Legislature received four pieces of reapportionment legislation. It was the beginning of the reapportionment revolution in Maine. In his Legislative Process in Maine, Kenneth Palmer reports that in 1963,

The (reapportionment) Commission's report was followed by a legislative resolve to change the constitutional apportionment of the House. The 82th amendment to the Maine Constitution adopted in November embodied a new formula which provided that the House would share the legislative power of apportionment with the Supreme Judicial Court.²

Thus, the Maine House, which in the 1940's and 50's had gone a decade and a half without reapportioning itself, succeeded in the early 1960's with reapportioning itself twice in three years.

In the area of legislative compensation, separate proposals for increased salaries, travel allowances and mileage and expense reimbursement were presented to 1963's Regular Session. The State Government Committee, which sat on these bills, found itself overrun with compensation legislation:

¹ Kenneth T. Palmer, op. cit., p. 120.

² Ibid.

Yesterday, in executive session, the Committee on State Government spent a considerable amount of time considering (the three compensation bills). All three of these bills have to do with the matter of salaries and expenses of the Legislature. It is our hope, which we realized, to submit a unanimous report in these matters, . . . It was the feeling of the committee that we should not recommend both an increase in expenses and an increase in salary, which explains our action (of advising the Legislature against a salary increase and in favor of increased expense allowances).¹

Despite the Committee's "go easy" attitude, L.D. 848, "An Act relating to Mileage and Expenses for Members of the Legislature", ran up against accusations of extravagance:

I don't think that any one of us are here because of the money that we make, and I think we all like it here. We didn't have to go out and get elected if we didn't like it, so I am kind of surprised to see that no other members of the economy bloc . . . has let this bill get this far along. It will cost the 102nd Legislature close to \$200,000 to pay for this bill, and I move indefinite postponement.²

The bill was ultimately enacted, and lawmakers were finally allowed to draw travel and expense allowances equivalent to those granted state employees.

Members of the One Hundred and First Legislature also began to question whether pre-legislative conferences merited the \$10,000 appropriation attached to them since 1959. Said one lawmaker:

I thought that this past legislative conference specialized greatly in-- with three or four of our major state departments trying to sell us a bill of goods as to the needs of their departments, rather than an educational program of state government, and I do not believe that legislators need a sales program of the needs and requirements of certain departments. . . .³

While the opponents of L.D. 564 represented but a vocal minor-

¹One Hundred and First Maine Legislature, Legislative Record, 1962 (Augusta: Daily Kennebec Journal, 1962), p. 785.

²Ibid., p. 8505.

³Ibid., p. 1125.

ity (the motion to indefinitely postpone failed 115 to 17), their protests set the stage for the eventual scaling down of the importance of pre-legislative conferences.

The January 6-17, 1964, Special Session saw enactment of a single reform measure which resulted in the third reapportionment of the House since 1961.

Several pieces of reform legislation presented to the One Hundred and Second Maine Legislature came close to enactment but failed final passage. These include proposals for four-year Senate tenure, required roll-call votes on final passage of bills, and Senate reapportionment. Only in the area of legislative compensation was there a reform victory. The enactment of L.D. 1427 raised the regular session salary from \$1600 to \$2000¹ and doubled special session per diem allowances to \$20.

The One Hundred and Second heard particularly extensive debate on a proposed constitutional amendment to provide for annual legislative sessions. Debate on the issue offered little in the way of new arguments for or against annual sessions. Said one veteran legislator: "I doubt if any of the opponents of this bill can present any argument which I personally have not used in various debates over the past fifteen years."² Following its passage in the Senate, the bill was defeated in the House and died between houses.

One interesting, if counter-reformatory, measure presented to the Legislature during the 1965 Regular Session was a joint

¹The bill, rewritten by the State Government Committee, had originally called for an increase to \$2500.

²The One Hundred and Second Maine Legislature, Legislative Record, 1965 (Augusta: Daily Kennebec Journal, 1965), p. 1210.

resolution "Petitioning Congress to Propose an Amendment to the Federal Constitution to Preserve the Bicameral Aspect of State Legislatures". The resolution, which would have ultimately led to malapportionment of the Senate, was at length indefinitely postponed.

The 102nd Legislature authorized a pre-legislative conference for the next legislature only after amending the pertinent legislation to require that the conference be held in Augusta rather than in Orono. The use of the State Capitol rather than the University of Maine as conference site has continued to the present.

A perennial resolve proposing an amendment to the Constitution to provide for municipal home rule died in committee.

The three and a half week special session of the One Hundred and Second Legislature brought enactment of two important legislative reforms. L.D. 1630, which called for "a new constitutional formula affecting the size of the Senate"¹ Its passage during the special session led the way to the Senate reapportionment which took place the following year.

Acting on an interim committee report on legislative procedure submitted by the Legislative Research Committee, the Legislature revised its joint committee rules, implementing several recommendations called for in the 1960 reform study, including provision for pre-filing, co-sponsorship, and revised cloture rules:

Although the regular session of the One Hundred and Third Legislature saw the presentation of a moderate number of reform

¹Kenneth T. Palmer, op. cit., p. 120.

proposals, it enacted no major reform legislation. Lawmakers accepted^a majority ought-not-to-pass committee report on a proposed constitutional amendment for annual legislative sessions. A bill to increase legislative compensation died in conference. The problem of municipal home rule was referred to the next legislature. And a bill to provide for better advance notification of committee hearings was indefinitely postponed, as was a proposed constitutional amendment for four-year Senate terms. The first recent piece of legislation providing for unicameralism in the Maine Legislature was presented at this regular session of the One Hundred and Third Legislature. The bill was reported out of committee with a majority ought-not-to-pass report. On a motion to accept the minority report, the bill did, however, receive a modicum of debate. Argued the bill's sponsor:

I was prompted to introduce this matter because of recent United States Supreme Court decisions which have established that state legislatures must have its members elected on a basis of population. In abiding with this rule the State of Maine, when reapportionment becomes an accomplished fact, will have legislators in both branches who will have been elected by the same electors at the same time and for the same tenure. This in effect wipes out any good reason for continuing with a two branch form of government.

This debate represents the only formal exposition of the case for unicameralism in recent legislative history. Following that debate, the bill was soundly defeated.

In the area of reapportionment, L.D. 1702, "An Act to Establish 33 Districts for the Election of Senators in the State of Maine" was enacted by the Legislature, but vetoed by the Governor. Said the Chief Executive:

¹The One Hundred and Third Maine Legislature, Legislative Record, 1967 (Augusta: Daily Kennebec Journal, 1967), p. 1966.

We in Maine have fortunately avoided partisanship and gerry-mandering in reapportionments, and we ought not to deviate from that precedent now. I respectfully request that this veto be sustained.¹

Unable to override the veto, and unwilling to accept the Reapportionment Commission plan contained in the original legislation, the Legislature allowed the duty of Senate reapportionment to shift to the Maine Supreme Judicial Court, which reapportioned the upper chamber later in 1967.

No major reform legislation was presented to any of the three special sessions of the One Hundred and Third Legislature. The second special session, however, did see the enactment of a joint order abolishing the co-sponsorship of legislation.

The regular session of the One Hundred and Fourth Maine Legislature, convening on January 1, 1969, witnessed the introduction of an unusually large number of reform proposals. Two reform bills calling for annual sessions failed. Other perennial reform legislation which failed passage included constitutional amendments to provide for reapportionment of the House of Representatives and four-year Senate terms. Of the latter, one veteran legislator observed:

Again this morning we are confronted with this perennial monstrosity. It rises like a grim specter from the grave to haunt us. We have dealt with this many, many times; the result has always been the same.

In the area of Senate reapportionment, lawmakers enacted L.D. 1147 which established the number of senate districts at "not less than 31 nor more than 41." The constitutional amendment was ratified that fall as Article XX of the Maine Consti-

¹Ibid., p. 4127.

²The One Hundred and Fourth Maine Legislature, Legislative Record, 1969, (Augusta: Daily Kennebec Journal, 1969), p. 128.

tution.

Three constitutional amendments providing for municipal home rule were presented to the One Hundred and Fourth; one of them, I.D. 451, was enacted and later ratified as Article XXI of the Maine Constitution.

Two new reform issues of significant importance were presented to the One Hundred and Fourth Maine Legislature. These include constitutional amendments regulating the size of the House and providing for the convening of the Legislature at such times as the Legislature deems it necessary.

I.D. 464 proposed a reduction in the size of the House from 151 to 96 members. Despite its unanimous committee approval of ought-to-pass, the measure was initially received on the floor of the House only half-seriously:

I see nothing wrong with the size of the House remaining at its present strength of 151 members... Our neighbor to the west, New Hampshire, now enjoys the distinction of having the largest lower branch of any of our state legislatures. ... I think it is now time for Maine to do something to get an edge on New Hampshire. Since their lower house has 400 members, I propose that the size of this house be expanded to 401....

Three separate debates, each of moderate length, took place on the issue. Proponents presented the bill as a keystone to legislative modernization in Maine:

I think this morning that a moment of truth has arrived in this House. For many years the ghosts of legislative reform have haunted these hallowed walls. Session after session we have had bills introduced which would institute reforms in our legislative process. Now this morning you have before you in this legislative document, the very key, the very foundation of any legislative reform.

¹ Ibid., p. 378.

To attempt legislative reform with a large House, the cost would be exorbitant and prohibitive. With a smaller House, accomplishments in this field could be made.

Indefinitely postponed in the House, the measure ultimately died between houses.

The second of these new reform proposals was more successful. While opponents charged that L.D. 24, which would allow the Legislature to call itself into session at such time as it deemed necessary, was a poor substitute to annual session legislation, proponents cogently presented the bill's case:

(The Legislative and the Executive) are supposed to be co-equal. If one of the three major branches of government cannot function except at the whim or the desire of another branch of government, then we certainly can't be an equal branch.

This bill is not intended to substitute for annual sessions in any sense of the word unless we can tell ourselves that if we have annual sessions we are going to be here twelve months of the year.... This bill is to help make the legislature more nearly an equal branch of government.²

Enacted by the Legislature, the bill was presented to the Governor, and neither approved nor vetoed within five days after final adjournment.

Lawmakers of the One Hundred and Fourth also increased with little debate the rate of legislative compensation from \$22000 to \$25000 per biennium.

A major reform proposal, L.D. 1327, "An Act Providing for a Legislative Program Evaluation Division", would have appropriated \$100,000 for the 1969-71 biennium to allow the Legislature to effectively discharge its function of oversight.

¹ Ibid., p. 426.

² Ibid., p. 2842.

of the State's bureaucracy. The Division would have

Continuously investigate and evaluate all programs and activities authorized by the Legislature and the activities and administration of all commissions, committees, authorities, agencies, bureaus and departments for which money is appropriated or allocated by the Legislature in order to obtain information for the use of the legislative branch of government in establishing a sound fiscal and administrative policy for the State and to determine the effectiveness, adequacy, applicability, efficiency and utility of the programs and activities.¹

The bill received a unanimous ought-not-to-pass report and was indefinitely postponed without debate.

Two pieces of perennial reform legislation were considered by the Special Session of the One Hundred and Fourth Legislature. Both, constitutional amendments to provide for annual legislative sessions and reapportionment of the House, were defeated. Of more importance was L.D. 1784; "An Act Creating a Commission to Study Means of Increasing the Effectiveness of the Maine Legislature". The bill, the only proposal for the establishment of a study commission on the Legislature in recent legislative history, contained this lengthy statement of purpose in its preamble:

Whereas, the legislative branch of State Government is the basic policy making branch and is... the people's branch in that it is the principal instrument for the exercise by the people of their constitutional right to govern themselves; and
Whereas, if State Government is to continue to be an effective instrument of self-government and to properly fulfill its role as a full partner in our state-federal system of government and thereby retard the growth of the power of Federal Government at the expense of state and local government, it is essential that the legislative branch of State Government be able to respond to the needs of the people and to cope with problems that confront State Government, etc....

¹Maine Legislative Documents, 1962, (Augusta: 1962), L.D. 1227, p. 1.
²Ibid., L.D. 1784, p. 1.

Unfortunately, the case for a legislative commission was presented only in the bill's preamble; when the legislation reached the House floor for a brief debate, only opponents spoke at length on it:

What interests me mainly is the fact that there is \$30,000 attached to this which I feel very strongly would be like throwing \$30,000 down the drain.... I think the taxpayer would look quite in askance at a legislative body that appropriated \$30,000 to study itself. I think they have every right to say "What's the matter with these people? Can't they take care of their own affairs without another appropriation?"

The bill was consequently defeated by a 115 to 12 vote.

The increased visibility of reform issues first noticeable in the Regular Session of the One Hundred and Fourth Legislature continued in the One Hundred and Fifth. A total of seven reapportionment bills were presented to the 1971 Regular Session:

Resolves to reapportion the House were referred to the next Legislature. A proposed new House formula failed final passage. The Governor failed to act on a resolve redistricting the Senate before adjournment of the Legislature. The Governor appointed a special committee to study Senate redistricting. The Governor was advised by the Supreme Judicial Court the Senate apportionment must be accomplished by the Legislature Dec. 31., 1971. However, no action was taken.²

In the wake of the ratification of Constitutional Amendment XXI in November, 1969, providing for municipal home rule, five separate pieces of home rule legislation were presented to the One Hundred and Fifth. Most of these measures were introduced in order to correct inconsistencies between the Constitution and state statutes.

For the first time in several sessions no legislation

¹Legislative Record, 1969, op. cit., p. 427.

²Palmer, op. cit., p. 121.

proposing four-year Senate tenure was introduced to the Legislature. Three annual session bills, however, were filed, although none came close to enactment stage. A constitutional amendment proposing reduction of House and Senate membership was again defeated. Another proposed constitutional amendment, called for the Maine Legislature to "convene in regular session on the second Wednesday of December, biennially, for three days, and then... adjourn to the first Wednesday of January following."¹ According to the bill's sponsor:

This brief organization session would be similar to what is practiced in Florida where the legislators take office, committees are appointed and authorized to study, draft, and consider problems for the coming session. Procedures such as this would allow us to really get down to brass tacks on the first Wednesday of January instead of wandering aimlessly for the first few weeks.

This year many freshmen were not sure of their committee assignment until after we convened. A good legislator knowing his is destined for, say, the Committee on State Government can as a duly elected Representative meet with municipal officials, State department heads, in preparation for drawing up legislation to solve some of the problems and inequities that exist.²

To opponents, however, the bill's expense, as well as its consequence of causing each new legislature to convene under a lame-duck Governor, outweighed its advantage of increased legislative efficiency. The bill was ultimately defeated.

Two significant pieces of reform legislation dealing with the problem of legislative staffing were introduced in the Regular Session of the One Hundred and Fifth. L.D. 189, which died in committee, stated that:

Clerical assistance shall be supplied to any member of the Legislature who requests such assistance during the regular and special legislative sessions. Such assistance shall be supplied without cost by the

¹ Maine Legislative Documents, 1971 (Augusta: 1971), L.D. 272, p. 2.
² The One Hundred and Fifth Maine Legislature, Legislative Record-1971 (Augusta: Daily Kennebec Journal, 1971), p. 532.

regular employees of the several state departments at the discretion of the several department heads and the request for such assistance shall be forwarded to the several departments by the Clerk of the House.¹

The staffing of legislative committees, provided for in L.D. 1571, would have appropriated \$50,000 in order that:

Committees of the Legislature shall employ and be staffed by qualified undergraduate students from Maine colleges and universities and qualified Maine residents who are students at other colleges and universities. . . . The Law and Reference Librarian at the Maine State Library and the Director of Legislative Research may also employ at their discretion such students during the course of the legislative sessions.²

Despite the unanimous ought-to-pass approval given the bill by the Committee on State Government, the reform measure was defeated.

A major structural reform, however, was accomplished by lawmakers of the One Hundred and Fifth with the reduction in number of legislative joint standing committees from twenty-three to eighteen.

Although the Special Session of the One Hundred and Fifth Maine Legislature lasted an unprecedented seven weeks, legislators deliberated on no major reform proposals. A single Senate order calling for a \$20,000 appropriation to provide staff support to the legislative leadership, termed useless by one House member, was soundly defeated.

Although the Special Interim Committee on Legislative Structure and Procedure reported back to the Regular Session of the One Hundred and Sixth Maine Legislature in January, 1973, lawmakers in that session enacted only two major reform propo-

¹ Maine Legislative Documents-1971, (Augusta: 1971), L.D. 1571, pp. 1-2.

² Ibid., L.D. 1571, p. 1.

chals. L.D. 1731, "An Act Relating to Joint Standing Committees of the Legislature", was intended "to strenghten the role of the Legislature by permitting the joint standing committees to meet when the Legislature is not in session,"¹ and represented a modified version of the Special Interim Committee's recommendation that "existing sessional committees (be used) as subcommittees of the Legislative Research Committee during interim periods."² The second legislative reform implemented by the 1973 Regular Session was a joint resolution providing for the establishment of legislative compensation committee.

Among the several reform proposals defeated in the course of the One Hundred and Sixth's Regular Session were two bills affecting the apportionment of the House, legislation to provide for a unicameral Maine legislature of seventy-five members, and a measure appropriating \$25,000 to revitalize the Maine State Government Internship Program. Also introduced were three omnibus reform bills, the most comprehensive of which was L.D. 2040, a

Resolution, proposing Amendments to the Constitution to Provide for Annual Sessions of the Legislature and to Limit the Matters Which May be Considered in the Second Regular Session; to Provide for Single Member Districts in the House of Representatives; to Provide for Reduction of the Number of Representatives and Reapportionment of the House of Representatives and the Senate in 1980; to Establish an Apportionment Commission to Plan for the Reapportionments of the House of Representatives and the Senate; to Abolish the Executive Council and Reassign Certain Constitutional Powers to a Legislative Council....³

Following its alteration by no fewer than six amendments,

¹ Maine Legislative Documents, 1973, (Augusta: 1973), L.D. 1731, p. 1.

² Special Interim Committee on Legislative Structure and Procedure to the One Hundred and Sixth Maine Legislature, op. cit., p. p. 14.

³ Maine Legislative Documents, 1973, op. cit., L.D. 2020, p. 1.

the bill, like the only other omnibus reform bill to be reported out of committee, failed final passage in the House and ultimately died between houses.

Presentation of the report of the Commission on Legislative Compensation to the One Hundred and Sixth Legislature in December, 1973, resulted in the introduction of several pieces of reform legislation during the 1974 special session. Two measures to provide for the establishment of a permanent compensation commission were defeated. A bill to increase legislative salaries to \$7500 per biennium was scaled down to \$6000 per biennium and then enacted by the Special Session. This salary increase, together with a bill designed to tighten rules on legislator conflicts of interest, represents the reform accomplishments of the 1974 session.

Other reform proposals defeated by lawmakers in that special session include two proposed constitutional amendments for annual sessions and a bill to provide for legislative review of administrative rules and regulations.

The preceding examination has presented the history of legislative reform in Maine since 1961. By comparing this record of the "real" to Chapter III's synthesis of the "ideal", the final chapter of this essay will attempt to draw specific conclusions about the problems of legislative reform in Maine.

Chapter V

Chapter III of this essay presented a model program for reform of the Maine Legislature. A history of legislative reform in Maine followed in Chapter IV. By comparing these two sections, this chapter can draw specific conclusions about the problems of legislative reform in Maine.

Chapter III's synthesis of reform proposals concludes that a central issue of legislative reform is legislative review and evaluation. Does Chapter IV's reform history support or disprove this need for continuing legislative review? By pointing out the weaknesses of a decentralized approach to the problems of legislative reform, Chapter IV's reform history suggests that the lack of legislative review has led to a laggard pace of legislative modernization in Maine.

Legislative modernization in Maine, as Chapter IV indicates, has traditionally been accomplished through the enactment of isolated reform proposals. By consenting to a minimal pay raise now, a new staff member later, the Legislature has inched toward modernization literally bill by bill. Although presented with legislative evaluations in 1960 and 1973, the Legislature did not leap forward toward modernization in those two years. Instead legislative reform proceeded then, as it did in the interim years between those two studies, through the intermittent enactment of isolated reform measures. There is, in short, no indication that a legislative reform movement existed in Maine at any time during the last decade and a half.

A closer examination of Chapter IV's reform history reveals three specific disadvantages which resulted from this

piecemeal approach to the problems of legislative reform. They are: misplaced reform priorities, submergence of basic reform issues, and the lack of education on the problems and goals of legislative reform among many of Maine's lawmakers.

The most glaring weakness of a piecemeal approach to the problems of legislative reform is the misplaced reform priorities which result. Chapter IV's reform history revealed several perennial reform issues, including reapportionment, legislative compensation, annual sessions, and four-year Senate tenure. Of these four issues, only two, reapportionment and compensation, are salient issues of the reform literature surveyed in Chapter II, and only these two, therefore, are integral parts of Chapter III's model program for reform. Furthermore, the Legislature can hardly be credited with having taken the initiative on the issue of reapportionment. It, like state legislatures across the country, was forced into insuring the implementation of the one man-one vote principal by the courts. Only in the area of legislative compensation has the Legislature consistently reviewed a major reform issue over the last decade and a half. Yet, the repeated descriptions of Maine Legislative salaries as "token"¹ and "poor"² indicate that in that area too, the Legislature was to a certain extent forced into implementing legislative salary increases to prevent Maine's traditionally low rate of legislative compensation from slipping from inadequate to absurd.

The Legislature also provided continued legislative review

¹ See the report of the Commission on Legislative Compensation to the One Hundred and Sixth Legislature, as well as

² The Special Interim Committee on Legislative Structure and Procedure report to the One Hundred and Sixth Legislature.

in two other reform areas-- annual sessions and four-year Senate tenure. These two, judged by Chapter III's model program for reform of the Maine Legislature, represent either secondary or insignificant reform issues. Although every Legislature since the One Hundredth saw the introduction of at least two proposed constitutional amendments providing for annual sessions, the enactment and subsequent ratification of a constitutional amendment providing for the convening of the Legislature at such times as the Legislature deems necessary, in 1970 (a bill, its sponsor was quick to point out, which "is not intended to substitute for annual sessions in any sense of the word"), accomplished what annual session legislation had been trying to achieve for decades through the establishment of a flexible biennial session. The issue of annual sessions, secondary to the more important issues of legislative reform in Maine, has therefore uselessly occupied a position of perennial importance among reform legislation presented to the Maine Legislature since 1961. A similar conclusion can be drawn regarding the issue of four-year Senate tenure, which Chapters II and III reveal to be an inconsequential reform issue.

Thus, from a list of four perennial reform issues, two of the issues reviewed continuously by the Maine Legislature since 1961 are important reform issues, but in each of these cases the Legislature was forced, either by the courts or by a desire to "hold the line" at a minimum acceptable rate of legislative cooperation, to face these major reform issues. In perennally reviewing the third and fourth issues of this list, the Legislature gave undue emphasis to one secondary and one inconsequential

reform issue.¹ The continued legislative review provided by a citizens legislative review commission could both help to avoid such misplaced reform priorities and aid the Legislature in moving to "hold the line" at some level above the bare minimum.

While a piecemeal approach to the problems of legislative reform in Maine has led to misplaced reform priorities, it has conversely meant the submergence of certain central reform issues. Foremost in this group of latent reform measures, is the problem of increased legislative facilities. In its general recommendations for improving the effectiveness of state legislatures, the Citizens Conference on State Legislatures observes that:

Thus, in new state capitols and old, in every section of the country, legislators generally operate under physical conditions that seem designed to make their job as difficult as possible.²

Chapter III's synthesis of reform proposals indicated this presence of inadequate facilities in Maine, yet Chapter IV's reform history reveals that the problem of increased facilities has remained an undeveloped issue of legislative reform in Maine. While lawmakers may have been aware of the Legislature's lack of facilities, the absence of remedial legislation for this key reform issue in Chapter IV's reform history indicates that legislators fail to perceive the problem of legislative facilities as a basic reform issue. Insuring such continued

¹In the case of annual sessions, in fact, it is significant that a majority of the resolves proposing yearly sessions which were presented to the Legislature in the last decade and a half would have provided for constitutional limitations on the length and authority of off-year sessions. Such measures would thus have been counter-productive, insofar as they would have represented innovations inconsistent with the reform goal of insuring unlimited, unrestricted, legislative sessions.

²Citizens Conference on State Legislatures, op. cit., p.65.

review as a citizens commission could provide is one way of making legislators realize the importance of this heretofore neglected reform issue.

A third failing of the Maine Legislature's piecemeal approach to the problems of legislative reform is reflected in the lack of education on the problems and goals of that reform among legislators. In his introduction to Strengthening The States, Alan Rosenthal suggests that:

Perhaps, as many assert, it is not the institutions of the political system that pose the problem, but rather the men¹ who run them.

In his essay on "Legislative Innovation: Resistance to Change", Jess Unruh more clearly spells out this concept:

...The most formidable obstacle to legislative innovation is found within the legislature itself. Many legislators have come to regard their lack of professionalism as a positive virtue. The concept of the part-time citizen-legislator is attractive to some practitioners of the art. It implies both an identification with the people and a selfless dedication to good government. But we ought to have the humility to see that this idea is also tinged with aristocratic arrogance. The machinery of modern government is too intricate to be run by dilettantes.²

Several of the excerpts of legislative reform debate included in Chapter IV's reform history indicate that many Maine lawmakers do misconceive the role of professionalism in the legislature. Nowhere, for example, in researching Chapter IV, was there found an unpejorative reference to the term "professional politician". Instead, references to these professionals consistently echoed the legislator's comment of "as far as being professional politicians... I hope and pray..."

¹ Herzberg and Rosenthal, op. cit., p. 5.
² Herzberg and Unruh, op. cit., p. 20.

we never become such."¹ Furthermore, other comments like as "(Participation by the Legislature in a Ford Foundation program for legislative internships would mean that the Legislature would)...appropriate money to study the downfall of our present system,"² clearly indicate that many Maine lawmakers have basic misconceptions about the goals of legislative reform. This third disadvantage of a piecemeal approach to the problems of legislative reform resulted, therefore, in still another hindrance being placed on efforts to modernize the Legislature.

This examination of the disadvantages of a piecemeal approach to legislative reform may paint an overly-bleak picture of the history of legislative modernization in Maine since 1961. Important isolated advances, such as the reduction in number of legislative committees and the establishment of the Office of Legislative Finance, were implemented by internal initiative of reform legislators. Municipal home rule, which until the late 1960's constituted another of the perennial reform issues, is another area in which the Legislature effectively modernized itself. Yet one problem remains prominent in not only Chapter IV's reform history, but in the survey of reform literature and the synthesis of reform proposals in Chapters II and III as well-- unless measures are taken to provide a more concerted, less piecemeal approach to the problems of legislative reform in Maine, the Maine Legislature, as the Citizens Conference on State Legislatures study observes, will continue to "exhibit a number of glaring weaknesses that

¹Legislative Record-1961, op. cit., p. 2266.
²Ibid., p. 1509.

one would expect from a state (legislature) ranked..." as the thirtieth most effective in the nation.¹

¹ Citizens Conference on State Legislatures, op. cit., p. 226.

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