

Steady aggrandizement

## Legislative Powers of Maryland's Governor

By WILLIAM S. JAMES

That legislative, executive, and judicial powers of government shall always be separate and distinct is an American myth. The source of this illusion stems from the struggle of the colonists during the American Revolution to destroy the power of the king and of the royal governors. Maryland's Constitution of 1776 reflected this objective by creating a weak Governor elected by the Legislature for one year, with a further limitation of three consecutive terms. This weak Governor could act only with the advice and consent of a small elected executive council. He had no power to initiate legislation.

Today Maryland's Governor is the State's most important legislator. He has both the prestige of statewide elective office and the mantle of state party leader. In this latter role, if he commands a majority in the Legislature, he is a powerful force in the party caucus which selects the legislative leaders.

The President of the Senate and the Speaker of the House, under Maryland's legislative rules of procedure, appoint the committees of the Legislature and designate their chairmen. A natural consequence is that gubernatorial power flows through the legislative leaders into the important committees.

The seniority rule, which eliminates political considerations in the selection of legislative committee chairmen, is not present to strengthen the independence of the Maryland Legislature. Special circumstances, including the election of a minority governor, sometimes curb this aspect of gubernatorial power.

Maryland's constitution commands the Governor to "inform the Legislature of the condition of the State and recommend to

their consideration such measures as he may judge necessary and expedient." The Governor's message contains the administration's program for the legislative session. His separate budget message outlines the details of the executive fiscal policy. At crucial points during a legislative session special gubernatorial messages may spur the enactment of important legislation.

The Governor has almost unlimited power to initiate legislation. During his campaign for election he completely dominates the drafting of the party platform. A Governor swept into office has a powerful mandate to submit proposals transforming the party platform into legislative enactment. For reasons of custom and courtesy, the Speaker of the House and the President of the Senate, upon request of the executive, will present his proposals for consideration of the Legislature.

As the Governor surveys the Maryland scene and identifies public problems, he may seek solutions through gubernatorial commissions, requests directed to the Legislative Council, or mobilization of the experts in his executive department. Because it is a rare man who will refuse a Governor's request to render public service, he can command the talents of the people of the State in developing his recommendations to the General Assembly.

During the sessions of the General Assembly the Governor has many conferences with his legislative leaders and with individual members of the Legislature. As Governor, the prestige of his office gives him strong powers of persuasion. His position in these conferences is strengthened by his power of appointment and by

his constitutional budget and veto powers. All the expertise of his department heads, his personal legislative drafting service, the office of the Attorney General, and the General Assembly's staff is available to give technical assistance in converting his ideas into concrete legislative proposals.

The Legislature prior to 1916 had a long dismal record of financial irresponsibility. With this as a background, the Goodnow Commission successfully recommended the adoption of Maryland's strong executive budget system under which the Governor must present a balanced budget to the General Assembly.

This constitutional endowment of financial power vests in the Governor a forceful legislative role. Unless it generates the political courage to enact a supplementary appropriation bill supported by a tax measure, the Legislature possesses merely the power to cut the Governor's current expense budget.

In the area of capital improvements, his item veto power is a powerful deterrent to legislative irresponsibility. During the course of a session new legislative spending programs are contingent upon the Governor's willingness to support the programs by the inclusion of necessary funds in his supplemental budget.

The Governor's role in the Legislature features both the weapon of executive veto and his right to call the Legislature into special session. Illustrative of the latter power are the two special sessions called by Governor Mandel in 1973 to consider his proposals for financial disclosure by public officials and for the conservation of energy.

In addition to the use of tradi-

tional gubernatorial powers to achieve legislative objectives, the Governor's employment of the executive order finds increasing favor. On November 3, 1970, the Maryland voters elevated the executive order to constitutional status. Under the ratified amendment governors may by executive order make changes in the organization of the executive branch of the state government without authority of the General Assembly. Where proposed changes are inconsistent with existing law, they must be submitted to the Legislature in statutory form during the first ten days of a regular session. If neither house rejects the executive order within fifty days, it becomes law.

But governors must proceed with caution. If they are wise, they analyze the reactions of legislators to ideas well in advance of formal presentation. The salutary check of public opinion is always omnipresent. As time erodes their terms, power fades until it is terminated or revitalized by new elections.

The measure of the Governor in the eyes of observers and historians seems to rest upon whether he is successful in obtaining the enactment of his legislative programs. Although he is constitutionally the chief executive, his mark in history is largely dependent upon his success as a legislator.

The general public holds the Governor responsible for the success or failure of legislative programs and votes accordingly. However, prevention of the Governor's excessive invasion of its legislative province is the heavy responsibility of the General Assembly of Maryland.

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