

Report
of the
COMMISSION
on
CONSTITUTIONAL REVISION



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PENNSYLVANIA COMMISSION ON CONSTITUTIONAL REVISION
SUITE 535-A, MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA

March 9, 1959

ROBERT E. WOODSIDE
CHAIRMAN

HORACE STERN
VICE-CHAIRMAN

ROBERT D. FLEMING
SECRETARY

MILTON G. BAKER
GENEVIEVE BLATT
MATTHEW A. CRAWFORD
RICHARDSON DILWORTH
JEFFERSON B. FORDHAM
GEORGE R. LAMADE
MRS. MITCHELL MACCARTNEY
M. NELSON MCGEARY
MRS. ROBERT L. MCGEEHAN
PHILIP PRICE
OSCAR J. TALLMAN
EDWIN W. TOMPKINS

SEVERINO STEFANON
EXECUTIVE DIRECTOR

To His Excellency, David L. Lawrence, Governor
and

To The Honorables, The Members of the General Assembly
of the Commonwealth of Pennsylvania

Gentlemen:

Pursuant to the Act of July 15, 1957, P.L. 927,
the Commission on Constitutional Revision is pleased to
submit for your consideration this report.

The funds available to the Commission were not
sufficient to pay for recording and printing its debates
and discussions. Therefore, as chairman, I think it
advisable to report some of my personal observations
concerning the Commission's deliberations.

The Commissioners were faithful in attendance
at both Commission and committee meetings. Although aided
by an able staff, a considerable amount of detail work
was done by the Commissioners themselves. The discussions
demonstrated that the Commissioners gave extensive thought
and study to the problems under consideration.

The deliberations were free from partisan approach.
In spite of basic differences in governmental philosophy and
the forceful presentation of conflicting views, there never
were any expressions of acrimony or personal animosity to
mar the decorum of the meetings. The presiding officer had
no problems.

The individual members of the Commission will, if
requested, be pleased to meet with the legislative committees
which may be assigned the task of reviewing and implementing
this report.

Respectfully submitted,

Robert E. Woodside
Chairman

“We do ordain, declare, and establish the following Declaration of Rights and Frame of Government, to be the Constitution of the commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement.”

Constitution of 1776

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THE COMMISSION

The Honorable Robert E. Woodside

Judge, Superior Court of Pennsylvania
Chairman of the Commission

The Honorable Horace Stern

Former Chief Justice, Supreme Court of Pennsylvania
Vice Chairman of the Commission

Senator Robert D. Fleming

Member, Senate of Pennsylvania
Secretary of the Commission

•

Lieutenant General Milton G. Baker

Superintendent, Valley Forge Military Academy

The Honorable Genevieve Blatt

Secretary of Internal Affairs

Matthew A. Crawford, Esq.

Vice President and General Counsel, Pittsburg and Shawmut
Railroad

The Honorable Richardson Dilworth

Mayor of Philadelphia

Dr. Jefferson B. Fordham

Dean, University of Pennsylvania Law School

Mr. George R. Lamade

Publisher, *Grit*

Mrs. Mitchell MacCartney

President, Pennsylvania Council of Republican Women

Dr. M. Nelson McGeary

Head, Department of Political Science, Pennsylvania State
University

Mrs. Robert L. McGeehan

Second Vice President (1957-1958), Pennsylvania League of
Women Voters

Philip Price, Esq.

Barnes, Dechert, Price, Myers and Rhoads

The Honorable O. Jacob Tallman

Former Member, Senate of Pennsylvania
Butz, Hudders, Tallman and Rupp

The Honorable Edwin W. Tompkins

Member, House of Representatives of Pennsylvania



COMMISSION ON CONSTITUTIONAL REVISION

Seated, from left: Genevieve Blatt, Horace Stern, vice-chairman, Robert E. Woodside, chairman, Robert D. Fleming, secretary, Gwendolyn W. MacCartney. Standing: O. Jacob Tallman, Jefferson B. Fordham, George R. Lamade, M. Nelson McGeary, Harriet McGeehan, Philip Price, Edwin W. Tompkins, Matthew A. Crawford, Richardson Dilworth. Milton G. Baker was absent when the picture was taken.

THE COMMITTEES

Committee on Organization and Procedure

Fordham, *Chairman*
Crawford
Fleming
Stern
Woodside

Committee on Education and Social Welfare

Baker, *Chairman*
Lamade
Stern

Committee on The Executive

Fleming, *Chairman*
Baker
Blatt
Dilworth
McGeary

Committee on The Judiciary and Human Rights

Stern, *Chairman*
Dilworth
McGeehan
Price
Woodside

Committee on The Legislative

Tompkins, *Chairman*
Crawford
Fleming
Fordham
Tallman

Committee on Local Government

Blatt, *Chairman*
Fordham
Lamade
MacCartney
McGeary

Committee on State Finance

Crawford, *Chairman*
McGeehan
Price
Tompkins
Woodside

Committees on Suffrage and Elections and Amendment and Revision

Tallman, *Chairman*
MacCartney
McGeehan

THE STAFF

Severino Stefanon - *Executive Director*

•

S. Edward Hannestad, *Counsel*

Bruce E. Cooper, *Assistant Counsel*

Dr. Richard A. Edwards, *Consultant*

•

Research Assistants

Allen W. Burns, *for The Executive*

Herbert E. Hays, *for Suffrage and Elections*

W. H. Clay Keen, *for The Legislative*

Harry A. Kitey, *for Local Government*

Dr. Edward B. Logan, *for State Finance*

Donald S. Smith, *for Local Government*

•

Statisticians

Charles F. Burnheimer

Kenneth I. Woodhall

•

Stella Friedman, *Secretary*

Theresa M. Breski, *Stenographer*

Mary B. Kaminski, *Stenographer*

ACKNOWLEDGEMENTS

In preparation of this report the Commission has had invaluable assistance from many sources for which it is deeply grateful.

Particular recognition is given to the Pennsylvania Economy League for putting its research facilities at the disposal of the Commission. The Committee on State Finance was aided materially by the able assistance of Dr. David H. Kurtzman and Mr. David R. Baldwin. The Committee on Local Government received many valuable services from Mr. John W. Ingram, Mr. Robert S. Lewis, and Mr. Fred E. Hershey.

The Commission is also indebted to Dr. John H. Ferguson, Budget Secretary, Representative Norman Wood, Chairman of the House Committee on Appropriations, Mr. Truman B. Thompson, Secretary of the House Committee on Appropriations, Attorney General Thomas D. McBride, Deputy Attorney General Harrington Adams and Deputy Attorney General George Keitel for their generous assistance in its studies in the field of state finance.

Numerous individuals and organizations have been helpful in studying preliminary proposals and making their comments available to the Committees. George F. Baer Appel, Esq., Mr. S. Edward Moore, Parliamentarian of the House of Representatives, Thomas Raeburn White, Esq., the Pennsylvania State Chamber of Commerce and the Pennsylvania State Association of Boroughs gave the Commission much of their time.

The Bureau of Municipal Affairs was most helpful, as were all other departments within the state government to whom a request for assistance was addressed.

The Commission recognizes the generosity of the Charles Fremont Taylor Trust of Philadelphia which made a grant of \$5,000 available to the Commission for research on the subject of home rule for cities and other local communities.

The Commission appreciates, too, the encouragement received from many sources, particularly The Pennsylvania League of Women Voters. The interest shown by many organizations, at the public hearings and subsequent thereto, has been stimulating.

The Commission is grateful for all of these expressions of interest in its work.

THE HISTORY OF CONSTITUTIONS IN PENNSYLVANIA

The present Pennsylvania Constitution was proposed by Constitutional Convention on November 3, 1873. It was adopted by popular vote in December of that year and became effective on January 1, 1874. It is the fourth such document for the State, the first being the Constitution of 1776.

The Constitution of 1776. The Continental Congress in May of 1776 passed a resolution urging the United Colonies to "adopt such government as shall in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general."

In accordance with the resolution, signed by John Hancock as President of the Congress, the committee of the city and liberties of Philadelphia issued a call to the several counties to meet in provincial conference in Philadelphia. In a one-week meeting at Carpenter's Hall, with Thomas McKean sitting as president of the conference, it was unanimously agreed that a provincial convention be called for the purpose of forming a new government in the province.

Accordingly, an election was held for the designation of ninety-six delegates to the convention. The delegates met in Philadelphia from July 15 to September 28, 1776, with Benjamin Franklin presiding as president of the body. Under his leadership, freedom from Great Britain was provided for and a declaration of rights was adopted. The convention then proceeded to set up a legislature of one house, an executive council of twelve with no power over legislation, and a council of censors to consider the state of the constitution every seven years. The "Bill of Rights and Constitution of the Commonwealth of Pennsylvania" was then delivered to the General Assembly at its first meeting.

The Constitution of 1790. The plan, as outlined in the Constitution of 1776, proved unworkable and the committee of censors impotent, leading the General Assembly in 1789 to provide for the election of a constitutional convention to convene in Philadelphia in November of that year. The Assembly further provided,

. . . that, in the opinion of this house, a convention being chosen and met, it would be expedient, just and reasonable that the convention shall publish their amendments and alterations for the consideration of the people and adjourn at least four months previous to confirmation.

Accordingly, sixty-nine delegates were elected to the convention which met in November 1789. With Thomas Mifflin as president, the convention formulated a new constitution embodying, among others, these provisions: a division of the legislature into two houses; concentration of the executive powers in one person, the Governor, with a qualified veto over the legislature; regulation of the terms of judges; and a general strengthening of the Bill of Rights.

Following a recess "to gather the sense of the people," the convention reconvened to give final consideration to its labors, declared the new constitution in effect, and adjourned sine die on September 2, 1790. Throughout the entire procedure, the people never voted on the question of calling a convention, nor did they vote on the adoption of the new

constitution. Their franchise in this instance extended only to the selection of the men who drafted it.

The Constitution of 1838. The Constitution of 1790 also proved to be inadequate and there developed the demand for another convention, primarily because of "extravagant expenditures authorized by the legislature and promiscuous and ill-advised granting of charters of incorporation." The legislature of 1835 submitted to the people the question of calling a constitutional convention, and it was voted on favorably. In 1836, the General Assembly provided for the election of 133 delegates and set May 2, 1837 as the date for the convention to meet at the capital in Harrisburg.

John Sergeant, of Philadelphia, was elected president of the convention, which soon adjourned to meet later at the Musical Fund Hall in Philadelphia. After the amended constitution was adopted and signed on February 22, 1838, it was ratified by a small majority at an October election, and became effective on January 1, 1839. However, the Panic of 1837 had intervened after the convention had been called and, as a result, few important changes were made. The new constitution was subsequently amended in 1850, 1857, 1864 and 1872.

The Constitution of 1874. The Constitution of 1838 left itself open to the evil of special legislation, and the need for further revisions soon became imperative. "In the seven years preceding the constitutional convention of 1874, 475 general laws were passed and 8,755 private acts, many of which were intended to confer some direct benefit upon some individual or corporation." Hence, when the question of calling a convention was submitted to the people, it was approved by a margin exceeding four to one.

Following the affirmative vote, the General Assembly in 1872 immediately set up the machinery for a constitutional convention, including provisions for the popular election of 133 delegates. The convention met in Harrisburg in November 1872, and selected William M. Meredith, of Philadelphia, as President. Site of the convention was moved to Philadelphia in January 1873 and the remaining sessions were held there. The work was completed on November 3, 1873, and was signed by John H. Walker, of Erie County, who had succeeded to the Presidency following Meredith's death.

At a special election in December of that year the people ratified the new constitution by an overwhelming majority. It went into effect on January 1, 1874 and has served, with amendments, as our Commonwealth's basic law to this day.

Efforts to Amend and Revise the Constitution of 1874

Revision by Amendment. During the eighty-five years in which Pennsylvania has conducted its government under the present constitution, eighty-six proposed amendments have been submitted to the people. Of these, fifty-nine have been approved.

The General Assembly has been reluctant to approve recommendations for change in the Constitution. This is especially evident from the record of the past 30 years. In that time a total of 837 joint resolutions to amend the Constitution have been introduced. Only 285 received sufficient consideration to be reported from committee and just 117 were approved at least once by both House and Senate. Of the 38 that finally reached the voters, 26 were approved.

Revision by Convention. Attempts at a general revision of the present Constitution through constitutional conventions have had no success. The five times that the question of holding a convention has been submitted to the people have all resulted in heavy defeats. The first attempt, in 1891, during which the people were also permitted to choose 177 delegates to the convention, was beaten by a two-and-one-half-to-one vote. After that decisive defeat, no further serious attention was given to constitutional revision for almost thirty years.

Then, in 1919, Governor William C. Sproul, at the direction of the General Assembly, appointed a commission of twenty-five members to examine the Constitution and report to the Assembly its views as to the modifications that should be made. In its report, submitted in 1921, the commission recommended a general revision of the Constitution.

The General Assembly, "apparently impressed by the completeness and force of the committee's report," provided for a popular vote at the September primary on the question of calling a constitutional convention. Delegates from each Congressional district also were to be nominated, with three from each district to be elected at the November elections. In addition, the Governor was to appoint twenty-five delegates to the convention.

Despite all the advance preparation by the Governor's commission, the voters rejected the proposal for a convention by a majority of almost 100,000.

Since the rejection of a constitutional convention following the work of Governor Sproul's Commission, the Pennsylvania electorate has three times voted down similar proposals. In each of the last three referenda, only the question of calling a convention appeared on the ballot, with no delegates being elected.

SUMMARY OF COMMISSION ACTIVITIES

The Commission met and organized on January 7, 1958. At that meeting the Commission was addressed by Governor George M. Leader, Senator M. Harvey Taylor, President pro tempore of the Senate, and The Honorable W. Stuart Helm, Speaker of the House of Representatives. Under Act 400 of 1957, which created the Commission, each had appointed five members to the Commission.*

Officers were elected by the Commission. Judge Robert E. Woodside was named chairman, Chief Justice Horace Stern, vice-chairman, and Senator Robert D. Fleming, secretary.

At a later meeting in January, the Commission heard and adopted a report of the Committee on Organization and Procedure. This report established in general a method by which the Commission would do its work. It provided for the creation of study committees and the assignment to each committee of several Articles or portions of Articles of the Constitution. It directed the holding of a series of public hearings and the selection of an administrative and research staff.

Public hearings were held in May in Philadelphia, Pittsburgh and Harrisburg. Prior to the hearings, announcements were mailed to numerous state-wide organizations and associations and each was asked, if it so desired, to present to the Commission recommendations for change in the State Constitution. The announcements were widely repeated in newspapers and on radio and television. Some 55 organizations appeared personally before the Commission and numerous others forwarded written statements.

Committee recommendations to the Commission were based on research and study by the staff and by the members of the Commission. As the Commission reviewed committee reports, no recommendation for change was passed finally unless it was agreed to by a majority of all Commissioners.

*Governor Leader appointed Miss Blatt, Mayor Dilworth, Dr. Fordham, Dr. McGeary and Mrs. McGeehan; Senator Taylor named Gen. Baker, Senator Fleming, Mrs. MacCartney, Mr. Price and Judge Woodside; Speaker Helm appointed Mr. Crawford, Mr. Lamade, Justice Stern, Senator Tallman and Mr. Tompkins.

THE REPORT

Section 3 of the act creating the Commission sets forth its duties as follows:

The commission shall study the Constitution of the Commonwealth, as amended, in the light of contemporary conditions and the anticipated problems and needs of the people of the Commonwealth. If the commission finds change in the constitution advisable, it shall consider the best means of effecting such change. If the commission determines that the best means is by amendment, it shall so recommend and its report shall contain drafts of the proposed amendment or amendments. If the commission determines that the best means is by general revision, it shall collect, compile and analyze such information as it may deem useful to the delegates at a constitutional convention, and shall make any recommendations relating to the substance of revision as it may consider appropriate.

After studying the Constitution in the light of contemporary conditions and the anticipated problems and needs of the people, the Commission found change in the Constitution advisable.

The Commission, by a vote of 9 to 6, concluded that the best means of effectuating the advisable changes in the Constitution is by amendment, and so recommends to the General Assembly. In this report are contained the drafts of the proposed amendments in the form of Joint Resolutions.

Although the Commission determined that general revision was not the best means of effecting change, it did in the process of studying the Constitution collect and analyze information which might be useful to the delegates at a Constitutional Convention should such a convention be called within the next few years. Having considered every section of the Constitution the Commission has set forth its recommendations concerning each.

The Commission found that the Constitution of 1874, as amended, contains unnecessary and undesirable provisions. Among them are provisions:

(1) which have served a transitory purpose and are no longer applicable to any present or foreseeable situation, as for example, Article IX, Section 16, relating to a bond issue for the purchase of toll bridges;

(2) which contain restrictions generally believed no longer desirable, as for example, the prohibition contained in Article I, Section 6, which prevents the Legislature from dealing with any problem relating to juries *in civil cases* even to the extent of allowing a case involving as little as \$10 to be disposed of other than by a jury of 12 people in unanimous agreement, if either party insists on the ultimate right to a jury trial;

(3) which contain language expressing a thought evidently not intended, as for example, Article V, Section 2, which says: "The judge whose commission shall first expire shall be chief justice," which if literally applied would mean that the elected judge longest on the Supreme Court would, while chief justice, be required to step aside to permit a newly appointed judge, whose commission would first expire, to become chief justice;

(4) which maintain governmental offices and procedures outgrown by the Commonwealth, as for example, the office of county surveyor and coroner provided for in Article XIV, Section 1, and the requirement that "every bill shall be *read at length* on three different days in each house," found in Article III, Section 4;

(5) which, not being self-executing, can be ignored by the General Assembly with impunity, as for example, the provisions requiring reapportionment. (Article II, Section 18);

(6) which, being legislative and not basic in character, might in many instances safely be left to the Legislature to change at will, as for example, many of the provisions relating to private corporations in Article XVI, railroads and canals in Article XVII, suffrage and elections in Article VIII, and many others;

(7) which impose desirable restrictions but in an amount or in a manner no longer advisable, as for example, the debt limitation imposed upon the state and municipal governments contained in Article IX, Section 4, and Article IX, Section 8.

While it would be easier for officials, lawyers and the people generally to operate under a shorter Constitution with fewer provisions which would be stated more clearly, it must be noted that, as a general rule, the provisions of our present Constitution which are the most universally accepted as undesirable or unnecessary are those which have the least impact upon the present operation of government, while those provisions which are the most controversial have the greatest impact. For example, it would be generally conceded that the provisions requiring that bills be read at length is unnecessary and undesirable, but the provision has very little impact upon the government or the public. On the other hand, a suggested change in the uniformity clause in Article IX, Section 1 to permit a graduated income tax, which would be bitterly contested, would have a great impact upon the people.

It is probably the fear of undesired changes in the controversial provisions which has caused the voters to reject every effort made to redraft the Constitution of 1874 in its entirety.

Admitting that many provisions could be eliminated, shortened, or rephrased, the important question is whether sufficient advantage is gained in rewriting all the provisions of the Constitution to outweigh the present advantage of working under a document whose provisions have been interpreted and construed by court decisions. If we should adopt a new Constitution, the meaning of many of its provisions would be in doubt until interpreted by costly court litigation, extending over a period of many years. In drafting a Constitution, no matter how able and experienced the draftsmen, it is impossible to express every thought with precise language not subject to different meanings when applied to unforeseeable situations.

Although we may speculate as to the reason, it is undisputably a fact that the voters have shown repeatedly that they have no desire for a Constitutional Convention. Five times since the Constitution of 1874 was adopted the Legislature has submitted the question of calling a Constitutional Convention to the voters, with the following results:

Date	Votes For	Votes Against	Votes for As Percent of Total Votes on Convention
November 3, 1891	173,813	420,598	29.2
September 20, 1921	419,191	518,889	44.7
November 4, 1924	329,883	988,442	25.0
September 17, 1935	916,949	1,184,160	43.6
November 3, 1953	533,380	682,823	43.9

The lack of interest in having a Constitutional Convention is emphasized when we consider that in 1953 less than 11% of the registered voters took advantage of the opportunity to vote for a constitutional convention. The opposition of the voters to constitutional revision is further emphasized when we consider that in 1921, 1935, and 1953, constitutional revision by convention had the active support of the administration then in power and of numerous citizens' groups and organizations.

Nor are Pennsylvania voters different from those of most other states in this respect. In state after state the people have disapproved a complete redraft of their basic laws by convention. In the last fifty years only four states have redrafted their Constitutions. These were Louisiana in 1921, Missouri and Georgia in 1945, and New Jersey in 1947. Even in New Jersey the Legislature withheld from the convention the right to deal with apportionment. Within the last few years the voters of many states, including New York, Ohio, Maryland, Michigan, Kentucky and Oklahoma, have rejected constitutional conventions.

The voters of Pennsylvania have demonstrated frequently, recently and emphatically that they do not desire constitutional revision by convention.

On the other hand, the people have approved 59 amendments to the Constitution of 1874, 26 of them within the last thirty years. When the people have been satisfied that specific change was desirable they have approved the change.

It is the opinion of the majority of the Commissioners that many changes which might improve the Constitution have little impact upon the people or the operation of the government and are, therefore, relatively unimportant. If changing these provisions were postponed a decade or two there would be no serious consequences. On the other hand, there are changes both desirable and important. It is the opinion of the majority of the Commissioners that those changes in the Constitution which are most necessary and most desirable should be submitted to the people in the form of amendments.

As stated above, the Commissioners reviewed each section of the Constitution of 1874 as amended, and determined whether it considered retention in its present form, repeal, or amendment most desirable. That our action might be conveniently examined, there is set forth the Constitution of 1874 as amended, section by section. Opposite each section, on the same page, there is set forth the recommendation of the Commission concerning it. If it was concluded that the section should be retained in its present form or repealed such recommendation is noted; if it was thought it should be amended, the section is set forth in the amended form deemed advisable. A few new sections have been recommended which have no counterpart in our present Constitution, and were given the article and section numbers deemed appropriate.

The recommended changes have been divided by vote of the Commission into three categories, and their classification designated by the type used as follows:

Class 1 Changes - Bold Type

Class 1 changes are those recommendations for amendment which the Commission deems to be of first importance, critically needed for the efficient conduct of the state government, and which the Commission strongly urges the General Assembly to approve.

Class 2 Changes - Italics

Class 2 changes are those recommendations for amendment which the Commission deems to be very desirable, but which are not vital for the efficient conduct of the state government.

Class 3 Changes - Times Roman

Class 3 changes are those changes which would improve the language and form of the Constitution, but which are not deemed to be of sufficient importance to be recommended for adoption other than as part of a general revision of the Constitution.

As the first two classes of changes are considered important enough to be submitted by separate amendments, Joint Resolutions have been prepared covering all of them. No resolutions were prepared for those changes placed in the third class as they were not considered to be of sufficient importance to be submitted to the electorate as amendments.

CLASS 1 CHANGES

Class 1 changes are those recommendations for amendment which the Commission deems to be of first importance, critically needed for the efficient conduct of the state government, and which the Commission strongly urges the General Assembly to approve.

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ARTICLE I - DECLARATION OF RIGHTS

Section 6 - Trial by Jury

Current

Trial by jury shall be as heretofore, and the right thereof remain inviolate.

Recommended

Trial by jury in criminal cases shall be as heretofore, and the right thereof remain inviolate.

Historical Note

The Eleventh of the Declaration of The Rights of the Inhabitants of the Commonwealth, or State of Pennsylvania, 1776, said: "That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred." The Plan or Frame of Government, which, with the Declaration of

Rights became the Constitution of 1776, said in Section the Twenty-fifth, "Trials by jury shall be as heretofore . . ."

The Constitutions of 1790 and 1838 used the identical language found in the present Constitution. In another section, though, the Constitution of 1874 permits the litigants to dispense with trial by jury.

Comments

Section 6 of Article 1 of the Constitution provides that "Trial by jury shall be as heretofore, and the right thereof remain inviolate." As this is interpreted, not the slightest change may therefore be made, either by legislation or otherwise, in the existing jury system. As far as *criminal* trials are concerned, there can be no quarrel with this constitutional protection of the right of an accused to have his guilt or innocence determined by the unanimous vote of a jury of 12 of his "peers," and in accordance with all the rules, regulations and procedure traditionally associated with the conduct of such trials.

The Commission has no thought whatever that trial by jury in *criminal* cases should be other than as heretofore or that the right thereof should not remain inviolate. What the Commission does believe, however, is that there is no reason for such immutability in regard to jury trials in *civil* cases, and it is therefore recommending that the right to the practice in *such* cases be left to such possible legislative modifications in the future as may from time to time be deemed desirable or even essential.

England, which of course was the mother of the jury system, has practically abolished civil jury trials altogether, but the Commission is not, of course, suggesting any such action; it urges merely that this, and indeed all other existing

methods of adjudicating civil controversies, should not be constitutionally ossified into a mould forever unchangeable in any respect whatever.

What, it might be asked, would be the nature of such possible changes? It has often been pointed out as anomalous that, whereas grave questions affecting the welfare of our entire country are not infrequently decided by the Supreme Court by a vote of 5 to 4 of a membership of 9, a controversy concerning a debt of merely, say \$10 - if either party insists on his ultimate right to a jury trial - can be adjudicated only by the unanimous concurrence of 12 persons.

Could justice, perhaps, be accomplished as well, or even better, by a jury of less than 12? or by a mere majority or some larger fraction short of absolute unanimity? or by provision for a special type of jury in cases where the question at issue is really one for qualified scientific or other experts to decide rather than mere laymen? or by trials in some cases before judges alone, thereby permitting of a speedier administration of justice than now possible, especially in our larger cities?

When it is remembered that proceedings in equity often of the greatest importance are conducted by judges without juries, and that the same is true in proceedings in the Orphans' Courts and before Workmen's Compensation and Unemployment Compensation Boards, it is

clear that jury trials have never been regarded as indispensable for the adjudication of civil controversies, and certainly not in each and every detail of their present prescribed form and composition.

However, it must again be stated that the Commission is not recommending any constitutional provision for the

abolition or modification of any feature whatever of the jury system or the right thereto even in civil cases as now existing, but only that the way be left open as to such cases for possible future changes if at any time deemed necessary or desirable, retaining as inviolate the right to jury trials in criminal cases as now provided in the Constitution.

ARTICLE II - THE LEGISLATURE

Section 4 - Sessions

Current

The General Assembly shall meet at twelve o'clock noon, on the first Tuesday of January every second year, and at other times when convened by the Governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States Senator from this Commonwealth, in a recess between sessions, the Governor shall convene the two Houses, by proclamation on notice not exceeding sixty days, to fill the same.

Recommended

The General Assembly shall be a continuing body during the term for which its Representatives are elected. It shall meet at twelve o'clock noon on the first Tuesday of January each year. Special sessions shall be called by the Governor on petition of a majority of the members elected to each House, and may be called by the Governor whenever, in his opinion, the public interest requires.

Historical Note

The Constitution of 1776, Section The Ninth, provided for the popular election, annually, of the members of the house of representatives and for annual meetings of the body. The section also authorized the body to choose their speaker and a state treasurer and enumerated a wide series of powers. The

Constitutions of both 1790 and 1838 in Article I, Section 10 said merely that the general assembly should meet annually, unless sooner convened by the governor. The Constitution of 1874 established the present system of biennial sessions.

Comments

The recommendation provides for annual sessions of the General Assembly. It makes the Assembly a continuing body, permitting committees to continue to function after sine die adjournment and legislation introduced in the first session of a legislature to be carried over to the second session. Special sessions may be called by the Governor on his own initiative and must be called by him upon petition to do so by a majority of the members elected to each House.

During the colonial period and under the Constitutions of 1776, 1790 and 1838, Pennsylvania legislatures met on

an annual basis. The Constitutional Convention of 1873 adopted the biennial plan in what was frankly stated by its advocates to be a companion measure to the provision forbidding special and local legislation. A reduction in sessions, it was thought, would result in a like reduction in special legislation.

Today, the pendulum has swung to the other side of the question and each legislative session sees the introduction of numerous proposals for annual sessions. The 1957 General Assembly approved a Constitutional amendment resolution for annual sessions, with the

even-year session limited to fiscal matters.

The recent experience in Pennsylvania is reflected elsewhere in the nation. The broad case for annual sessions has been substantial enough to have caused a trend in a direction reverse to that which took place in the 19th century, when many present-day constitutions were being adopted.

Across the nation, legislatures of sixteen states meet annually, while the remaining thirty-three hold biennial sessions. As recently as fifteen years ago, only four states had annual sessions. Among the states with annual sessions, six provide that in alternate years only budgetary matters be considered. Various limitations as to length of sessions are also found.

As has been noted, the established regard for biennial sessions has been seriously questioned in recent years and the agitation for annual sessions has become so insistent that an obvious trend in that direction has developed.

The strongest and most urgent factor calling for annual sessions is, of course, tied to the fiscal demands of contemporary state governments.

It is agreed that annual sessions will permit much more accuracy in budgetary forecasting. Presently, the General Assembly must base its programs on estimates of revenues and expenditures which are projected as much as thirty months in advance. Indeed, some departments were estimating needs in May 1958 for requirements into May 1961, three years later. Annual sessions will reduce the projections to about eighteen months, a tremendous fiscal advantage in the present-day economy.

Annual sessions will permit the Legislature to focus its budget analysis and appropriating power with far greater accuracy. The Legislature will be able to approach the overall processes of state fiscal affairs with increased knowledge and precision.

The current biennium offers an excellent case in point. According to the prospectus on the Tax Anticipation Note Sale of August 28, 1958, revenues during the first year of the biennium lagged some \$14 million behind official estimates. By the end of the second year it is estimated that revenues will be perhaps \$97 million short of estimates.

Had Pennsylvania had annual sessions, there is every reason to expect that the Legislature, in a 1958 session,

would have found other sources of revenues or so adjusted expenditures as to reduce materially the gap between revenues and expenditures in fiscal 1959.

The Commission has rejected arguments that contend annual sessions would double budgetary paper work without achieving real economies, that there would be greatly increased cost to the state or that comprehensive planning would be handicapped by annual sessions.

The argument is presented that the adoption of annual sessions will result in an increase in the state budget at a far greater rate than would be the case with biennial budgets. Extensive research into the expenditures of those states which have adopted annual sessions since 1940 has failed to support this contention.

The tremendous expansion in governmental activity and the complexity of today's society have added many new responsibilities for the State government. Legislative business today is continuous. Biennial sessions are no longer adequate for the needs of the times.

While the Commission believes that budgetary reasons alone are of sufficient import to demand annual sessions, it must be emphasized that governmental efficiency and the quality of legislative activity are also important considerations.

The Legislature's powers of investigation and budget estimation will inspire greater efficiency in the executive branch. The "continuing body" feature will allow legislative committees, both standing and special, to continue to function between sessions. Thus, a closer check will be maintained on the operations of the executive agencies.

Legislative administration will be expedited, too, by carrying over into the second session of a General Assembly those bills which were introduced in the first session and which were not finally approved. It will not be necessary to incur the added expense of re-introducing legislation and action taken in the first session will not need to be repeated in the second.

The Governor's power to call special sessions is retained. The amendment further assures that a Governor will call a special session only when "the public interest requires." Should he fail to do so on his own initiative, however, the Legislature can force him to do so upon petition by a majority of the members elected to each House.

ARTICLE II - THE LEGISLATURE**Section 16 - Senatorial Districts; Ratio****Current**

The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Recommended

The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio, and no county shall be divided unless entitled to two or more Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Historical Note

The first legislative body, under the Constitution of 1776, was unicameral, consisting only of a House of Representatives. Its members were elected, initially six from the city of Philadelphia and six from each county. In 1790, recognizing representation in proportion to the number of taxable inhabitants as "the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land," a list of taxable inhabitants was provided for and representatives

were allotted in proportion to the number of taxables.

The Constitution of 1790 provided for a bicameral legislature, adding a Senate to be formed by the Legislature with a further provision that no city or county be permitted to elect more than four Senators. The Constitution of 1838 repeated the language of 1790 and the Constitution of 1874 introduced the present formula for senatorial apportionment.

Comments

The change recommended strikes out the restriction that no city or county be entitled to separate representation exceeding one-sixth of the whole number of senators. This provision limits the City of Philadelphia to eight senators.

The Commission proposal follows the concept of the earlier constitutions by providing that representation in the Senate be on a true population basis.

Based on the 1950 census of popula-

tion in Pennsylvania, the recommendation will result in a considerable realignment when next the Senate is apportioned. Using the present formula, the removal of the restriction gives Philadelphia two more senators, or an increase to a total of ten.

The gain of two senators in Philadelphia will, of course, mean the loss of two senators among the smaller counties of the state.

ARTICLE II - THE LEGISLATURE

Section 18 - Legislative Apportionment

Current

The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.

Recommended

Before the close of each regular session of the General Assembly at which the officially certified figures of a United States decennial census first are available, the General Assembly shall apportion the Commonwealth into senatorial and representative districts. If the General Assembly fails to do so, the Governor shall, immediately after final adjournment, call the General Assembly into special session for the sole purpose of making the apportionments. At the special session there shall be no legislation on any other subject. The General Assembly shall not adjourn sine die until it has completed the apportionment into both senatorial and representative districts.

Historical Note

The earliest provision for legislative apportionment was in the Plan or Frame of Government of 1776, in Section the Seventeenth, which required the unicameral Assembly to make a return of taxable inhabitants and an apportionment every seventh year. A similar

provision was made in the Constitution of 1790 for both the House of Representatives and the newly-created Senate and was retained in the Constitution of 1838. The Constitution of 1874 adopted the provision now in effect.

Comments

The change recommended by the Commission adds strength to the requirement that the General Assembly complete an apportionment after each census.

Periodic reapportionment is necessary if legislative representation is to be kept abreast of shifts in population throughout the state.

While the present language is mandatory, "immediately after each United States decennial census, (the General Assembly) shall apportion the state . . ." it has been disregarded more frequently than it has been complied with.

Following adoption of the new Constitution, the Assembly in 1874 made a complete apportionment as directed. A reapportionment was made in 1887 and not again until the special session of 1906, nineteen years later. The next reapportionment was made in 1921.

In 1937, both House and Senate were again apportioned. However, the acts which effected the apportionment were found to be faulty: several municipalities were omitted, districts were made out of non-contiguous territory and, in at least one instance, districts were of markedly unequal representation. The acts were contested and declared unconstitutional, leaving the apportionment of 1921 in effect.

No further successful attempt to re-district the State was made until 1953, thirty-two years later. In that year the House of Representatives only was reapportioned.

For the Senate, the apportionment of 1921, with several isolated amendments, remains in force. The constitutional mandate has gone unheeded for 38 years, in spite of the fact that there are many glaring discrepancies in population among the senatorial districts.

Much concern has been expressed at the Assembly's ignoring of the mandate so plainly stated in the Constitution.

An effort was made soon after the 1950 census by a suit in federal court to have the apportionment acts of 1921 declared unconstitutional and to compel the General Assembly to reapportion. The court dismissed the suit, as the General Assembly was still in session and might adopt the necessary legislation, and a remedy might be found in Commonwealth courts: *Remmey v. Smith*, 102 F. Supp. 708, appeal dismissed 72 S. Ct. 368.

The proposed change in the section will undoubtedly encourage the Legislature to do the work required of it by the Constitution.

ARTICLE III - LEGISLATION

Section 25 - Legislation During Special Sessions

Current

When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session.

Recommended

Repeal.

Historical Note

The provision first appeared in a Pennsylvania Constitution in 1874, no similar provision having been adopted

in 1776, 1790 or 1838. It remains in its original form.

Comments

The section is another example of the attempts by the Convention of 1873 to curb the powers of the General Assembly. This conclusion that "evil legislation" can be stopped by restricting action of the Legislature is evident throughout the work of that convention.

The Commission recommends that the General Assembly have its full legis-

lative competence at all sessions and, accordingly, proposes repeal of this section.

In the amendment to Section 4, provision is made for annual sessions and special sessions. In neither case is any limitation placed on the legislation which the Assembly may consider.

ARTICLE IV - THE EXECUTIVE

Section 3 - Term of Office of Governor

Current

The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.

Recommended

The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election. Except for the Governor who may be in office when this amendment is adopted, he shall be eligible to succeed himself for one additional term.

Historical Note

The Constitution of 1776, Section the Third, vested the Supreme Executive Power in a president and council. The Constitution of 1790 vested the executive power in a governor to be elected by the people for a three-year term and limited his tenure to not more than nine

years in any term of twelve. The Constitution of 1838 retained the three-year term and limited tenure to not more than six years in any term of nine. The Constitution of 1874 increased the term to four years and prohibited succession.

Comments

The change proposed by the Commission permits the Governor to succeed himself in office for one additional term.

For many years, the fact that the Governor could not succeed himself in office did little harm. The vast expansion of state government in the 20th century has, however, made it a critical matter. The Commission is unanimous in its belief that the Governor should be permitted to succeed himself. There is not unanimity, however, on the question of the two-term limitation.

Governor George M. Leader, addressing the General Assembly in 1957, stated the case well when he said that to allow the Governor to succeed himself "would give the State a continuity of program it very badly needs. Four years is not much time for an incoming Governor and his department heads to plan and execute a program; eight years, if granted by the people, could bring accumulated skill and painfully acquired knowledge to the enormous job at hand." His use of the phrase "eight years," he has since added, does not mean he would limit a Governor to two terms. Rather, he said, succession without limitation is to be desired.

The Commission agrees that succession by the Governor will give a continuity in the State government that is much to be desired. A spirit of cooperation between the Governor and the General Assembly will be fostered. The executive branch will benefit from the "hard-earned experience" that a Gover-

nor can carry into a second term of office.

However, there have been instances in which unlimited succession has permitted a Governor to entrench himself in office for term after term. This the Commission would not view as desirable. Eight years—two terms—is long enough to entrust any man with such great powers. Indeed, the Pennsylvania practice of appointing most governmental heads—only five are popularly elected—would tend to aid a strong Governor who might want to "perpetuate" himself in office.

The recent trend across the nation has been to restrict succession by the Governor. Maryland in 1948 added the restriction after one Governor served for sixteen years. New Jersey's constitution in 1947 and Alaska's new constitution in 1956 both include two-term limits. Both Georgia and Missouri in new constitutions in 1945 made the Governor ineligible to succeed himself. Maine amended its constitution to change from two-year terms with unlimited succession to four-year terms with two-term limit on succession with the change effective in 1959. Only Colorado and Connecticut among the states with four-year terms have recently changed to remove restrictions on gubernatorial succession.

The Commission believes that the need for continuity in office can best be balanced against the danger of perpetuation in office by providing for limited, two-term, succession.

ARTICLE IV - THE EXECUTIVE

Section 9 - Pardoning Power; Board of Pardons

Current

He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth.

Recommended

(a) In all criminal cases except impeachment, the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be recorded and filed with the Board in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor, who shall be chairman, the Attorney General, the chairman of the agency created by the General Assembly to administer paroles, and two members appointed by the Governor with the consent of a majority of the members elected to the Senate, one for three years and one for six years, and thereafter for full terms of six years. The Board shall keep records of its actions, which shall at all time be open for public inspection.

Historical Note

The Constitution of 1776, Section The Twentieth, granted to the Supreme Executive Council, among other powers, the power to grant pardons and remit fines in all cases except cases of impeachment. In cases of treason and murder, the Council had power to grant reprieves, but not to pardon until the next session of the Assembly. In Article II, Section 9 of the Constitutions of

1790 and 1838, the Governor was granted the power to remit fines and forfeitures and to grant reprieves and pardons, except in cases of impeachment.

The Constitution of 1874 added the requirement that no pardon be granted, nor sentence commuted, except upon the recommendation of any three of four named State officials.

Comments

It was the belief that the Governors, under the powers granted them by the Constitutions of 1790 and 1838, had been too liberal in the use of their

extraordinary powers to remit fines and forfeitures and to grant reprieves and pardons that led the Constitutional Convention of 1873 to establish the present

system. Under this system the Governor cannot act without the written recommendation of at least three of the four officers specified in the Constitution.

While the new system reduced complaints considerably, the Board of Pardons, as it came to be known, has been under attack in recent years. The 1957 General Assembly approved a proposal to amend the Constitution (J.R. No. 10) to change its make-up extensively. This resolution suggested a board of five members - four full-time members appointed by the Governor for eight-year terms and the Lieutenant Governor, who would be chairman.

At the time of its establishment, the Board of Pardons was the sole agency in the state by which a sentence imposed could be modified. Over the years, however, other means have arisen, among them being probation, administered by the court imposing the sentence, and allowance of a reduction in sentence for good behavior, administered by prison authorities.

The Act of August 6, 1941, P.L. 861, established the Pennsylvania Board of Parole. This Board was granted the exclusive power to parole and re-parole persons sentenced for a maximum period of two years or more. Since the advent of the Board of Parole, the vast majority of cases handled by the Board of Pardons has consisted of petitions for commutation which, if granted, permit the prisoner to apply for parole at a time earlier than would have been permitted under the original sentence.

The personnel of the Board of Pardons, in addition to the four ex-officio Board members, consists of a Secretary and a small clerical staff. Legal advice

required by the Board is furnished either by the Attorney General or by the Secretary to the Board, who is usually an attorney. The Board of Pardons has no investigating staff of its own and relies primarily on the reports of prison authorities, reports of investigation supplied by the Board of Parole, statements by the court concerned with the individual case and, occasionally, reports of special investigations by the State Police.

The Commission considered many plans and proposals, some of them in operation in other states. The majority of them fell within three major categories: (1) retention of the Board of Pardons as presently constituted; (2) creation of a new Board of Pardons, eliminating all of the ex-officio members save the Lieutenant Governor and substituting for them members appointed by the Governor; (3) consolidation of the Board of Pardons and the Board of Parole into one comprehensive system.

After considering the plans and proposals suggested, it was decided that the plan recommended herein would best serve the needs of the Commonwealth. The Lieutenant Governor and the Attorney General should be retained. The Chairman of the Board of Parole is recommended because he is a person having professional knowledge which can be of assistance in the deliberations of the Board and he has at his disposal all of the records and the investigatory staff of his agency. It was also the thinking of the Commission that two appointive members not connected with the Executive Branch of the Government would materially aid the deliberations of the body.

ARTICLE V - THE JUDICIARY

Section 6 - Philadelphia and Allegheny Courts of Common Pleas

Current

In the county of Philadelphia all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this Constitution or by law, shall be in Philadelphia vested in five distinct and separate courts of equal and coordinate jurisdiction, composed of three judges each. The said courts in Philadelphia shall be designated respectively as the court

Recommended

(a) In the county of Philadelphia the jurisdiction and powers now vested in the several numbered Courts of Common Pleas of that county shall be vested in one Court of Common Pleas, composed of all the judges in commission in the courts, subject to changes made by law in the number of judges. Its jurisdiction and powers shall extend to all proceedings at law and in equity instituted in the

of common pleas number one, number two, number three, number four, and number five, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers. The number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased, from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of the said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law.

In the county of Allegheny all the jurisdiction and powers now vested in the several numbered courts of common pleas shall be vested in one court of common pleas, composed of all the judges in commission in said courts. Such jurisdiction and powers shall extend to all proceedings at law and in equity which shall have been instituted in the several numbered courts, and shall be subject to such changes as may be made by law, and subject to change of venue as provided by law. The president judge of said court shall be selected as provided by law. The number of judges in said court may be by law increased from time to time. This amendment shall take effect on the first day of January succeeding its adoption.

several numbered courts, and shall be subject to such change as may be made by law. The president judge of the court shall be selected as may be provided by law.

(b) In the county of Allegheny there shall be one Court of Common Pleas, subject to changes made by law in jurisdiction, powers and number of judges.

Historical Note

The current section of the Constitution was provided in the amendment of 1911. Prior to this amendment, the Constitution of 1874 provided that both the courts of Philadelphia and Allegheny Counties would consist of several numbered courts, each being distinct and separate, although having equal and co-

ordinate jurisdiction. The current section, while continuing the 1874 constitutional provision with regard to Philadelphia, vested the jurisdiction and powers of the several numbered courts of Allegheny County in one Court of Common Pleas composed of all the Judges commissioned in said courts.

Comments

The recommended provision institutes the same system in Philadelphia as is now in effect in Allegheny County under the amendment of 1911. This section does away with the several numbered courts and unifies them into one Court of Common Pleas, composed of all Judges in commission in those courts,

and places all the courts under the jurisdiction of one President Judge. It is the Commission's opinion that this procedure will result in a more centralized administration and greater efficiency in disposing of the business of the courts in Philadelphia.

ARTICLE V - THE JUDICIARY

Section 7 - Prothonotary of Philadelphia

Current

For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said court; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the Commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket which shall contain the judgments and liens of all the said courts, as is or may be directed by law.

Recommended

Repeal.

Historical Note

The section first appeared in the Constitution of 1874. No change in its

provisions has been made since that time.

Comments

The section serves largely to supplement the provisions of Article V, section 6, for separate Courts of Common Pleas in Philadelphia. It provides for the office of prothonotary in relation to multiple courts. With the pro-

posed consolidation of these courts (see preceding section and comment), it becomes inconsistent with a single court. The office of prothonotary in Philadelphia, as elsewhere, should be provided for by legislation.

ARTICLE V - THE JUDICIARY

Section 11 - Justices of the Peace and Aldermen

Current

Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.

Recommended

(a) Except in Philadelphia, each county shall be divided by the Court of Common Pleas into as many justice of the peace or alderman districts as it deems necessary and proper. The districts shall be as nearly equal in population as practicable according to the last preceding United States census. After each census the Court may create new districts based on the same unit of population, and may change the boundaries of districts. In each district there shall be one justice of the peace or alderman, who shall be chosen by the electors of the district at a municipal election. He shall have been a resident of his district for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of justice of the peace or alderman shall be filled by the Governor.

(b) For services rendered in judicial proceedings a justice of the peace or alderman shall receive a salary prescribed by the governing body of the county and paid by the county, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the county treasury for the use of the county, unless otherwise provided by law.

(c) Until otherwise provided by law, justices of the peace or aldermen in any county shall have the jurisdiction and powers of the justices of the peace or aldermen in

civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices by justices of the peace or aldermen, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of the county.

Historical Note

The Constitution of 1776, Section The Thirtieth, provided that justices of the peace should be elected by the freeholders of each city and county. Two or more persons were to be chosen for each ward, township or district, as the law should thereafter direct. The names of the persons so chosen were to be returned to the President in Council, who would commission one or more of them for each ward, township or district so returning. They were chosen for terms of seven years, removable for misconduct by the General Assembly.

The Constitution of 1790 provided that a competent number of justices of the peace in such convenient districts in each county as should be directed by law, to be commissioned during good behavior, should be appointed by the Governor. There were provisions for

removal on conviction of misbehavior in office or any infamous crime or on the address of both Houses of the Legislature.

The Constitution of 1838 provided for the election of justices of the peace or aldermen in the several wards, boroughs and townships, at the time of election of constables, for a term of five years. No township, ward or borough could elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors.

The Constitution of 1874 repeated substantially the language used in the Constitution of 1838, and added residence requirements. By amendment in 1909 the term of office for justices of the peace and aldermen was extended to six years.

Comments

The recommendation of the Commission provides for a minor judiciary system with justices of the peace and aldermen serving on a salary basis. The Courts of Common Pleas are charged with the responsibility of establishing proper districts and of providing rules of procedure where not otherwise provided by law. Salaries are to be determined and paid by the county. Justices of the peace and aldermen will continue to be elected by popular vote.

The granting of dominion over the minor judiciary to the local courts can result only in an improvement in the administration of justice. The responsibility for the improvement is placed in the hands of the local courts, who are in the best position to observe the conduct of these officials, to effect desirable coordination and to exercise necessary controls.

The present fee system, providing for compensation contingent on litigation, presents the justice of the peace with the temptation to entertain and adjudicate matters frivolously, or worse, solely for

financial gain. That so few of them have succumbed to the temptation speaks well for the minor judiciary generally. There are, unfortunately, those who have taken advantage of their neighbors and have spotlighted the shortcomings of the fee system.

It is expected, of course, that the establishment of new districts by the county courts will result in a material reduction in the total number of justices of the peace and aldermen.

The Commission considered and discarded a suggestion that the minor judiciary be learned in the law. The questions that normally come before a justice of the peace are not of so technical a nature that a legal background is necessary. The several in-service training programs available to the minor judiciary are adequate.

Justices of the peace and aldermen receiving fair and adequate compensation for their services, under the jurisdiction and supervision of the courts of the county, will best serve the ends of justice in the Commonwealth.

ARTICLE V - THE JUDICIARY**Section 12 - Magistrates Courts in Philadelphia****Current**

In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be six years, and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries, to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of alderman is abolished.

Recommended

(a) In Philadelphia there shall be established courts, not of record, one for each one hundred thousand inhabitants. The courts shall be held by magistrates, who shall be chosen by the qualified electors at a municipal election at which no voter shall vote for more than two-thirds of the number of persons to be chosen. Population shall be determined by the last preceding United States census. A magistrate shall have been a resident of the city for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of magistrate shall be filled by the Governor.

(b) For services rendered in judicial proceedings a magistrate shall receive a salary prescribed by the City Council and paid by the city, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the city treasury for the use of the city, unless otherwise provided by law.

(c) Until otherwise provided by law, magistrates shall have the jurisdiction and powers of the magistrates in civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of Philadelphia.

Historical Note

The Constitution of 1874 abolished the office of alderman in Philadelphia and provided for magistrates courts with jurisdiction not exceeding one hundred dollars. Magistrates were to be elected

for five year terms, with provision being made for minority party representation, and were to be paid on a salary basis. The amendment of 1909 extended the term to six years.

Comments

The change recommended reduces the number of magistrates from the present 28 to 21, removes the jurisdictional limit of one hundred dollars, makes their salaries payable by the city and provides that rules of procedure be prescribed by the Court of Common Pleas.

The workload on the present 28 magistrates is not sufficient to merit a magistracy of that size. Data available indicates that the total work week for all 28 magistrates amounted to only about 160 hours per week. At that rate, it would seem that even the reduced number provided for in this section

might be more than is needed.

No constitutional limitation is placed on the civil jurisdiction of the minor judiciary throughout the State, with the exception of the Philadelphia magistrates. There is no reason for the distinction and the matter should, as recommended, be left to the determination of the Legislature.

To further uniformity within the State's minor judiciary, rules of procedure for magistrates courts are to be prescribed by the Courts of Common Pleas, as is provided in another section for justices of the peace and aldermen.

ARTICLE V - THE JUDICIARY

Section 13 - Fees, Fines and Penalties

Current

All fees, fines and penalties in said courts shall be paid into the county treasury.

Recommended

Repeal.

Historical Note

The section first appeared in the Constitution of 1874. No change in its

provisions has been made since that time.

Comments

The provisions of this section have been incorporated in the proposed revision of Article V, Section 12 (see

preceding section and comment), with limitations similar to those in the case of justices of the peace and aldermen.

ARTICLE V - THE JUDICIARY

Section 16 - Voting for Judges of the Supreme Court

Current

Whenever two judges of the Supreme Court are to be chosen for the same term of service each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected.

Recommended

Repeal.

Historical Note

This provision first appeared in the Constitution of 1874. No similar section was found in any of the earlier Con-

stitutions. It has not been changed since its adoption.

Comments

The section was added to provide for representation on the Supreme Court of the minority political party of the Commonwealth.

The current provision has the undesirable effect of limiting the right of the elector. The repeal of the section will remove this restriction.

The General Assembly in 1957 approved Joint Resolution No. 8 which would amend this section to remove the restriction. The repeal of the section as here recommended has the same effect as the change made by J.R. 8.

ARTICLE V - THE JUDICIARY**Section 25 - Selection of Judges****Current**

Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.

Recommended

(a) Whenever a vacancy occurs by death, resignation, removal from office or expiration of a term of office in the office of justice of the Supreme Court, judge of the Superior Court, or judge of a court of record of Philadelphia or Allegheny Counties, the Governor shall fill the vacancy by appointment from a panel of three persons learned in the law and legally qualified for the office, nominated to him by a judicial commission established and organized as hereinafter provided. If none of the persons so nominated to the Governor is acceptable to him, the judicial commission shall nominate successive panels of three persons until an appointment from a panel is made by the Governor.

(b) At any municipal or general election the qualified voters of any other judicial district may, by a majority vote of those voting on the question, elect to have the judges of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. The General Assembly shall enact the laws necessary to provide for such elections.

Where the qualified voters of any

other judicial district have elected to fill vacancies in the office of judge of a court of record in the manner provided for Philadelphia and Allegheny Counties, the qualified electors of the district may thereafter, at a municipal or general election, by a majority vote of those voting on the question, elect to discontinue that method of filling a vacancy in the judicial office. The General Assembly shall enact the laws necessary to provide for such election.

(c) There shall be a judicial commission for the appellate courts, a judicial commission each for the courts of record of Philadelphia and Allegheny Counties, and a judicial commission for the courts of each judicial district which has elected to have the judges of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. Each commission shall be composed of one judge, three members of the bar selected by the members of the bar and three lay citizens. The judge and the members of the bar of each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens of each judicial commission shall be appointed by the Governor. All the members of the judicial commission for the appellate courts shall be chosen from the State at large and all the members of a judicial commission for the courts of record of a judicial district shall be chosen from that district, except the judge, who may be chosen from another district. During the terms of office for which members of judicial commissions have been chosen, they shall not hold any office in a political party or organization, nor, except the members who are judges, hold any elective public office. They shall not receive any salary or other compensation

for their services but shall receive their necessary expenses incurred while actually engaged in the discharge of their official duties. They shall hold office for the term of three years following the organization of the judicial commission of which they are members and shall be eligible for reappointment or reelection. They shall act only by the concurrence of a majority of the members of the judicial commission.

(d) Each justice or judge appointed by the Governor shall hold office for a term ending the first Monday of January following the next election appropriate for his election after the expiration of twelve months following his appointment. Not less than ninety days before the expiration of the term of office of a justice or a judge appointed by the Governor, or not less than ninety days before the expiration of the term of office of an elected judge entitled to succeed himself, the justice or judge may file in the office of the official charged with the duty of administering statewide elections a declaration of candidacy for election to succeed himself. If he does not file a declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on a separate judicial ballot without party designation at the election immediately preceding the expiration of his term of office to determine only the question whether the justice or judge shall be retained in office. The election shall be regulated by law. If a majority vote against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor as herein provided. If a

majority vote to retain a justice or judge, he shall be deemed elected for the full term of office provided for by the Constitution or laws of this Commonwealth, unless sooner removed in the manner provided by the Constitution. At the expiration of each term, any judge entitled to succeed himself shall be eligible for retention in office by election in the manner herein provided.

(e) Any vacancy happening in any court of record in a judicial district not electing to have the judges of the courts of record appointed in the manner provided for Philadelphia and Allegheny Counties shall be filled by appointment by the Governor, to continue until the first Monday of January next succeeding the first municipal election which shall occur three or more months after the happening of the vacancy.

(f) No justice or judge of any court of record shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor, while retaining judicial office, become a candidate at either a primary or general election for any other than a judicial office.

Historical Note

Early in the history of the Commonwealth, judges of the Supreme Court and other judges learned in the law were appointed by executive power. Under the charter which Charles II gave to William Penn in 1681, Penn had the "power and authority to appoint and establish any judges and justices . . . for what causes soever . . . and with what power soever . . . as to the said William Penn, or his heirs shall seem most convenient. . . ." In 1681, Penn authored a Charter of Privileges or Proprietary Frame of Government which permitted the provincial council to "elect and present to the Governor . . . a double number of persons to serve for judges . . . within the said province, for the year next ensuing . . ." The Frame of 1683 granted the same power to the provincial council, except that the judges were "to continue so long as they shall well be-

have themselves . . ." The last Frame, which was granted by Penn in 1701, served the province until 1776. Under it judges were appointed, and their tenure depended upon the pleasure of the governor.

Section the Twentieth of the Constitution of 1776 provided that judges were to be appointed by a president and council which were vested with the supreme executive power. Judges of the "supreme court of judicature" were appointed for a term of seven years, "though capable of reappointment at the end of that term but removable for misbehavior at any time by the General Assembly; . . ." No mention was made in the Constitution concerning the tenure of other judges.

Under Article II, Section 8, of the Constitution of 1790, the Governor was given the power to appoint all judges. Under Article V, Section 2, of the same

Constitution, all judges were to hold office during good behavior but "for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them, on the address of two-thirds of each House of the General Assembly."

Under Article V, Section 2, of the Constitution of 1838, judges were to

be appointed by the Governor by and with the consent of the Senate. Justices of the Supreme Court were to hold office for fifteen years and all other judges learned in the law were to hold office for a period of ten years.

The current Constitution is the first in Pennsylvania to provide for election of judges.

Comments

The Commission is of the opinion that the ideal judiciary is composed of competent and independent judges and, for the purpose of finding the system most likely to produce them, it has examined the methods of selection employed in other states.

In one state, judges are appointed by the Governor from a list submitted by a commission and the appointee periodically goes before the people on a separate judicial ballot. In another state, judges are appointed by the governor, subject to confirmation by a commission, and the appointee periodically goes before the people on a separate judicial ballot. In four states, judges are selected by the Legislature. In five states, nominations for the judicial office are made at political party conventions and the nominees appear on non-partisan judicial ballots at the general election. In seven states, judges are appointed by the governor and the legislature. In thirteen states, nominations are made at non-partisan primary elections, and the general election is on a non-partisan basis. In seventeen states, including Pennsylvania, nominations are made at political party primaries and the nominees appear on the ballot, opposite the party label, at the general election.

These seven methods of selecting judges fall into three general categories: the elective system, the appointive system, and the appointive-elective system. A majority of this Commission thinks that the elective system is not adequate to determine the ability of a judge. It is their belief that politicians, rather than the people, select the nominee for judicial office under this procedure and that the selection is determined not primarily on the basis of judicial ability but rather on the basis of extra-judicial considerations, such as party affiliation, membership in a particular racial or religious group, and patronage considera-

tions. It is further thought that the elective system, requiring the judge to periodically submit himself on a party ballot to the public, tends to produce a dependent judiciary in that he must appeal for support from those who are likely to have cases before him and he must keep friendly with party bosses.

Further, the tenure of an elected judge is often tied to the fortunes of his political party and he may be retained in office, or rejected, depending upon the views of the electorate respecting national, state or local issues—which issues, important as they may be, are usually totally irrelevant to the issue of his fitness to serve as a judge. If on the basis of these extraneous considerations an elected judge is defeated, his abilities and the experience which he has gained during his term in office are lost to the people.

The majority rejected the purely appointive system for two reasons: First, partisan politics play a leading role in the selective process in that the appointing power will in nine cases out of ten appoint a member from his own party and, in so doing, will frequently yield to the political needs of his associates, or make the appointment as a reward for political service. Secondly, a judge whose tenure depends upon good behavior cannot be removed from office unless he has so abused his position as to subject himself to the impeachment process. Past experience has shown that it is virtually impossible to impeach a judge.

The Pennsylvania Plan for selection of Judges has the endorsement of the Pennsylvania Bar Association and is in many particulars similar to the constitutional amendment submitted in 1940 to the voters in the state of Missouri. The plan has been in effect in Missouri since that time. The plan eliminates many of the defects inherent in other methods of judicial selection.

ARTICLE V - THE JUDICIARY

Section 27 - Dispensing with Jury Trial

Current

The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

Recommended

The parties, by agreement filed, in any civil case, or the accused in any non-capital case, may dispense with trial by jury and submit the decision of the case to the court having jurisdiction thereof. The court shall hear and determine the case, and the judgment thereon shall be subject to appeal as in other cases.

Historical Note

The Constitution of 1776, Section The Eleventh of the Declaration of Rights, provided explicitly for the right of trial by jury in civil controversies. This section was deleted from subsequent constitutions apparently on the theory that the right to trial by jury in

both civil and criminal proceedings was preserved under Article IX, Section 6 of the Constitutions of 1790 and 1838. The current Constitution for the first time explicitly granted to the litigants the privilege of waiving a jury trial in civil cases if they so desired.

Comments

The Commission's recommendation for Article I, Section 6 preserves the right to trial by jury in criminal cases but eliminates the constitutional grant of the right of trial by jury in civil cases, thereby empowering the General Assembly to modify or limit the right in civil cases.

The Commission's recommended section also recognizes the capacity to waive a jury trial in non-capital criminal

cases—a capacity expressly granted by the Act of June 11, 1935, P. L. 319, §2. It is to be noted that prior to the Act of 1935 the appellate courts of this Commonwealth refused to recognize the capacity of the defendant in a criminal case to waive a jury trial in the absence of statutory provision. The recommended section, therefore, recognizes constitutionally the statutory provision.

ARTICLE VIII - SUFFRAGE AND ELECTIONS

Section 1 - Qualifications of Electors

Current

Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided

Recommended

Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided

in the State one year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least two months immediately preceding the election.

in the State one year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least sixty days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within sixty days preceding the election.

Historical Note

The Constitution of 1776, Plan or Frame of Government, Section the Sixth, gave the status of elector to freemen, 21 years of age, who had resided in the state one whole year before the date of election, and had paid public taxes during that time, except that sons of freeholders, 21 years of age, need not have paid a tax.

The Constitution of 1790 extended residence requirement to two years, required the tax to have been "assessed" at least six months before the election, and limited the sons of qualified electors entitled to vote without paying a tax to those between 21 and 22 years of age.

Further changes were made by the Constitution of 1838. The franchise was limited to white freemen. Residence was returned to one year, with ten days' residence in the election district added. A state or county tax might be paid within two years, and assessed at least ten days before the election. Six months residence was provided for qualified

voters who removed from and returned to the state. White freemen between 21 and 22, otherwise qualified, need not have paid a tax.

The Constitution of 1874 has been twice amended, in 1901 and 1933.

The first amendment added the limitation in the first sentence authorizing the General Assembly to require and regulate registration of electors as a prerequisite to voting and the 1933 amendment authorized women to vote.

Two amendments to the section were proposed by the General Assembly of 1957, Joint Resolutions No. 5 and No. 9, 1957 P. L. 1022 and 1025. The former would change the voting age from 21 to 18. The second would permit qualified electors who had moved from their election district to another district in Pennsylvania within sixty days before an election to vote in the district from which they had removed. It also would change the residence requirement in the district from two months to sixty days.

Comments

The Commission recommendation is identical with that of Joint Resolution No. 9 of 1957. This, of course, means that if the resolution is again adopted by the 1959 General Assembly, it would be submitted to the electors in November, 1959.

The thinking has long prevailed that a citizen of the Commonwealth, who is otherwise qualified as an elector, should not be disfranchised merely be-

cause he has moved to another district within the time required for residence in the district in which he offers to vote.

The Commission, after serious consideration of the question of reducing the minimum voting age to 18 years, recommends that it be retained at 21 years.

It is argued by proponents of an earlier voting age that the present day

secondary school teaching, embracing as it does the principles of civics and the structure and problems of government, give the youth of today an advantage not enjoyed by his parents at a like age. On the other hand, it is feared that lowering the historic age of maturity

will have an effect in other fields now restricted to persons of twenty-one and over.

The Commission is agreed that the minimum age for voting should be kept at twenty-one.

ARTICLE IX - TAXATION AND FINANCE

Section 4 - State Debt

Current

No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds to the amount of one hundred millions of dollars for the purpose of improving and rebuilding the highways of the Commonwealth.

Recommended

(a) No debt shall be created by or on behalf of this Commonwealth unless (1) the debt has been authorized by statute, (2) the debt is for capital improvements separately specified in the statute, (3) the debt has been submitted to the qualified electors of the Commonwealth at a general, municipal, primary or special election and has been approved by a majority vote of those voting on the question, and (4) the debt is evidenced by general obligation bonds of this Commonwealth. Except as herein provided, no debt or other obligation shall hereafter be created by or on behalf of this Commonwealth, or by any authority or other agency, the repayment of which will be made either directly or indirectly from Commonwealth revenues, whether by direct payment or through leases or other contractual obligations. The foregoing provisions do not apply (1) to debts payable solely from the revenues from designated projects and not payable out of any other revenues of the Commonwealth, (2) to debts created in a manner provided by law, by the issuance and sale of tax anticipation notes payable in the fiscal period in which they are issued, from revenues already provided, (3) to loans authorized by section eighteen of this article, and (4) to leases and contractual obligations entered into in the course of the ordinary conduct of government and not for the pur-

pose of financing capital improvements by making payments, through rentals or otherwise, to liquidate debts created by authorities or other agencies without the approval of the qualified electors. Nor do the foregoing provisions apply to debt created to repel invasion, suppress insurrection or defend the Commonwealth in war, or to rehabilitate areas affected by disaster. No debt to supply casual deficiencies of revenue shall be created exceeding one million dollars in the aggregate at any one time.

(b) All bonds issued shall be serial bonds repayable in equal annual installments over a period not to exceed thirty years. The first payment of principal shall be not more than two years after the date of the bond.

(c) The General Assembly may authorize by statute the issuance of general obligation bonds for the purpose of assuming any debt heretofore incurred by any authority and which is currently payable from Commonwealth revenues, under leases to this Commonwealth. The General Assembly may from time to time authorize by law the issuance of refunding bonds to pay any bonded debt of the Commonwealth existing at the time.

Historical Note

Before 1857 the state could incur debt without restriction. In that year the Constitution of 1838 was amended by adding Article IX, Sections 1, 2 and 3, which prohibited any debt except for casual deficiencies or failures in revenues, etc. limited to \$750,000, or to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness.

The Constitutional Convention of 1873 raised the debt limit "created to supply deficiencies in revenue" to one million dollars. Amendments in 1918 and in 1923 authorized the state to issue bonds

for highway purposes. By amendments adding sections to Article IX, the Constitution has been further altered six times to authorize the creation of debt for special purposes; payment of three bonuses for military service, purchase of toll bridges, defraying expenses of state government and for construction of public buildings. The Pennsylvania Supreme Court in 1932, in *Com. ex rel Schnader vs. Liveright*, 308 Pa. 35, held that appropriations could not exceed official estimates of revenue by more than one million dollars.

Comments

The proposal to limit the state debt as recommended by the Commission retains the one million dollar limitation

on casual debt, which in effect requires a balanced budget. However, provision is made for the creation of debt for capital

improvement programs using general obligation bonds, if the debt is authorized by statute and approved by the electorate. The method permits much more rapid financing than is possible by amending the Constitution.

With a method available for financing state projects with general obligation bonds, there is no longer any need for authority financing and the new debt section prohibits further use of the authority device. To prevent the postponement of the repayment of debt, all bonds are to have maximum maturity of 30 years, with first payment of principal required to be made two years after issuance. Tax anticipation notes and revenue bonds are excluded from debt limits.

The no-debt provision of the Constitution, requiring an amendment for any debt, has in recent years resulted in the development of the constitution-circumventing authority method of financing, now extensively used to carry on the State's huge capital improvement program.

The Commission is agreed that authority financing is unwise. Particularly undesirable is the fact that a state authority, governed by an appointive body, is able to commit the State to meet financial obligations whose repayment becomes someone else's responsibility, the Legislature's in this case. Further, the Legislature has exercised little

control over the state authorities, beyond the establishment of a ceiling above which the authority may not incur obligations. Indeed, the powers of the authorities have been so expanded that they control not only the financing of a project but also the determination of what projects shall be undertaken.

It is also a matter of record that authority bonds have consistently borne a higher interest rate than general obligation bonds.

The Commission recommendation permits the financing of all capital improvement projects using bonds backed by the "full faith and credit" of the Commonwealth. The only limits are those which may be set by the General Assembly, the bond market or, in the final analysis, the people. Authorities, or similar agencies, are therefore no longer needed.

Debt created by the sale of tax anticipation notes, payable in the same fiscal year in which issued and from revenues already provided for, are not considered as debt within the meaning of this section, nor are revenue bonds, such as turnpike or toll bridge bonds, payable from the revenues of designated projects.

Though there was some thought that the terms of the bonds should be fixed by the Legislature, the Commission viewed the matter of maximum maturities as of sufficient importance to merit its inclusion in the Constitution.

ARTICLE IX - TAXATION AND FINANCE

Section 8 - Municipal Debt

Current

The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, nor shall any such county, municipality or district incur any debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property, without the consent of the electors thereof at a public election

Recommended

(a) No debt shall be incurred or increased by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision to an amount exceeding in the aggregate at any one time two per cent of market value of the taxable property in the political subdivision, without the affirmative vote of a majority of the qualified electors of the political subdivision voting thereon at a public election. Except as herein provided, no debt or other obligation shall hereafter be created

in such manner as shall be provided by law. The debt of the city of Philadelphia may be increased in such amount that the total debt of said city shall not exceed thirteen and one-half (13½) per centum of the average of the annual assessed valuations of the taxable realty therein, during the ten years immediately preceding the year in which such increase is made, but said city shall not increase its indebtedness to an amount exceeding three (3) per centum upon such average assessed valuation of realty, without the consent of the electors thereof at a public election held in such manner as shall be provided by law. No debt shall be incurred by or on behalf of the county of Philadelphia.

In ascertaining the debt-incurring capacity of the city of Philadelphia at any time, there shall be deducted from the debt of said city so much of such debt as shall have been incurred, or is about to be incurred, and the proceeds thereof expended, or about to be expended, upon any public improvement, or in construction, purchase, or condemnation of any public utility, or part thereof, or facility therefor, if such public improvement or public utility, or part thereof, or facility therefor, whether separately, or in connection with any other public improvement or public utility, or part thereof, or facility therefor, may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon. The method of determining such amount, so to be deducted, shall be as now prescribed, or which may hereafter be prescribed by the General Assembly.

In incurring indebtedness for any purpose, the city of Philadelphia may issue its obligations maturing not later than fifty (50) years from the date thereof, with provision for

by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision, the repayment of which will be made either directly or indirectly from general revenues of the political subdivision, whether by direct payment or through leases or other contractual obligations.

(b) The General Assembly may impose additional restrictions and limitations, uniform on each type or class of political subdivision, on the amount of debt that may be created either with or without the consent of the electors, and may prescribe the manner in which any debt may be created. The General Assembly may provide for the apportionment among political subdivisions of borrowing power within general limitations.

(c) Obligations payable solely from the net operating revenues from designated projects are not debt within the meaning of this section.

a sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works or utilities of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten of this article until the expiration of said period of one year after the completion of said work.

Historical Note

Constitutional debt restrictions on municipal borrowing power first were imposed in the Constitution of 1874. The original limits of 2% councilmanic debt and 7% electoral debt, based on assessed valuation of property, have survived until today, with the exception of limits for Philadelphia, and to a limited extent, for other municipalities where affected by the amendment of

1913 adding Section 15.

Originally, cities whose debt then exceeded 7% of assessed valuation were authorized to incur an additional 3%. Amendments were adopted in 1911, 1915, 1918, 1920 and 1951, the central purpose of which was to give special consideration to the indebtedness of Philadelphia, although minor changes of general application also were adopted.

Comments

The section as recommended makes a uniform provision for all political subdivisions, including Philadelphia. It changes the base for municipal debt from assessed valuation of taxable property to market value of taxable property. Councilmanic debt is limited to 2% of the market value and no limit is set on the amount of debt which can be created with the approval of the electorate. The General Assembly is empowered to add additional limitations or restrictions, both on councilmanic borrowing

and on electoral debt, and may apportion authorized borrowing power among the municipalities. The new section prohibits further use of authority financing which depends on general revenues under a lease or other arrangement.

This change permits a municipal subdivision to relate its debt to its real ability to repay its obligations—market value of taxable property. By using assessed valuation, many municipalities have been severely penalized by the unrealistic assessment ratios which

are in effect throughout the state. Even the reassessment program now in progress in many counties will not result in uniformity of debt limitations, as is evident in two western counties, both of which have completed their reassessments. One has an assessment ratio of 61.4%, the other 21.2%. Yet, on the same market value, under the present system the former can borrow almost three times as much as the latter. The Commission's recommendation removes many of the inequities which would continue to exist under a system of debt limitations based on assessed valuations.

The proposal to set the councilmanic debt at 2% of market value of taxable property will give many municipalities the added borrowing power that is urgently needed. Research shows that cities, boroughs and school districts have been most hampered by present limitations, which were first set in 1874. It is contemplated, though, that the General Assembly will impose added restrictions, if they are deemed desirable.

The present limits have forced many local governments into the use of the authority method of financing. This, the Commission has agreed, is undesirable.

Authority financing is, first, outside the control of the creating municipality or group of municipalities and, second, much more expensive than is financing through general obligation bonds. By removing the limit on electoral debt, the Commission has made possible the construction of needed school buildings along with other municipal improvements (courthouses, prisons, playgrounds, and other non-revenue facilities) by use of general obligation bonds. The only requirement is that the indebtedness proposed to finance the project be approved by the people.

The obligations incurred for self-liquidating projects are not to be included within debt limitations. Cross-pledging, that is, the use of revenues from one project to assist in meeting obligations of another, is made possible.

The new municipal debt section eases the constitutional restrictions which have been in effect since 1874. The broad provisions of the recommendation give to the Legislature, a body much more attuned to the needs of the times, the power and the responsibility to make adjustments that may be found to be necessary.

ARTICLE IX - TAXATION AND FINANCE

Section 11 - State Sinking Fund

Current

To provide for the payment of the present State debt, and any additional debt contracted as aforesaid, the General Assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest on such debt and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the Commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and

Recommended

(a) To provide for the payment of the present Commonwealth debt and any additional debt contracted, the General Assembly shall continue to maintain a sinking fund sufficient to pay the principal and interest of the debt. If at any time the General Assembly fails to make appropriation for this purpose, the State Treasurer, the provisions of article three, section sixteen notwithstanding, shall set apart from the first revenues thereafter received, applicable to the appropriate fund, a sum sufficient to pay the interest, installments of principal or contributions to the sinking fund, and shall so apply the moneys so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth bonds.

(b) No part of the sinking fund

unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt.

shall be used or applied otherwise than in the extinguishment of the public debt until all bonded debt of the Commonwealth has been completely repaid. Any money remaining in the sinking fund at such time shall be transferred to the appropriate fund and may be appropriated by the General Assembly.

Historical Note

A sinking fund provision was first incorporated into the State Constitution by the Amendment of 1857 to the Con-

stitution of 1838. The provision was retained in substantially the same form by the Convention of 1873.

Comments

This section is amended to provide that, in event the General Assembly fails to make appropriations to maintain a sinking fund sufficient to pay principal and interest on debt, the State Treasurer shall set apart the necessary funds to do so.

The Commission has been advised that such a requirement will permit the

State to sell its bonds at a lower rate of interest as a result of the additional security available to the bond purchasers. The Commission recommends the adoption of this provision which permits State financing to be done at an interest rate more favorable to the Commonwealth.

ARTICLE IX - TAXATION AND FINANCE

Section 15 - Municipal Indebtedness for Certain Public Works

Current

No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of waterworks, subways, underground railways or street railways, or the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the Constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or, where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges dur-

Recommended

Repeal.

ing said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided, said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the Constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year. Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law.

Historical Note

This section was added to the Constitution of 1874 by amendment in 1913. It appears now in its original form, no

change having been made since its adoption.

Comments

The section provides, as to counties and municipalities other than Philadelphia, that debt incurred for construction or acquisition of waterworks, subways and underground and street railways, if net revenue from such projects for a five-year period is sufficient to pay interest and sinking fund charges on the debt, shall not be considered debt within the meaning of Section 8 of Article IX.

It also permits any of the cited municipalities to incur debt beyond the constitutional maximum of seven percent, to ten percent, with the approval of three-fifths of the voters at an election.

The more generous limitations proposed in Section 8 eliminate the need for this section. Its repeal is accordingly recommended.

ARTICLE XIV - COUNTY GOVERNMENT

Section 1 - Optional Plans of County Government

Current

County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Recommended

The General Assembly shall provide by general law for the government of counties. The General Assembly may, by law applicable to all classes of counties or to a particular class, provide optional plans of county organization and government under which an authorized optional plan may be adopted or abandoned by a majority of the qualified electors of a county voting thereon. One option shall be the form of county government at the time prescribed by law for the particular class of county. Under any plan, the governing body shall be an elective body.

Section 2 - County Officers

Current

County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law.

Recommended

Elective county officers shall be chosen at municipal elections and shall take office on the first Monday of January next after their election. They shall hold office until their successors have qualified. Elective county officers shall be citizens of the Commonwealth and qualified electors of the county.

Section 3 - Residence Requirement for Appointment to a County Office

Current

No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Recommended

Repeal.

Section 4 - County Seat; Location of Offices**Current**

Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Recommended

Repeal.

Section 5 - Compensation of County Officers**Current**

The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Recommended

Repeal.

Section 6 - Accountability of Municipal Officers**Current**

The General Assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.

Recommended

Repeal.

Section 7 - County Commissioners and Auditors**Current**

Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for

Recommended

Repeal.

no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioner or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Historical Note

Except for the general provisions of Sections 2 and 4, all of the provisions made in Section 1 through 7 first appeared in the Constitution of 1874.

Amendments of 1909 changed three-year terms to four years and an amendment of 1945 permitted the county sheriff to succeed himself.

Comments

The recommended change permits legislation for optional plans of county government, thereby extending a measure of home rule to the counties.

The detailed enumeration of the county "row offices"; the provisions to authorize the Legislature to regulate compensation and to provide for accountability and the attendant details are statutory in nature and need not be set forth in the general framework of the Constitution. The present county

long ballot, which means great rigidity and diffusion of responsibilities in county government, leaves little room for constructive development in county organization.

The recommendation in Section 2 regarding county officers omits any requirement that terms of office be four years. This, too, is a statutory matter which may vary with the optional plans to be developed.

ARTICLE XV - CITIES AND BOROUGHES

Section 1 - Incorporation and Corporate Changes

Current

Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legisla-

Recommended

The General Assembly shall provide by general law for the incorporation and government of cities and boroughs and the methods by which municipal boundaries may be altered and municipalities may be consolidated or dissolved.

ture. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.

Section 2 - Optional Plans of Organization and Government**Current**

Section recommended is new and not similar to existing section. Current section can be found on page 158.

Recommended

The General Assembly may, by general law, provide optional plans of municipal organizations and government under which an authorized optional plan may be adopted or abandoned by majority vote of the qualified electors of the city or borough voting thereon.

Section 3 - Home Rule Charter Making**Current**

Section recommended is new and not similar to existing section. Current section can be found on page 159.

Recommended

(a) The qualified electors of any city or borough may adopt, amend or repeal a home rule charter of government. The adoption, amendment or repeal of a charter shall be proposed either by resolution of the legislative body of the city or borough or by a charter commission of not less than seven members elected by the qualified electors of the city or borough from their membership pursuant to petition for such election, bearing the signatures of at least ten per cent of the qualified electors of the city or borough and filed with the chief recording officer of the legislative body of the city or borough. The legislative body of the city or borough shall by resolution direct the election board to provide for holding the election in accordance with the provision of the election laws. On the death, resignation or inability to serve of any member of a charter commission, the remaining members shall elect a successor. A

Sections 4 and 5 are not similar to proposed matter and are not included here. The sections can be found on pages 162-167.

charter commission may propose (1) the adoption of a charter, (2) amendment of a charter or particular part or parts of a charter, or (3) repeal of a charter, or (4) any of these acts, as specified in the petition.

(b) The General Assembly shall provide by statute for procedure not inconsistent with the provisions of this section, and may provide by statute for a number of charter commission members in excess of seven on the basis of population. In the absence of such legislation, the legislative body of a city or borough in which the adoption, amendment or repeal of a charter is proposed shall provide by ordinance or resolution for the procedure; and the number of charter commission members shall be seven. The legislative body may, if it defaults in the exercise of this authority, be compelled by judicial mandate, at the instance of at least ten signers of a sufficient petition filed under this section, to exercise the authority.

(c) All expenses of elections conducted under this section and all proper expenses of a charter commission shall be paid by the city or borough.

(d) Every charter, charter amendment and charter repeal proposed shall be submitted to the vote of the electors of the city or borough in the manner provided by the election laws, and shall not become effective unless a majority of the electors voting on it votes in favor of it.

(e) Any part of a proposed home rule charter may be submitted for separate vote. Alternate sections or articles of a proposed home rule charter or proposed charter amendments may be submitted. The section or article receiving the larger vote, in each instance, shall prevail if the charter or amendment is adopted.

(f) A city or borough which adopts a home rule charter may exercise any power or perform any function which the General Assembly has power to devolve upon a non-home rule charter city or borough, so long as the power or function is not denied by statute nor by its home rule charter and it is within limitations as may be established by the statute. This devolution of power does not include the power to enact private or civil laws governing civil relationships except as an incident to an exercise of an independent municipal power, nor does it include power to define and provide for the punishment of a felony.

(g) Charter provisions with respect to municipal executive, legislative and administrative structure and organization, and to the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel are of superior authority to statute, subject to the requirement that the members of a municipal legislative body be chosen by popular election, and except as to judicial review of administrative proceedings, which shall be subject to the superior authority of statute.

(h) A municipal legislative body or charter commission which proposes the termination of home rule charter status by repeal of a home rule charter shall incorporate in the proposition to be submitted to the qualified electors a specification of the form of government under which the city or borough would thereafter operate in the event of repeal, whether it be a form prescribed by general law for municipalities of its population class or one of such optional forms as may have been authorized by general law for cities or boroughs of its population class. A municipal legislative body or charter commission proposing charter repeal shall also, by resolu-

tion of that body, determine when the transition to the new form of government shall take place in the event of repeal and make such other provisions as may be appropriate to effect an orderly transition from home rule charter to non-home rule charter status.

(i) At least thirty days before an election thereon, notice shall be given by publication in a newspaper of general circulation within the city or borough that copies of a proposed charter, charter amendment or repeal proposition and resolution are on file in the office of the chief recording officer of the legislative body of the city or borough, and that a copy will be furnished by him to any qualified elector or taxpayer of the city or borough upon request.

(j) The qualified electors of a city or borough shall not elect a charter commission more often than once in four years.

Historical Note

The Constitution of 1874 was the first to provide for the chartering of cities. An amendment in 1922 authorized the General Assembly to empower cities to "frame and adopt their own charters and to exercise the powers and authority of self-government" subject to whatever limitations the General Assembly might impose. In another amendment,

adding a Section 4 in 1933, provisions were made for the consolidation of Allegheny County with governmental units within the county and for a charter for its government. No action has been taken by the people of that county. Enabling legislation to put into effect the amendment of 1922 was passed in 1949.

Comments

What is proposed here is what amounts to a complete revision of Article XV.

With respect to provision for the incorporation and government of cities and boroughs, the new Section 1 would vest in the General Assembly full power to act by general law. It would leave to the General Assembly the power to determine the population line between cities and boroughs. With respect to classification of cities and boroughs by population, Section 34 of Article 3 would remain unchanged and would control.

The present Section 1 authorizes the General Assembly to make provision by general law for optional plans for municipal organization and government.

The substance of this is retained in Section 2 of the proposed revision of Article XV. Under this authorization the Legislature could make provision for a number of optional plans, any one of which might be adopted or abandoned by decision of the voters.

The home rule provision of the present Section 1, which is applicable only to cities, would be replaced by a new Section 3, which would provide home rule authority for both cities and boroughs and would embrace a different approach to home rule. The first important difference to note is that the new provision would be self-executing in the sense that charter-making powers and the substantive home rule powers would be made available directly by

the Constitution and would not have to be made available by enabling legislation, whereas under the present Constitution enabling legislation is necessary. It is true that the proposed plan would leave the legislature free to spell out the details of charter-making procedure, but the municipality might by action of its legislative body, cover the ground in default of action by the General Assembly. The significance of this self-executing feature is made clear by reference to the fact that twenty-seven years elapsed before enabling legislation was passed to effectuate the present provision and that only as to cities of the first class.

The present home rule provision makes the well-known distinction, which is fairly common in other home rule states, between so-called matters of state concern and what falls under the head of "local self-government." Local autonomy is confined to the latter. Experience in other states has demonstrated that this is not a distinction of solid meaning and predictable application. As a matter of fact, its presence in the constitutional home rule provision has often served simply to shift questions, which are largely political in character, to the judicial forum for decision. The central idea in the proposed provision rejects the assumption that governmental powers and functions are inherently of either general or local concern. It proceeds, instead, on the theory that a municipality, which adopts a home rule charter, should be free to exercise any appropriate power or function except as expressly limited by its home rule charter or by general statute. This has the double advantage of reversing the traditional strict-constructionist judicial approach to municipal powers and, at the same time, giving the legislature ultimate authority to deal flexibly, on a broad basis, with the problems of a fast-changing society. It will be seen that this approach avoids the rigidity of an outright grant of substantive powers which are beyond legislative control, and, at the same time, embraces a policy of great freedom of local decision, subject to possible legislative action in the interest of the larger community.

In one respect the proposed home rule plan would give charter municipalities authority which would be beyond legislative control. It would confer this kind of autonomy with respect to municipal executive, legislative and ad-

ministrative structure and organization, and to the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel. These are considered to be matters which should be fully within the local purview.

Section 2 of the present article simply lays down the sound policy that a municipal commission shall make no financial commitments except in pursuance of a previous appropriation. There is no question about the good sense of this policy. It is the sort of thing, however, which is appropriate for policy determination at the statutory level. It is, accordingly, recommended that the section be repealed.

The present Section 3 requires that every city create a sinking fund which shall be inviolably pledged for the payment of its funded debt. This type of requirement is identified with term bonds, all of which are payable at one maturity date. In contemporary municipal finance, term bonds have been almost completely supplanted by serial bonds, which mature from year to year, with the expectation of current provision for current installments of principal and interest. This largely obviates the need for the type of sinking fund contemplated by the present Section 3. At most, a policy of this sort is something for legislative determination. The section is, accordingly, recommended for repeal.

Section 4 of the present article has to do with consolidation in Allegheny County. It is a very detailed section, which represents a constructive attitude toward the problems of local government in a major metropolitan area. It is, however, an enabling provision, which has not been employed and which, in some respects, the times have outrun. The General Assembly, it is believed, would have broad authority to pave the way for new governmental arrangements in metropolitan areas under the constitution as proposed to be modified. It is considered desirable, then, to supersede the present Section 4.

Section 5 is an outmoded special provision for excess condemnation. Developments in legal and governmental ideas as to community planning and development have proceeded on the broader fronts of urban redevelopment and renewal. Section 5 is outmoded and should be repealed.

ARTICLE XVIII - AMENDMENT AND REVISION**Section 1 - Future Amendments****Current**

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and, if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time, at least three months after being so agreed to by the two Houses, as the General Assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

Recommended

Amendments to this Constitution may be proposed in the Senate or House of Representatives at any regular session of the General Assembly. If agreed to by a majority of the members elected to each House, they shall be entered on their journals with the yeas and nays taken thereon; and the official charged with the duty of administering statewide elections shall publish each amendment three months before the next general or municipal election in at least two newspapers in every county in which such newspapers are published. If at the next regular session of the General Assembly the proposed amendment is agreed to by a majority of the members elected to each House, the official charged with the duty of administering statewide elections shall again and in like manner publish the proposed amendment; and it shall be submitted to the qualified electors of the Commonwealth in such manner and at such time, at least three months after being agreed to for the second time by both Houses, as the General Assembly prescribes. If an amendment is approved by a majority of those voting thereon, it shall become part of this Constitution. After an amendment has been once submitted and not approved, it or one substantially related, shall not again be submitted until a period of five years has elapsed. When two or more amendments are submitted, they shall be voted on separately.

Historical Note

Amendment of the Constitution of 1776 could be made only by a convention called for the purpose, and such a convention could not be called more often than once every seven years. It

was never amended. The Constitution of 1790 contained no provision for amendment. The Constitution of 1838 adopted a provision similar to that which is today in effect.

The Commission on Constitutional Amendment and Revision of 1920 proposed to eliminate the prohibition against submitting amendments oftener than once in five years.

This particular provision shortly afterwards became the subject of judicial interpretation by the Supreme Court, which ruled that all amendments, whether or not previously sub-

mitted, were subject to the rule, and that it was impossible to amend the Constitution oftener than once every five years: *Armstrong v. King*, 281 Pa. 207; *Taylor v. King*, 284 Pa. 235.

A few years later the Supreme Court reversed itself and held that the prohibition applied only to amendments previously submitted: *Com. ex rel. v. Lawrence*, 326 Pa. 526.

Comments

The Commission proposes to permit a constitutional amendment to be approved by two successive regular sessions of the General Assembly instead of as present by two successive General Assemblies. If annual sessions are adopted, this will materially shorten the period within which an amendment can be made.

It is also proposed to have amendments acted on only at regular sessions of the General Assembly. Under the present language it has been held that amendments may be adopted at special sessions: *Sweeney v. King*, 289 Pa. 92. This is in order to insure that a substantial time will elapse between the

first and second adoption of an amendment.

Since it is proposed to remove the Secretary of the Commonwealth as a constitutional officer, "the official charged with the duty of administering statewide elections" has been substituted for "Secretary of the Commonwealth."

The proposed amendment would make it definite that the prohibition against submitting amendments more often than five years applies only to amendments submitted and not approved. This is now not at all certain from the language of the Supreme Court in the case of *Com. ex rel. v. Lawrence*, 326 Pa. 526.

CLASS 2 CHANGES

Class 2 changes are those recommendations for amendment which the Commission deems to be very desirable, but which are not vital for the efficient conduct of the state government.

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ARTICLE I - DECLARATION OF RIGHTS

Section 10 - Twice in Jeopardy; Eminent Domain

Current

No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Recommended

No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Historical Note

In the Constitution of 1776, Declaration of Rights, Clause Eighth made no mention of the requirement of criminal procedure by indictment, but did deal with the question of eminent domain in the following manner. "No part of a man's property can be justly taken from him or applied to public uses, without his own consent, or that of his legal representative." Article IX, Section 10,

of the Constitution of 1790, as well as Article IX, Section 10, of the Constitution of 1838, were similar to the current section above, the only difference therein being the last phrase, which read, "without just compensation being made." The current section is the first section to provide that compensation be first made and secured.

Comments

The Commission's proposal makes no change in the provisions with regard to double jeopardy and eminent domain. However, it does remove the provision against proceeding by information for a criminal offense - the requirement of indictment by the grand jury in criminal prosecutions. The removal of this requirement does not automatically eliminate the necessity of indictment by the grand jury. It does mean, however, that the Legislature would, if this amendment is adopted, have the power to eliminate completely or limit partially the requirement of indictment by the grand jury.

Over the years, our appellate courts have placed some limitations on the necessity of indictment by the grand jury. It has been held that this requirement is applicable only to such conduct which is inherently offensive to the public peace, morals and economy, and not to that which is within the

power of the Legislature to prescribe as new crimes. The Legislature has the power, according to these decisions, to prescribe new offenses and provide penalties therefor, and in so doing it may set forth the procedure by which a person charged with the commission thereof may be tried and his guilt or innocence determined. It may do this without the statutory offense necessarily taking on the attributes of a common law offense and becoming thereby indictable within the meaning of the constitutional provision. Under the Fifth Amendment of the federal Constitution, though very similar in language, the requirement of presentment or indictment by a grand jury has been so construed to apply to every case where the accused is made subject to imprisonment in a penitentiary or at hard labor. This has been held to be applicable to a statutory crime, in an outgrowth

of the common law, which is punishable by imprisonment at hard labor or by a fine.

It is the Commission's belief that under present-day conditions there is no longer any necessity for indictment by the grand jury. Irrespective of whether or not such indictment is required, a criminal offense will come into court and at that point the defendant's rights be properly and adequately protected. Today the grand jury might, and perhaps has in the past, been a shield to protect the guilty rather than the innocent. It is theoretically and

actually possible for prosecutions against guilty parties to be thrown out by the grand jury and never come to trial. The innocent will be protected in court. The guilty should not be protected from court.

However, the grand jury can sometimes perform a useful function, where the prosecutor needs its assistance to carry out an investigation with subpoena power. For this reason, the draft leaves it up to the legislature to define the proper scope of future grand jury functions.

ARTICLE II - THE LEGISLATURE

Section 6 - Disqualification to Hold Other Office

Current

No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth, and no member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth shall be a member of either House during his continuance in office.

Recommended

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office or employment under this Commonwealth to which a salary, fee or perquisite is attached. No member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth or any political subdivision thereof, to which a salary, fee or perquisite is attached, shall be a member of either House during his continuance in office.

Historical Note

The Constitution of 1776 provided that no member of the House of Representatives "while he continues such" should hold any other office except in the militia. The Constitution of 1790 and the Constitution of 1838 disquali-

fied Senators or Representatives from appointment to "any civil office under this Commonwealth, which shall have been created, or the emoluments of which shall have been increased, during such time."

Comments

The current section provides that a member of the General Assembly cannot, during the term of office for which he is elected, accept a civil office under the Commonwealth. This section has been interpreted to mean that even if he were to resign from the General Assembly he could not accept appointment to civil office during the term.

The term "civil officer" under the prior sections has been interpreted to mean

one who received a certificate of appointment, took an oath of office, had a term or tenure of office, and discharged duties and exercised powers depending directly upon the authority of law.

The Commission's recommendation not only includes appointments to civil office but also service as an employee of the Commonwealth. Thus, during the term for which a member of the General Assembly had been elected, he

would be barred from accepting virtually any appointive State position.

The section further provides that members of Congress, or persons holding office under the United States or the Commonwealth, cannot concurrently serve as members of the General Assembly. This section has been interpreted to mean that a person can resign his congressional seat, or his office, in order to serve in the General Assembly.

The Commission's recommendation broadens the term "office under the United States or the Commonwealth" to include "or any political subdivision thereof to which a salary, fee or perquisite is attached." Thus, office holders at the municipal, township and borough levels will have to resign their offices in order to become members of the General Assembly.

ARTICLE III - THE LEGISLATION

Section 3 - Form of Bills

Current

No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title.

Recommended

No bill, except general appropriation bills and bills codifying existing law, shall be passed containing more than one subject, which shall be clearly expressed in its title.

Historical Note

The provisions of this section were first adopted in 1864 by amendment to the Constitution of 1838. It was intended to stop the use of omnibus bills in which one subject was indicated in the title while others were referred to by the phrase "and for other purposes."

The amendment of 1864 excepted all appropriation bills from the single subject and title notice requirements. The Constitution of 1874 modified the earlier provision to except only the general appropriation bill from the multiple-subject prohibition.

Comments

The change recommended expands the exception to single-subject bills by permitting multi-subject bills for the purpose of codifying existing law.

The proposal removes any doubt that it is permissible to adopt an official code, bringing together the entire body of

Commonwealth statutory law of a general and permanent nature. A similar procedure is in effect in many of the other states. Such a codification would make no change in existing law, but would merely bring together laws existing at the time of the codification.

ARTICLE III - LEGISLATION

Section 4 - Consideration of Bills

Current

Every bill shall be read at length on three different days in each House; all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law, unless on its final

Recommended

Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill. No bill shall become a law, unless on its final passage

passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each House be recorded thereon as voting in its favor.

the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.

Historical Note

The Constitution of 1776, in the Plan or Frame of Government, Section the Fifteenth, provided in part that "... all bills of a public nature shall be printed for the consideration of the people, before they are read in general assembly for the last time for debate and amendment; and, except on

occasions of sudden necessity, shall not be passed into laws until the next session of assembly . . ." The Constitutions of 1790 and 1838 included no comparable provisions. The Convention of 1873 adopted the present wording, which has remained unchanged.

Comments

The recommendation removes the requirement that all bills be "read at length" on three different days and substitutes the proviso that all bills be "considered" on three different days.

This constitutional provision is generally ignored. In practice, bills are not read. The bill number, the printer's number and a few words of the title are read, except when the provision is invoked for the purpose of obstructing the passage of a bill or as a medium for filibustering.

Reading of bills at length cannot be done, with the tremendous number presented during a session. Bills vary in size from one printed page to more than 500 pages and to attempt to read each at length would extend the legislative session months beyond its normal length.

Every member of the House and Senate has available on his desk a printed copy of every bill reported from committee. In addition, the title of each bill

to be considered is on the daily calendar. With all this, the members have full opportunity to be cognizant of the substance of any bill on which they act.

Copies of bills in original and amended forms are also immediately available for the asking to interested individuals and organizations.

There have been instances in which, upon the insistence by a member that an unusually long bill be read at length, a number of reading clerks were assigned portions of the bill and all read simultaneously. Whenever any question concerning alleged improper legislative procedure has been raised in the courts, the courts have consistently refused to inquire whether the formalities of enactment have been complied with.

Obviously, then, actual reading is time-consuming, impractical and unnecessary.

ARTICLE III - LEGISLATION

Section 7 - Special and Local Legislation

Current

The General Assembly shall not pass any local or special law:

* * *

Creating corporations, or amending, renewing or extending the charters thereof:

Recommended

The General Assembly shall not pass any local or special law:

* * *

25. *Creating corporations or amending, renewing or extending the charters thereof, except as provided in article sixteen;*

Historical Note

The first restraint upon the Legislature to prevent local and special legislation was one adopted in the Constitution of 1838 by limiting action on divorces. An amendment in 1864 added

another prohibition and the Convention of 1873 approved the 28 which are in the present Constitution. Clause 25 alone is discussed here.

Comments

The Commission recommends that Clause 25 be changed by including an exception to eliminate the conflict with Article XVI, Sections 2 and 10. The change leaves the Legislature free to alter charters of incorporation by special act. This power is consistent with the change proposed in Article XVI, on which comments may be found on pages 74 and 75.

Although general laws existed prior to 1874 providing for the incorporation

and regulation of a number of different types of corporations, the practice of appealing to the Legislature for special acts was still quite prevalent.

The prohibition of special legislation on the subject and the enactment of the general corporation act of 1874 made corporation procedure an administrative and judicial matter, and compelled corporators to go to these agencies for their corporate needs.

ARTICLE III - LEGISLATION

Section 12 - Purchasing

Current

All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

Recommended

All purchases made by the government of this Commonwealth shall so far as practicable be made under a system of competitive bidding. No member or officer of any department of the government shall be in any way interested in Commonwealth purchase contracts and all such contracts shall be subject to the approval of the Auditor General.

Historical Note

The section was first adopted in the Constitution of 1874. No similar provision appeared in earlier Constitutions

and the present section is unchanged from its original form.

Comments

The section is changed to require that all purchases, so far as practicable, be made by competitive bidding. This is an expansion of the 1873 proposal, which did require that a contract be given to "the lowest responsible bidder" but which was limited in its application.

A policy of competitive bidding is presently in force under the Administrative Code. This provision reinforces

the statutes on the matter.

The Commission retains the prohibition against any officer of the state government being interested in a purchase contract. The proposal also removes the requirement that the State purchase its printing and makes it possible for the State to do its own printing.

ARTICLE III - LEGISLATION

Section 16 - Public Moneys; Cash Refunds

Current

No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

Recommended

No money shall be paid out of the treasury except on appropriations made by law, and on warrant issued by the proper officer; but cash refunds of taxes, licenses, fees and other charges paid or collected but not legally due may be paid as provided by law, without appropriation, from the fund into which they were paid, on warrant of the proper officer.

Historical Note

The provision of the present Constitution is substantially that which appeared first in the Constitution of 1790

and which was repeated in 1838. The only addition was the proviso that a warrant of the proper officer be required.

Comments

The current section has been so interpreted as to prohibit the making of cash refunds except from funds appropriated especially for such purposes.

It has been the practice to issue credit refunds in case of overpayment of taxes and to permit the taxpayer to apply the credit against future taxes. This practice has forced corporations to engage in an arrangement of credit exchanging which is quite inconvenient for the larger companies and almost impossible for the smaller ones.

In 1957, legislation was adopted (Act 57, P. L. 114 and Act 323, P. L. 584) which permits the Secretary of Revenue to make refunds of sales taxes erroneously collected. No appropriation was provided. Funds were later made available by allocation by the Governor from the General Fund.

Under present procedures and with the exception mentioned above, refunds

are made from appropriations upon approval of the Board of Finance and Revenue and warrant of the Auditor General. The proposed amendment authorizes making of cash refunds, without appropriation, from the funds into which the erroneous payments were paid. The provision is not self-executing. Legislation is necessary to provide a procedure under which refunds may be authorized. This, in all probability, would be through the agency of the Board of Finance and Revenue.

Under the present system of credit refunds, the State has the use of a taxpayer's funds for as long as it takes the taxpayer to apply the credit to other taxes or to exchange with another taxpayer. During that time, the State pays no interest for the use of the funds which it received in error. A system of cash refunds will eliminate this undesirable practice.

ARTICLE III - LEGISLATION

Section 17 - Appropriations to Charitable and Educational Institutions

Current

No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

Recommended

Repeal.

Historical Note

This section was written into a Constitution for the first time in 1874. No corresponding provisions appeared in

earlier Constitutions and no amendment has been made to this section.

Comments

The requirement for a two-thirds vote was adopted in 1874 to further restrict the General Assembly in the area of special legislation. Today the requirement has become the means by which the minority can force the majority to meet some of the minority's demands.

In recent sessions, neither political party has represented two-thirds of the members elected to either house. Con-

sequently, to pass appropriations to universities, other than The Pennsylvania State University, and to private schools and homes for the maintenance of wards of the State, it is necessary to have support from the minority party.

The Commission does not look on the resulting trading situation as being a healthy one. The attendant delays and the possibility of unwise legislation make the provision more undesirable.

ARTICLE III - LEGISLATION

Section 20 - Delegation of Powers

Current

The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

Recommended

Repeal.

Historical Note

The provisions of the section were introduced for the first time in the Constitution of 1874. No similar pro-

vision appeared earlier and no change has been made to the present section.

Comments

The section was designed to protect municipalities from the onerous practice of creating commissions, or other agencies, with the power to tax, over which there was no effective means of control by the municipality whose inhabitants pay the tax.

Although the section has been before

the courts in a number of cases, comparatively few laws have been invalidated by its provisions.

While this provision may have been desirable in 1874, in the light of today's tremendous metropolitan movement the section has become rather a hindrance and should be removed.

ARTICLE IV - THE EXECUTIVE

Section 1 - Executive Department

Current

The executive department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, Secretary of Internal Affairs and a Superintendent of Public Instruction.

Recommended

The Executive Department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Attorney General, Auditor General and State Treasurer and such other officers as the General Assembly may from time to time prescribe.

Historical Note

The enumeration of the officers comprising the executive department, the so-called "constitutional officers," was an

innovation in the Constitution of 1874. No change has been made since the present Constitution was adopted.

Comments

Elsewhere in Article IV, recommendations have been made to remove as "constitutional officers" the Secretary of the Commonwealth, the Secretary of Internal Affairs and the Superintendent of Public Instruction. Changes are made in this section to coordinate with those recommended in others.

The section as changed lists only the Governor, who is head of the executive department; the Lieutenant-Governor, who would succeed the Governor in event of death or disability; the Attorney General, who is the State's legal counsel; and the fiscal officers, the Auditor General and the State Treasurer.

ARTICLE IV - THE EXECUTIVE

Section 8 - Appointing Power

Current

He shall nominate and by and with the advice and consent of two-thirds of all the members of the Senate, appoint a Secretary of the Commonwealth and an Attorney General during pleasure, a Superintendent of Public Instruction for four years, and such other officers

Recommended

(a) The Governor shall, with the consent of a majority of the members elected to the Senate, appoint an Attorney General and other officers authorized by the General Assembly.

(b) He may, during the recess of the Senate, fill vacancies happening

of the Commonwealth as he is or may be authorized by the Constitution or by law to appoint; he shall have power to fill all vacancies that may happen in offices to which he may appoint, during the recess of the Senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the Senate, in the office of Auditor General, State Treasurer, Secretary of Internal Affairs or Superintendent of Public Instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the Senate, the Governor shall nominate to the Senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this Constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive nominations the Senate shall sit with open doors, and, in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays and shall be entered on the journal.

in offices to which he appoints by granting commissions expiring at the end of its session. He may, during the recess of the Senate, fill vacancies happening in the office of Auditor General or State Treasurer, in a judicial office or in any other elective office he is authorized to fill. If the vacancy happens during the session of the Senate, he shall nominate to the Senate, before its final adjournment, a proper person to fill the vacancy. In the case of a vacancy in an elective office, except in a judicial office, a person shall be elected to the office on the next election day appropriate to the office, unless the vacancy happens within two calendar months immediately preceding the election day, in which case the election shall be held on the second succeeding election day appropriate to the office.

(c) In acting on executive nominations, the Senate shall sit with open doors. The vote shall be taken by yeas and nays, and shall be entered on the journal.

Historical Note

The Constitution of 1790 provided for the appointment by the Governor of "all officers, whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for." Another section of that Constitution said "A secretary shall be appointed" and thus provided for the officer now known as the Secretary of the Commonwealth.

The Constitution of 1838 gave the Governor the power to "appoint a sec-

retary of the commonwealth during pleasure, and he shall nominate and, by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution."

The Constitution of 1874 adopted the present provision, including the requirement that a two-thirds vote of the Senate be required to confirm appointments of the Governor. Minor changes were made by amendment in 1909.

Comments

The changes proposed are two-fold: one change removes the requirement for a two-thirds majority for Senate confirmation, a simple majority being made sufficient; the other removes references to the Secretary of the Commonwealth, the Secretary of Internal Affairs and the Superintendent of Public Instruction—the three “constitutional officers” which the Commission thinks should not be named in the Constitution.

The Commission has removed in all instances, save two, requirements for two-thirds majorities for legislative approval. The Commission thinks that the resulting trading situation which develops within the Assembly when it is necessary to secure a two-thirds vote is not healthy. Further, the time-honored custom that “the majority rules” is desirable and should be maintained. The two exceptions made elsewhere are in the instance of a vote to pass a bill over a Governor’s veto and in impeachment proceedings.

The Commission considered a change to remove the Attorney General as an appointive officer and provide for his election.

The position in favor of retaining an appointive Attorney General was well stated by President Taft before the New York Constitutional Convention of 1915:

“Well, if you are going to have a lot of independent officers who are

running their own boats, paddling their own canoes, without respect to the head of the state, then of course you want a judicial officer to decide between them. But if you are running a government on the basis of a head man being responsible for what is done, and for the work being done in the most effective way, then what you want is a counsel. When you consult a lawyer, you don’t consult a judge. You consult a man who is with you, seeking to help you carry out the lawful purposes that you have. Therefore, he ought to be your appointee. You select him. Now the chief executive is given an attorney-general to advise and represent him in all legal matters. I don’t see why he shouldn’t be appointed. It would be most awkward if he was not in Washington, I can tell you that.”

In Pennsylvania, the present appointive system has the active support of most former Attorneys General of the State. Change has been opposed by every responsible commission that has considered the matter—from the Commission on Amendment and Revision of 1920 to the Commission on Governmental Reorganization of 1957.

This Commission recommends that the present practice of appointing the Attorney General be continued.

ARTICLE IV - THE EXECUTIVE

Section 18 - Duties of Secretary of the Commonwealth

Current

The Secretary of the Commonwealth shall keep a record of all official acts and proceedings of the Governor, and when required lay the same with all papers, minutes and vouchers relating thereto, before either branch of the General Assembly, and perform such other duties as may be enjoined upon him by law.

Recommended

Repeal.

Historical Note

A “secretary” was first provided for in the Constitution of 1790. The “Secretary of the Commonwealth” was named in the Constitution of 1838. The

duties of the office in both were stated in language almost identical to that in the current provision.

Comments

The provisions of this section are statutory in nature and should not be included in the Constitution. Further, all are included in the Administrative Code.

Since it is recommended elsewhere that this officer be removed as a "constitutional officer," the retention of this section would be inconsistent.

ARTICLE IV - THE EXECUTIVE

Section 19 - Duties of Secretary of Internal Affairs

Current

The Secretary of Internal Affairs shall exercise all the powers and perform all the duties of the Surveyor General, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the State as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the General Assembly.

Recommended

Repeal.

Historical Note

The office of Secretary of Internal Affairs was first created by the Constitution of 1874. The office replaced that of the Surveyor General, which had not been a constitutional office. The

Schedule to the Constitution of 1874 abolished the Surveyor General upon the election and qualification of the first Secretary of Internal Affairs.

Comment: See comments under Article IV, Section 18, at the top of this page.

ARTICLE IV - THE EXECUTIVE

Section 20 - Duties of Superintendent of Public Instruction

Current

The Superintendent of Public Instruction shall exercise all the powers and perform all the duties of the Superintendent of Common Schools, subject to such changes as shall be made by law.

Recommended

Repeal.

Historical Note

The office of Superintendent of Public Instruction was created by the Constitution of 1874. It replaced the Superintendent of Common Schools, a statutory

office existing at the time. The latter was abolished by the Schedule to the Constitution of 1874.

Comment: See comments under Article IV, Section 18, pages 69-70.

ARTICLE IV - THE EXECUTIVE

Section 21 - Terms of Office of Auditor General and State Treasurer

Current

The terms of the Secretary of Internal Affairs, the Auditor General, and the State Treasurer shall each be four years; and they shall be chosen by the qualified electors of the State at general elections; but a State Treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successor shall be elected at the general election in the year one thousand nine hundred and twelve, and in every fourth year thereafter. No person elected to the office of Auditor General or State Treasurer shall be capable of holding the same office for two consecutive terms.

Recommended

The terms of the Auditor General and the State Treasurer shall each be four years from the third Tuesday of January next following his election. They shall be chosen by the qualified electors of this Commonwealth at general elections. Except for the Auditor General and State Treasurer who may be in office when this amendment is adopted, they shall be eligible to succeed themselves for one additional term.

Historical Note

In the Constitution of 1776, only the State Treasurer is mentioned. The Plan or Frame of Government authorized the General Assembly to choose "the treasurer of the state." The Constitution of 1790 provided for the election of the State Treasurer, annually, by the joint vote of the members of both Houses.

The Constitution of 1838 retained the provision of 1790. By amendment in 1872, however, it was directed that he be "chosen by the qualified electors of the State, at such times and for such terms of service as shall be prescribed by law."

The office of Auditor General was first created by statute in 1809. The act provided for appointment by the

Governor and gave to the Auditor General the duties of the register-general, whose office was then abolished. The Auditor General was made elective in 1850 and was made a "constitutional officer" in the Constitution of 1874.

The original provision of 1874 gave the Auditor General a term of three years and the State Treasurer two years. By amendment in 1909, the terms of both were made four years and their election was directed in even-numbered years other than the years for electing a Governor. Succession in office was prohibited for both.

For historical comments on the Secretary of Internal Affairs, see Article IV, Section 19, page 70.

Comments

The section is changed to permit the Auditor General and the State Treasurer to serve two consecutive terms and to have them take office in January of an odd year other than the year in which a Governor takes office. The two-term succession is consistent with

the recommendation made to permit the Governor to succeed himself.

Reference to the Secretary of Internal Affairs is removed, in keeping with the changes in Article IV, Section 1, page 67.

ARTICLE VI - IMPEACHMENT AND REMOVAL FROM OFFICE

Section 4 - Removal of Public Officers

Current

All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record, and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people except Governor, Lieutenant-Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.

Recommended

All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the members elected to the Senate.

Historical Note

The Constitution of 1838 provided that officers with designated terms continue in office only as long as they behaved themselves well, and that they be

removed upon conviction of misbehavior in office or infamous crime. The balance of the section was added in the Constitution of 1874.

Comments

The change suggested by the Commission is to remove the reference to the Superintendent of Public Instruction, as a part of the plan to remove the office from the list of constitutional offices. For further comment, see Article 4, Section 1, page 67.

There is also a change in the language at the end of the section, changing "two-thirds of the Senate" to "two-thirds of the members elected to the Senate," in order to conform with the language used in other parts of the Constitution.

ARTICLE IX - TAXATION AND FINANCE

Section 13 - Reserve Funds

Current

The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

Recommended

Repeal.

Historical Note

This provision was used for the first time in the Constitution of 1874. It appears now in its original form, no

change having been made since its adoption.

Comments

This section was another of the group of restrictive additions made by the Convention of 1873. The provisions are not practical, with the magnitude of

today's state government. The subject matter of the section is purely statutory in nature, too, and for that further reason should be repealed.

ARTICLE XIV - COUNTY GOVERNMENT

Section 8 - Abolition of County Offices in Philadelphia

Current

(1) In Philadelphia all county offices are hereby abolished, and the city shall henceforth perform all functions of county government within its area through officers selected in such manner as may be provided by law.

(2) Local and special laws, regulating the affairs of the city of Philadelphia and creating offices or prescribing the powers and duties of officers of the city of Philadelphia, shall be valid notwithstanding the provisions of section seven of article three of this Constitution.

(3) All laws applicable to the county of Philadelphia shall apply to the city of Philadelphia.

(4) The city of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the county of Philadelphia.

Recommended

(a) In Philadelphia all county offices are abolished. The city shall perform all functions of county government within its area.

(b) Local and special laws with respect to powers granted to the City of Philadelphia shall be valid notwithstanding the provisions of article three, section seven of this Constitution.

(c) All laws applicable to the County of Philadelphia shall apply to the City of Philadelphia.

(d) The City of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the County of Philadelphia.

(e) The provisions of article fifteen of this Constitution shall apply with full force and effect to the functions of the county government performed by the city.

(5) The provisions of article fifteen, section one of the Constitution shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(6) This amendment shall become effective immediately upon its adoption.

(7) Upon adoption of this amendment all county officers shall become officers of the city of Philadelphia, and, until the General Assembly shall otherwise provide, shall continue to perform their duties and be elected, appointed, compensated and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms.

(f) All officers performing functions of county government shall be officers of the City of Philadelphia. Until otherwise provided by the City of Philadelphia through amendment to the Philadelphia Home Rule Charter, they shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect.

Historical Note

This section was added to the Constitution of 1874 by amendment in 1951. It appears now in its original

form, no change having been made since its adoption.

Comments

This section was added to permit the consolidation of the county and city of Philadelphia and provided that all county offices be abolished.

While consolidation was effected, several county offices still exist. Under the present provision, it is necessary for the General Assembly to enact legislation to

complete the consolidation. The Commission proposal gives the power and the responsibility for the completion of the consolidation to the City of Philadelphia and provides that it be done by amendment to its Home Rule Charter.

ARTICLE XVI - PRIVATE CORPORATIONS

Section 10 - Revocation and Alteration of Corporate Charters; New Charters

Current

The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this

Recommended

All charters of private corporations now existing and revocable at the adoption of this amendment may be altered, revoked or annulled, if in the opinion of the General Assembly they may be injurious to the citizens of this Commonwealth, in such manner that no in-

Commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

justice shall be done to the corporators. All laws heretofore or hereafter adopted by the General Assembly dealing with the formation and regulation of private corporations and prescribing the powers, rights, duties and liabilities of private corporations, their officers, directors and shareholders, may be amended, repealed or revoked.

Historical Note

By the amendment of 1857, Section 26 was added to Article I of the Constitution of 1838. This section gave to the Legislature the power to alter, revoke or annul any charter of incorporation "hereafter conferred by or

under any special or general law whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the incorporators."

Comments

Neither the provision in the Constitution of 1838, nor the provision in the current Constitution, grants to the Legislature the right to alter, revoke or annul charters granted prior to the amendment of 1857 in the absence of a right to alter, revoke or annul specifically reserved in the charter. The recommended section preserves this protection for these old charters. The preservation of this right has been required under the decision of the Supreme Court of the United States in the Dartmouth College case, 17 U.S. 518 (1819).

The recommended section preserves the power of the General Assembly to alter, revoke or annul existing and revocable charters of private corporations if in its opinion they are injurious to the citizens of this Commonwealth, but subject to the limitation that no injustice be done to the corporators. The proposed amendment goes further than this, however, in providing that laws with regard to the formation and regulation of corporations may be amended, repealed or revoked without the requirement that they be injurious to the citizens of this Commonwealth.

This proposed new language would enable the Legislature, if it so desired, to make changes in the rules with regard to shareholders. The current section of the Constitution has been interpreted by the Supreme Court of Pennsylvania, either in express decisions or by way of dictum, that the rights of shareholders cannot be constitutionally changed without their unani-

mous consent either by the Legislature or pursuant to a majority, or other specified vote, of their fellow shareholders. Such decisions have the tendency to freeze the rights of shareholders and to make impossible any change in them if a mere 1% should disagree with such change, despite the fact that an overwhelming majority would be in favor of a change. Such a situation may well have the result of discouraging persons from forming Pennsylvania corporations. This provision increases the power of the Legislature over corporations and enables it, should it so desire, to empower the holders of a majority, or other specific percentage, of outstanding corporate securities to alter corporate charters without being forced to buy off a minority security holder.

While granting this latitude to the Legislature, it must nevertheless be pointed out that the reserve power to modify corporate charters, or to change laws with regard thereto, is always subject to the constitutional requirements of due process, equal protection of the law, the prohibition of impairment of contractual obligations and the protection of vested rights. The exercise of this power, therefore, must be reasonable and in good faith.

The second sentence of this section conflicts with Article 3, Section 7, Clause (25), prohibiting local and special legislation amending corporate charters. In order to resolve this conflict, an exception to the general rule is being recommended. For comment thereon see page 63.

ARTICLE XVII - RAILROADS AND CANALS**Section 11 - Duties of Secretary of Internal Affairs****Current**

The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and, in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

Recommended

Repeal.

Historical Note

This section was first adopted in the Constitution of 1874. It appears now

in its original form, no change having been made since its adoption.

Comments

It is recommended that this section be repealed, along with the entire article, because the subject matter is no longer of a constitutional nature. While the rest of Article XVII was put into

Class 3, this one section must be in Class 2 to permit its coordination with another change which removes the Secretary of Internal Affairs as a "constitutional officer."

ARTICLE XVIII - AMENDMENT AND REVISION**Section 2 (New) - Amendment by Initiative****Current**

None.

Recommended

Amendments to this Constitution may be proposed by petition, signed by a number of qualified electors equal to five per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, and filed with the official charged with the duty of administering statewide elections. Each petition shall set forth the full text of the amendment proposed, and shall be verified by the affidavit of the persons soliciting the signatures. The official shall transmit the petition to the General Assembly, when in session, or as soon as it convenes. If an

amendment proposed by petition is agreed to by a majority of the members elected to each House, it shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article as though it had been agreed to by two succeeding regular sessions of the General Assembly. If (1) the proposed amendment is rejected, or (2) it is agreed to in an amended form, or (3) no action is taken thereon within four months from the time it is received by the General Assembly, if the General Assembly is in session so long, and, if not, then within four months after the convening of the next regular session of the General Assembly; and if so demanded by supplementary petition signed by a number of qualified electors equal to ten per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, the proposed amendment shall be submitted to the qualified electors in a manner and at a time prescribed by the General Assembly. The supplementary petition shall be filed with the official charged with the duty of administering statewide elections within six months (1) after the proposed amendment was rejected by the General Assembly, or (2) after the expiration of the four months herein provided for action on the petition by the General Assembly, if no action has been taken thereon, or (3) after the proposed amendment, as amended by the General Assembly, has been filed with the proper official. The proposed amendment shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article in the form prescribed by the supplementary petition, which shall be either as first petitioned for or with any amendments incor-

porated therein by either House or by both Houses of the General Assembly. If the proposed amendment is approved by a majority of the qualified electors voting thereon, it shall become a part of this Constitution. All petitions shall be in the form provided by law for nomination petitions, unless otherwise provided by law.

Historical Note

This is a new provision not found in the present Constitution nor in any prior Constitution.

Comments

This section provides an alternate method of amending the Constitution, and may be referred to as amendment by indirect initiative. It is designed to give the electors an opportunity to amend the Constitution when the Legislature fails to act.

A petition by a percentage of the qualified electors of the state would be presented to the General Assembly. If approved by both houses, it would be advertised and submitted to the voters

without having to pass another session of the General Assembly.

If the petition is rejected or ignored by the General Assembly, or is amended by it, an additional petition signed by a larger number of qualified electors may be filed with the Secretary of the Commonwealth. The proposed amendment would then be advertised and submitted to the voters without action by the General Assembly.

ARTICLE XVIII - AMENDMENT AND REVISION

Section 3 (New) - Periodic Review

Current

None.

Recommended

In the year nineteen hundred seventy-three and every fifteenth year thereafter, the provisions of this Constitution shall be studied and reviewed in the light of contemporary conditions and the anticipated problems and needs of the people of this Commonwealth. The General Assembly shall provide for a commission to perform the work.

Historical Note

This is a new provision not found in the present Constitution nor in any prior Constitution.

Comments

This section is designed to keep the Constitution abreast of the changing times. It provides for a commission to study and review the Constitution every fifteenth year, beginning with the year

1973, which coincidentally is the one hundredth anniversary of the constitutional convention that framed the present constitution.

THE CONSTITUTION OF 1874

With Recommendations for Change

All recommendations for change have been classified into three categories, indicating the importance given to each by the Commission.

Class 1 Changes - Bold Type

Class 1 changes are those recommendations for amendment which the Commission deems to be of first importance, critically needed for the efficient conduct of the state government, and which the Commission strongly urges the General Assembly to approve.

Class 2 Changes - Italics

Class 2 changes are those recommendations for amendment which the Commission deems to be very desirable, but which are not vital for the efficient conduct of the state government.

Class 3 Changes - Times Roman

Class 3 changes are those changes which would improve the language and form of the Constitution, but which are not deemed to be of sufficient importance to be recommended for adoption other than as part of a general revision of the Constitution.

In editing the copy for the current sections of the Constitution of 1874, reference was made to the Constitution of 1874 as set forth in the Journal of the Convention of 1873, Part 2, pages 1303-1337; to Purdon's Pennsylvania Statutes Annotated; and to the pertinent pamphlet laws. In the instance of discrepancies in wording, that of the original text was given preference. In the case of matter added by amendment, the proper joint resolution in the pamphlet laws was consulted. Some changes in punctuation were made for purposes of uniformity, though care was taken not to change the sense of any provision.

Section titles are unofficial and are intended only to convey briefly the subject matter of the section.

CONSTITUTION

OF THE COMMONWEALTH OF PENNSYLVANIA

(Constitution of 1874)

PREAMBLE

We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, **WE DECLARE THAT:**

Section 1 - Inherent Rights of Mankind

Current

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Recommended

No Change.

Section 2 - Political Powers

Current

All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

Recommended

No Change.

Section 3 - Religious Freedom**Current**

All men have a natural and in-defeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience and no preference shall ever be given by law to any religious establishments or modes of worship.

Recommended

No Change.

Section 4 - Religion**Current**

No person who acknowledges the being of a God and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this Commonwealth.

Recommended

No Change.

Section 5 - Elections**Current**

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Recommended

No Change.

Section 6 - Trial by Jury**Current**

Trial by jury shall be as heretofore, and the right thereof remain inviolate.

Recommended

Trial by jury in criminal cases shall be as heretofore, and the right thereof remain inviolate.


Section 7 - Freedom of Press and Speech**Current**

The printing press shall be free to every person who may undertake to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Recommended

No Change.

Section 8 - Security from Searches and Seizures**Current**

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant. 

Recommended

No Change.

Section 9 - Rights of Accused in Criminal Prosecutions**Current**

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand

Recommended

No Change.

the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land.

Section 10 - Twice in Jeopardy; Eminent Domain

Current

No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Recommended

No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Section 11 - Courts to be Open; Suits Against the Commonwealth

Current

All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

Recommended

No Change.

Section 12 - Power of Suspending Laws

Current

No power of suspending laws shall be exercised unless by the Legislature or by its authority.

Recommended

No Change.

Section 13 - Bail—Fines and Punishment**Current**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Recommended

No Change.

Section 14 - Prisoners to be Bailable; Habeas Corpus**Current**

All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

Recommended

No Change.

Section 15 - Special Criminal Tribunals**Current**

No commission of Oyer and Terminer or Jail Delivery shall be issued.

Recommended

No commission shall issue creating special temporary criminal tribunals to try particular individuals or particular classes of cases.

Section 16 - Insolvent Debtors**Current**

The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Recommended

No Change.

Section 17 - Ex Post Facto Laws—Impairment of Contracts**Current**

No ex post facto law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.

Recommended

No Change.

Section 18 - Attainder**Current**

No person shall be attainted of treason or felony by the Legislature.

Recommended

No Change.

Section 19 - Attainder Limited, Estates of Suicides**Current**

No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death, and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Recommended

No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of estate to the Commonwealth.

Section 20 - Right to Petition**Current**

The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Recommended

No Change.

Section 21 - Right to Bear Arms**Current**

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

Recommended

No Change.

Section 22 - Standing Army; Military Subordinate to Civil Power**Current**

No standing army shall, in time of peace, be kept up without the consent of the legislature, and the military shall in all cases and at all times be in strict subordination to the civil power.

Recommended

No Change.

Section 23 - Quartering of Troops**Current**

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Recommended

No Change.

Section 24 - Titles and Offices**Current**

The legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

Recommended

No Change.

Section 25 - Emigration**Current**

Emigration from the State shall not be prohibited.

Recommended

Repeal.

Section 26 - Reservation of Powers in People**Current**

To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Recommended

No Change.

ARTICLE II - THE LEGISLATURE**Section 1 - Legislative Power****Current**

The legislative power of this Commonwealth shall be vested in a General Assembly which shall consist of a Senate and House of Representatives.

Recommended

No Change.

Section 2 - Election of Members; Vacancies**Current**

Members of the General Assembly shall be chosen at the general election every second year. Their term of service shall begin on the

Recommended

No Change.

first day of December next after their election. Whenever a vacancy shall occur in either House, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

Section 3 - Terms of Members

Current

Senators shall be elected for the term of four years and Representatives for the term of two years.

Recommended

No Change.

Section 4 - Sessions

Current

The General Assembly shall meet at twelve o'clock noon, on the first Tuesday of January every second year, and at other times when convened by the Governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States Senator from this Commonwealth, in a recess between sessions, the Governor shall convene the two Houses, by proclamation on notice not exceeding sixty days, to fill the same.

Recommended

The General Assembly shall be a continuing body during the term for which its Representatives are elected. It shall meet at twelve o'clock noon on the first Tuesday of January each year. Special sessions shall be called by the Governor on petition of a majority of the members elected to each House, and may be called by the Governor whenever, in his opinion, the public interest requires.

Section 5 - Qualifications of Members

Current

Senators shall be at least twenty-five years of age and Representatives twenty-one years of age. They shall have been citizens and inhabitants of the State four years, and inhabitants of their respective districts one year next before their election (unless absent on the public business of the United States or of this State), and shall reside in their respective districts during their terms of service.

Recommended

No Change.

Section 6 - Disqualification to Hold Other Office

Current

No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth, and no member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth shall be a member of either House during his continuance in office.

Recommended

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office or employment under this Commonwealth to which a salary, fee or perquisite is attached. No member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth or any political subdivision thereof, to which a salary, fee or perquisite is attached, shall be a member of either House during his continuance in office.

Section 7 - Certain Crimes to Disqualify

Current

No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crimes, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this Commonwealth.

Recommended

Repeal.

Section 8 - Compensation

Current

The members of the General Assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either House shall, during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.

Recommended

No Change.

Section 9 - Presiding and Other Officers; Election and Qualifications of Members

Current

The Senate shall, at the beginning and close of each regular session and at such other times as may

Recommended

No Change.

be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant-Governor, in any case of absence or disability of that Officer, and whenever the said office of Lieutenant-Governor shall be vacant. The House of Representatives shall elect one of its members as Speaker. Each House shall choose its other Officers, and shall judge of the election and qualifications of its members.

Section 10 - Quorum

Current

A majority of each House shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Recommended

No Change.

Section 11 - Powers Of Each House; Expulsion

Current

Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence, or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

Recommended

No Change.

Section 12 - Journals; Yeas and Nays

Current

Each House shall keep a journal of its proceedings and from time to time publish the same, except such

Recommended

No change.

parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

Section 13 - Sessions Shall Be Open

Current

The sessions of each House and of Committees of the Whole shall be open, unless when the business is such as ought to be kept secret.

Recommended

No change.

Section 14 - Adjournment

Current

Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Recommended

No Change.

Section 15 - Privileges of Members

Current

The members of the General Assembly shall in all cases, except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

Recommended

No Change.

Section 16 - Senatorial Districts; Ratio

Current

The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a

Recommended

The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a

ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more Senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio, and no county shall be divided unless entitled to two or more Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

Section 17 - Representative Districts

Current

The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants, shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.

Recommended

No Change.

Section 18 - Legislative Apportionment**Current**

The General Assembly at its first session after the adoption of this Constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts agreeably to the provisions of the two next preceding sections.

Recommended

Before the close of each regular session of the General Assembly at which the officially certified figures of a United States decennial census first are available, the General Assembly shall apportion the Commonwealth into senatorial and representative districts. If the General Assembly fails to do so, the Governor shall, immediately after final adjournment, call the General Assembly into special session for the sole purpose of making the apportionments. At the special session there shall be no legislation on any other subject. The General Assembly shall not adjourn sine die until it has completed the apportionment into both senatorial and representative districts.

ARTICLE III - LEGISLATION**Section 1 - Passage of Bills****Current**

No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.

Recommended

No Change.

Section 2 - Reference to Committee; Printing**Current**

No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.

Recommended

No bill shall be considered unless referred to a committee, printed for the use of the members, and returned therefrom.

Section 3 - Form of Bills**Current**

No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title.

Recommended

No bill, except general appropriation bills and bills codifying existing law, shall be passed containing more than one subject, which shall be clearly expressed in its title.

Section 4 - Consideration of Bills**Current**

Every bill shall be read at length on three different days in each House; all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law, unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each House be recorded thereon as voting in its favor.

Recommended

Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.

Section 5 - Concurring in Amendments; Conference Committee Reports**Current**

No amendment to bills by one House shall be concurred in by the other except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either House only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.

Recommended

No Change.

Section 6 - Revival and Amendment of Laws**Current**

No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.

Recommended

No Change.

Section 7 - Special and Local Legislation

Current

The General Assembly shall not pass any local or special law: authorizing the creation, extension or impairing of liens:

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:

Changing the names of persons or places:

Changing the venue in civil or criminal cases:

Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys:

Relating to ferries or bridges or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State:

Vacating roads, town plats, streets or alleys:

Relating to cemeteries, graveyards or public grounds not of the State:

Authorizing the adoption or legitimation of children:

Locating or changing county seats, erecting new counties or changing county lines:

Incorporating cities, towns or villages, or changing their charters:

For the opening and conducting of elections, or fixing or changing the place of voting:

Granting divorces:

Erecting new townships or boroughs, changing township lines, borough limits or school districts:

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts:

Changing the law of descent or succession:

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs,

Recommended

The General Assembly shall not pass any local or special law:

1. Authorizing the creation, extension or impairing of liens;

2. Regulating the affairs of counties, cities, townships, wards, boroughs or school districts;

3. Changing the names of persons or places;

4. Changing the venue in civil or criminal cases;

5. Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys;

6. Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

7. Vacating roads, town plats, streets or alleys;

8. Relating to cemeteries, graveyards or public grounds not of the State;

9. Authorizing the adoption or legitimation of children;

10. Locating or changing county seats, erecting new counties or changing county lines;

11. Incorporating cities, towns or villages, or changing their charters;

12. For the opening and conducting of elections or fixing or changing the place of voting;

13. Granting divorces;

14. Erecting new townships or boroughs, changing township lines, borough limits or school districts;

15. Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts;

16. Changing the law of descent or succession;

17. Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial

commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:

Regulating the management of public schools, the building or repairing of school houses and the raising of money for such purposes:

Fixing the rate of interest:

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment:

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:

Exempting property from taxation:

Regulating labor, trade, mining or manufacturing:

Creating corporations, or amending, renewing or extending the charters thereof:

Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed:

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

18. Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

19. Regulating the management of public schools, the building or repairing of school houses and the raising of money for such purposes;

20. Fixing the rate of interest;

21. Affecting the estates of minors or persons under disability;

22. Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury;

23. Exempting property from taxation;

24. Regulating labor, trade, mining or manufacturing;

25. *Creating corporations or amending, renewing or extending the charters thereof, except as provided in article sixteen;*

26. Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;

27. Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed;

28. The General Assembly shall pass no local or special law in any other case which has been or can be provided for by general law.

NOTE: In addition to the change recommended in Item 25, change is also suggested, though not recommended, in Items 21 and 28.

Section 8 - Notice of Local and Special Bills**Current**

No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be effected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published, shall be exhibited in the General Assembly, before such act shall be passed.

Recommended

No Change.

Section 9 - Signing of Bills**Current**

The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

Recommended

No Change.

Section 10 - Officers of the General Assembly**Current**

The General Assembly shall prescribe by law the number, duties and compensation of the officers and employes of each House, and no payment shall be made from the State treasury, or be in any way authorized, to any person, except to an acting officer or employe elected or appointed in pursuance of law.

Recommended

No Change.

Section 11 - Extra Compensation Prohibited; Claims Against the State**Current**

No bill shall be passed giving any extra compensation to any public officer, servant, employe, agent or contractor, after services shall have been rendered or contract

Recommended

No Change.

made, nor providing for the payment of any claim against the Commonwealth without previous authority of law: Provided, however, that nothing in this Constitution shall be construed to prohibit the General Assembly from authorizing the increase of retirement allowances or pensions of members of a retirement or pension system now in effect or hereafter legally constituted by the Commonwealth, its political subdivisions, agencies or instrumentalities, after the termination of the services of said member.

Section 12 - Purchasing

Current

All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

Recommended

All purchases made by the government of this Commonwealth shall so far as practicable be made under a system of competitive bidding. No member or officer of any department of the government shall be in any way interested in Commonwealth purchase contracts and all such contracts shall be subject to the approval of the Auditor General.

Section 13 - Extension of Terms and Increase or Diminishment of Compensation Prohibited

Current

No law shall extend the term of any public officer, or increase, or diminish his salary or emoluments, after his election or appointment.

Recommended

No Change.

Section 14 - Revenue Bills**Current**

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

Recommended

No Change.

Section 15 - Appropriation Bills**Current**

The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the Commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

Recommended

The general appropriation bill shall embrace nothing but appropriations for the executive, legislative and judicial departments of the Commonwealth, for public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

Section 16 - Public Moneys; Cash Refunds**Current**

No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

Recommended

No money shall be paid out of the treasury except on appropriations made by law, and on warrant issued by the proper officer; but cash refunds of taxes, licenses, fees and other charges paid or collected but not legally due may be paid as provided by law, without appropriation, from the fund into which they were paid, on warrant of the proper officer.

Section 17 - Appropriations to Charitable and Educational Institutions**Current**

No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

Recommended

Repeal.

Section 18 - Appropriations; How Limited**Current**

No appropriation shall be made for charitable, educational or benevolent purposes to any person or community nor to any denominational or sectarian institution, corporation or association: Provided, That appropriations may be made for pensions or gratuities for military services, and to blind persons twenty-one years of age and upwards, and for assistance to mothers having dependent children, and to aged persons without adequate means of support.

Recommended

No Change.

Section 19 - Appropriations to Institutions for Soldiers' Widows and Orphans**Current**

The General Assembly may make appropriations of money to institutions wherein the widows of soldiers are supported or assisted, or the orphans of soldiers are maintained and educated; but such appropriations shall be applied exclusively to the support of such widows and orphans.

Recommended

No Change.

Section 20 - Delegation of Powers**Current**

The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

Recommended

Repeal.

Section 21 - Employer's Liability; Workmen's Compensation; Damages for Injury to Person or Property

Current

The General Assembly may enact laws requiring the payment by employers, or employers and employes jointly, of reasonable compensation for injuries to employes, arising in the course of their employment, and for occupational diseases of employes, whether or not such injuries or diseases result in death, and regardless of fault of employer or employe, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.

Recommended

No Change.

Section 22 - Investment of Trust Funds

Current

The General Assembly may, from time to time, by law prescribe the nature and kind of investments for trust funds to be made by executors, administrators, trustees, guardians and other fiduciaries.

Recommended

Repeal.

Section 23 - Change of Venue**Current**

The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law.

Recommended

No Change.

Section 24 - Corporate Obligations Owned by the Commonwealth**Current**

No obligation or liability of any railroad or other corporation, held or owned by the Commonwealth, shall ever be exchanged, transferred, remitted, postponed or in any way diminished by the General Assembly, nor shall such liability or obligation be released, except by payment thereof into the State treasury.

Recommended

Repeal.

Section 25 - Legislation During Special Sessions**Current**

When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session.

Recommended

Repeal.

Section 26 - Action on Concurrent Orders and Resolutions**Current**

Every order, resolution or vote to which the concurrence of both Houses may be necessary, except on the question of adjournment, shall be presented to the Governor and before it shall take effect be approved by him, or being disapproved, shall be re-passed by two-thirds of both Houses according to the rules and limitations prescribed in case of a bill.

Recommended

No Change.

Section 27 - Inspectors of Merchandise**Current**

No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity, but any county or municipality may appoint such officers when authorized by law.

Recommended

Repeal.

Section 28 - Changing Location of State Capital**Current**

No law changing the location of the Capital of the State shall be valid until the same shall have been submitted to the qualified electors of the Commonwealth at a general election and ratified and approved by them.

Recommended

No law permanently changing the location of the Capital of the State shall be valid until the same shall have been submitted to the qualified electors of the Commonwealth at a general election and ratified and approved by them.

Section 29 - Punishment of Members of the General Assembly When Guilty of Bribery**Current**

A member of the General Assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing, to another, shall be held guilty of bribery within the

Recommended

Repeal.

meaning of this Constitution, and shall incur the disabilities provided thereby for said offence, and such additional punishment as is or shall be provided by law.

Section 30 - Bribery of State Officers Defined

Current

Any person who shall, directly or indirectly, offer, give or promise, any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer, or member of the General Assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.

Recommended

Repeal.

Section 31 - Corrupt Solicitation of Officials to be Defined by Law; Punishment

Current

The offence of corrupt solicitation of members of the General Assembly or of public officers of the State or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action shall be defined by law and shall be punished by fine and imprisonment.

Recommended

Repeal.

Section 32 - Bribery or Corrupt Solicitation; Testimony Against Persons Accused of; Disqualification on Conviction

Current

Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offence of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial

Recommended

Repeal.

proceeding, except for perjury in giving such testimony, and any person convicted of either of the offences aforesaid shall, as part of the punishment therefor, be disqualified from holding any office or position of honor, trust or profit in this Commonwealth.

Section 33 - Member Interested Not to Vote

Current

A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon.

Recommended

No Change.

Section 34 - Classification of Municipalities

Current

The Legislature shall have power to classify counties, cities, boroughs, school districts, and townships according to population, and all laws passed relating to each class, and all laws passed relating to, and regulating procedure and proceedings in court with reference to, any class, shall be deemed general legislation within the meaning of this Constitution; but counties shall not be divided into more than eight classes, cities into not more than seven classes, school districts into not more than five classes, and boroughs into not more than three classes.

Recommended

No Change.

Section 35 - Land Title Registration

Current

Laws may be passed providing for a system of registering, transferring, insuring of and guaranteeing land titles by the State, or by the counties thereof, and for settling and determining adverse or other claims to and interest in lands the titles to which are so registered,

Recommended

No Change.

transferred, insured and guaranteed; and for the creation and collection of indemnity funds; and for carrying the system and powers hereby provided for into effect by such existing courts as may be designated by the Legislature, and by the establishment of such new courts as may be deemed necessary. In matters arising in and under the operation of such system, judicial powers, with right of appeal, may be conferred by the Legislature upon county recorders and upon other officers by it designated. Such laws may provide for continuing the registering, transferring, insuring and guaranteeing, such titles after the first or original registration has been perfected by the court, and provision may be made for raising the necessary funds for expenses and salaries of officers which shall be paid out of the treasury of the several counties.

NOTE: This provision was added by amendment in 1915. No Article or Section number was provided. Since the substance is to give to the General Assembly certain powers, similar to the other sections found in Article III—Legislation, the Commission suggests that this provision be placed in that Article and be assigned the next section number. To effect this transfer, it is necessary that the General Assembly adopt the change by statute. The bill to accomplish this appears in the Appendix.

ARTICLE IV - THE EXECUTIVE

Section 1 - Executive Department

Current

The executive department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, Secretary of Internal Affairs and a Superintendent of Public Instruction.

Recommended

The Executive Department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Attorney General, Auditor General and State Treasurer and such other officers as the General Assembly may from time to time prescribe.

Section 2 - Governor; Election; Returns; Contested Elections**Current**

The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed; he shall be chosen on the day of the general election, by the qualified electors of the Commonwealth, at the places where they shall vote for Representatives. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the President of the Senate, who shall open and publish them in the presence of the members of both Houses of the General Assembly. The person having the highest number of votes shall be Governor, but if two or more be equal and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both Houses. Contested elections shall be determined by a Committee, to be selected from both Houses of the General Assembly, and formed and regulated in such manner as shall be directed by law.

Recommended

No Change.

Section 3 - Term of Office of Governor**Current**

The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.

Recommended

The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election. Except for the Governor who may be in office when this amendment is adopted, he shall be eligible to succeed himself for one additional term.

Section 4 - Lieutenant Governor**Current**

A Lieutenant Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor; he shall be president of the Senate, but shall have no vote unless they be equally divided.

Recommended

A Lieutenant Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor. He shall be president of the Senate. As such, he may vote in case of a tie on any question except the final passage of a bill or joint resolution, the adoption of a conference report, or the concurrence in amendments made by the House of Representatives.

Section 5 - Qualifications of Governor and Lieutenant Governor**Current**

No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the State, unless he shall have been absent on the public business of the United States or of this State.

Recommended

No Change.

Section 6 - Disqualifications for Offices of Governor and Lieutenant Governor**Current**

No member of Congress or person holding any office under the United States or this State shall exercise the office of Governor or Lieutenant Governor.

Recommended

No Change.

Section 7 - Military Power**Current**

The Governor shall be commander-in-chief of the army and navy of the Commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

Recommended

The Governor shall be commander-in-chief of the military forces of the Commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

Section 8 - Appointing Power**Current**

He shall nominate and by and with the advice and consent of two-thirds of all the members of the Senate, appoint a Secretary of the Commonwealth and an Attorney General during pleasure, a Superintendent of Public Instruction for four years, and such other officers of the Commonwealth as he is or may be authorized by the Constitution or by law to appoint; he shall have power to fill all vacancies that may happen in offices to which he may appoint, during the recess of the Senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the Senate, in the office of Auditor General, State Treasurer, Secretary of Internal Affairs or Superintendent of Public Instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the Senate, the Governor shall nominate to the Senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this Constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive nominations the Senate shall sit with open doors, and, in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays and shall be entered on the journal.

Recommended

(a) *The Governor shall, with the consent of a majority of the members elected to the Senate, appoint an Attorney General and other officers authorized by the General Assembly.*

(b) *He may, during the recess of the Senate, fill vacancies happening in offices to which he appoints by granting commissions expiring at the end of its session. He may, during the recess of the Senate, fill vacancies happening in the office of Auditor General or State Treasurer, in a judicial office or in any other elective office he is authorized to fill. If the vacancy happens during the session of the Senate, he shall nominate to the Senate, before its final adjournment, a proper person to fill the vacancy. In the case of a vacancy in an elective office, except in a judicial office, a person shall be elected to the office on the next election day appropriate to the office, unless the vacancy happens within two calendar months immediately preceding the election day, in which case the election shall be held on the second succeeding election day appropriate to the office.*

(c) *In acting on executive nominations, the Senate shall sit with open doors. The vote shall be taken by yeas and nays, and shall be entered on the journal.*

Section 9 - Pardoning Power; Board of Pardons

Current

He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth.

Recommended

(a) In all criminal cases except impeachment, the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be recorded and filed with the Board in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor, who shall be Chairman, the Attorney General, the chairman of the agency created by the General Assembly to administer paroles, and two members appointed by the Governor with the consent of a majority of the members elected to the Senate, one for three years and one for six years, and thereafter for full terms of six years. The Board shall keep records of its actions, which shall at all time be open for public inspection.

Section 10 - Information From Department Officials

Current

He may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.

Recommended

No Change.

Section 11 - Messages to Legislature

Current

He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he may judge expedient.

Recommended

No Change.

Section 12 - Special Sessions of Legislature; Adjournments**Current**

He may, on extraordinary occasions, convene the General Assembly, and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months. He shall have power to convene the Senate in extraordinary session by proclamation for the transaction of executive business.

Recommended

No Change.

Section 13 - When Lieutenant Governor to Act as Governor**Current**

In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the powers, duties and emoluments of the office, for the remainder of the term, or until the disability be removed shall devolve upon the Lieutenant Governor.

Recommended

No Change.

Section 14 - Vacancy in Office of Lieutenant Governor**Current**

In case of a vacancy in the office of Lieutenant Governor, or when the Lieutenant Governor shall be impeached by the House of Representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder of the term, or until the disability be removed shall devolve upon the President pro tempore of the Senate; and the President pro tempore of the Senate shall in like manner become Governor if a vacancy or disability shall occur in the office of Governor; his seat as Senator shall become vacant whenever he shall become Governor, and shall be filled by election as any other vacancy in the Senate.

Recommended

No Change.

Section 15 - Approval of Bills; Veto**Current**

Every bill which shall have passed both Houses shall be presented to the Governor; if he approve he shall sign it, but if he shall not approve he shall return it with his objections to the House in which it shall have originated, which House shall enter the objections at large upon their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of all the members elected to that House shall agree to pass the bill, it shall be sent with the objections to the other House by which likewise it shall be reconsidered, and if approved by two-thirds of all the members elected to that House it shall be a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each House, respectively. If any bill shall not be returned by the Governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless he shall file the same, with his objections, in the office of the Secretary of the Commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment.

Recommended

No Change.

Section 16 - Item Veto**Current**

The Governor shall have power to disapprove of any item or items of any bill, making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless re-passed according to the rules and limitations prescribed for the pass-

Recommended

No Change.

age of other bills over the executive veto.

Section 17 - Contested Election of Governor or Lieutenant Governor

Current

The Chief Justice of the Supreme Court shall preside upon the trial of any contested election of Governor or Lieutenant Governor and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial. The Governor and Lieutenant Governor shall exercise the duties of their respective offices until their successors shall be duly qualified.

Recommended

No Change.

Section 18 - Duties of Secretary of the Commonwealth

Current

The Secretary of the Commonwealth shall keep a record of all official acts and proceedings of the Governor, and when required lay the same with all papers, minutes and vouchers relating thereto, before either branch of the General Assembly, and perform such other duties as may be enjoined upon him by law.

Recommended

Repeal.

Section 19 - Duties of Secretary of Internal Affairs

Current

The Secretary of Internal Affairs shall exercise all the powers and perform all the duties of the Surveyor General, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the State as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the General Assembly.

Recommended

Repeal.

Section 20 - Duties of Superintendent of Public Instruction**Current**

The Superintendent of Public Instruction shall exercise all the powers and perform all the duties of the Superintendent of Common Schools, subject to such changes as shall be made by law.

Recommended

Repeal.

Section 21 - Terms of Office of Auditor General and State Treasurer**Current**

The terms of the Secretary of Internal Affairs, the Auditor General, and the State Treasurer shall each be four years; and they shall be chosen by the qualified electors of the State at general elections; but a State Treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successor shall be elected at the general election in the year one thousand nine hundred and twelve, and in every fourth year thereafter. No person elected to the office of Auditor General or State Treasurer shall be capable of holding the same office for two consecutive terms.

Recommended

The terms of the Auditor General and the State Treasurer shall each be four years from the third Tuesday of January next following his election. They shall be chosen by the qualified electors of this Commonwealth at general elections. Except for the Auditor General and State Treasurer who may be in office when this amendment is adopted, they shall be eligible to succeed themselves for one additional term.

Section 22 - State Seal; Commissions**Current**

The present Great Seal of Pennsylvania shall be the seal of the State. All commissions shall be in the name and by authority of the Commonwealth of Pennsylvania, and be sealed with the State seal and signed by the Governor.

Recommended

No Change.

Section 23 (New) - Public Archives**Current**

None.

Recommended

There shall be one central record office in which all public records of this Commonwealth shall be kept. The General Assembly shall provide for its establishment and operation.

ARTICLE V - THE JUDICIARY**Section 1 - Judicial Power****Current**

The judicial power of this Commonwealth shall be vested in a Supreme Court, in courts of Common Pleas, courts of Oyer and Terminer and General Jail Delivery, courts of Quarter Sessions of the Peace, Orphans' Courts, Magistrates' Courts, and in such other courts as the General Assembly may from time to time establish.

Recommended

The judicial power of this Commonwealth shall be vested in a Supreme Court, a Superior Court, in Courts of Common Pleas, Criminal Courts, Orphans' Courts, Magistrates' Courts, and in such other courts as the General Assembly may from time to time establish.

Section 2 - Supreme Court**Current**

The Supreme Court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice.

Recommended

The Supreme Court shall consist of seven justices learned in the law, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The justice longest in continuous service shall be chief justice, and thereafter each justice longest in continuous service shall in turn be chief justice.

Section 2A (New) - Superior Court**Current**

None.

Recommended

The Superior Court shall consist of seven judges learned in the law, who shall be elected by the qualified electors of the State at large. Those hereafter elected shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge longest in continuous service shall be president judge, and thereafter each judge longest in continuous service shall in turn be president judge.

Section 3 - Powers of Supreme Court**Current**

The jurisdiction of the Supreme Court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of Oyer and Terminer and General Jail Delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to all officers of the Commonwealth whose jurisdiction extends over the State, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, certiorari or writ of error in all cases, as is now or may hereafter be provided by law.

Recommended

The jurisdiction of the Supreme Court shall extend over the State. It shall have original jurisdiction in cases of habeas corpus, of mandamus and prohibition to courts of inferior jurisdiction, and of quo warranto as to all officers of the Commonwealth whose jurisdiction extends over the State, but it shall not exercise any other original jurisdiction. It shall have appellate jurisdiction by appeal or certiorari in all cases, as is now or may hereafter be provided by law. It shall make rules governing the administration of all courts of record of original jurisdiction in the State. It shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted.

Section 3A (New) - Powers of Superior Court**Current**

None.

Recommended

Until otherwise provided by law, the jurisdiction and powers of the Superior Court, and appeals from it to the Supreme Court, shall be as at present established.

Section 4 - Common Pleas Courts and Orphans' Courts**Current**

Until otherwise directed by law, the courts of Common Pleas shall continue as at present established, except as herein changed; not more than four counties shall, at any time, be included in one judicial district organized for said courts.

Recommended

Until otherwise provided by law, the courts of Common Pleas and Orphans' Courts shall continue as at present established. Not more than three counties shall, at any time, be included in one judicial district.

Section 4A (New) - Powers of the Common Pleas Courts and Orphans' Courts**Current**

None.

Recommended

Until otherwise provided by law, the jurisdiction and the powers of the Courts of Common Pleas and Orphans' Courts shall be as at present established.

Judges of the Courts of Common Pleas shall be judges of the Criminal Courts, and of the Orphans' Courts except in judicial districts now having separate Orphans' Courts or where by law separate Orphans' Courts are hereafter created. Judges of the Courts of Common Pleas may perform the duties of judges of separate Orphans' Courts when thereunto requested by the presiding judge thereof; and judges of the Orphans' Courts may perform the duties of judges of the Courts of Common Pleas or of the Criminal Courts when thereunto requested by the presiding judge thereof.

Except as herein otherwise provided, the judge longest in continuous service in the Court of Common Pleas and the judge longest in continuous service in the Orphans' Court shall be president judge of such courts respectively.

Within their respective districts judges of the Courts of Common Pleas shall be Justices of the Peace as to criminal matters.

The jurisdiction and powers now vested by law in the Courts of Oyer and Terminer and Quarter Sessions of the Peace and General Jail Delivery in each county shall be vested in a Criminal Court of the county.

Section 5 - Judicial Districts

Current

Whenever a county shall contain forty thousand inhabitants it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the General Assembly shall provide for additional judges, as the business of the said districts may require. Counties containing a population less than is sufficient to constitute separate districts shall be formed into conveni-

Recommended

Whenever a county contains forty thousand inhabitants it shall constitute a separate judicial district, and shall elect one judge learned in the law. The General Assembly shall provide for additional judges, learned in the law, as the business of the district may require. Counties containing less than forty thousand inhabitants shall be formed into convenient

ent single districts, or, if necessary, may be attached to contiguous districts as the General Assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this Constitution shall be adopted shall serve for their unexpired terms.

single districts, or, if necessary, may be attached to contiguous districts as the General Assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming separate districts.

Section 6 - Philadelphia and Allegheny Courts of Common Pleas

Current

In the county of Philadelphia all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this Constitution or by law, shall be in Philadelphia vested in five distinct and separate courts of equal and coordinate jurisdiction, composed of three judges each. The said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three, number four, and number five, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers. The number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased, from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of the said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit

Recommended

(a) In the county of Philadelphia the jurisdiction and powers now vested in the several numbered Courts of Common Pleas of that county shall be vested in one Court of Common Pleas, composed of all the judges in commission in the courts, subject to changes made by law in the number of judges. Its jurisdiction and powers shall extend to all proceedings at law and in equity instituted in the several numbered courts, and shall be subject to such change as may be made by law. The president judge of the court shall be selected as may be provided by law.

(b) In the county of Allegheny there shall be one Court of Common Pleas, subject to changes made by law in jurisdiction, powers and number of judges.

shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law.

In the county of Allegheny all the jurisdiction and powers now vested in the several numbered courts of common pleas shall be vested in one court of common pleas, composed of all the judges in commission in said courts. Such jurisdiction and powers shall extend to all proceedings at law and in equity which shall have been instituted in the several numbered courts, and shall be subject to such changes as may be made by law, and subject to change of venue as provided by law. The president judge of said court shall be selected as provided by law. The number of judges in said court may be by law increased from time to time. This amendment shall take effect on the first day of January succeeding its adoption.

Section 7 - Prothonotary of Philadelphia

Current

For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said court; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the Commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket which shall contain the judgments and liens of all the said courts, as is or may be directed by law.

Recommended

Repeal.

Section 8 - Criminal Courts in Philadelphia and Allegheny Counties**Current**

The said courts in the counties of Philadelphia and Allegheny, respectively, shall, from time to time, in turn detail one or more of their judges to hold the courts of Oyer and Terminer and the courts of Quarter Sessions of the Peace of said counties, in such manner as may be directed by law.

Recommended

Repeal.

Section 9 - Duties of Common Pleas Judges**Current**

Judges of the courts of Common Pleas learned in the law shall be judges of the courts of Oyer and Terminer, Quarter Sessions of the Peace and General Jail Delivery, and of the Orphans' Court, and within their respective districts shall be Justices of the Peace as to criminal matters.

Recommended

Repeal.

Section 10 - Certiorari to Courts not of Record**Current**

The judges of the courts of Common Pleas, within their respective counties, shall have power to issue writs of certiorari to justices of the peace and other inferior courts not of record, and to cause their proceedings to be brought before them, and right and justice to be done.

Recommended

No Change.

Section 11 - Justices of the Peace and Aldermen

Current

Except as otherwise provided in this Constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the Governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.

Recommended

(a) Except in Philadelphia, each county shall be divided by the Court of Common Pleas into as many justice of the peace or aldermen districts as it deems necessary and proper. The districts shall be as nearly equal in population as practicable according to the last preceding United States census. After each census the Court may create new districts based on the same unit of population, and may change the boundaries of districts. In each district there shall be one justice of the peace or alderman, who shall be chosen by the electors of the district at a municipal election. He shall have been a resident of his district for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of justice of the peace or alderman shall be filled by the Governor.

(b) For services rendered in judicial proceedings a justice of the peace or alderman shall receive a salary prescribed by the governing body of the county and paid by the county, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the county treasury for the use of the county, unless otherwise provided by law.

(c) Until otherwise provided by law, justices of the peace or aldermen in any county shall have the jurisdiction and powers of the justices of the peace or aldermen in civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices by justices of the peace or aldermen, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of the county.

Section 12 - Magistrates Courts in Philadelphia**Current**

In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be six years, and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries, to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of alderman is abolished.

Recommended

(a) In Philadelphia there shall be established courts, not of record, one for each one hundred thousand inhabitants. The courts shall be held by magistrates, who shall be chosen by the qualified electors at a municipal election at which no voter shall vote for more than two-thirds of the number of persons to be chosen. Population shall be determined by the last preceding United States census. A magistrate shall have been a resident of the city for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of magistrate shall be filled by the Governor.

(b) For services rendered in judicial proceedings a magistrate shall receive a salary prescribed by the City Council and paid by the city, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the city treasury for the use of the city, unless otherwise provided by law.

(c) Until otherwise provided by law, magistrates shall have the jurisdiction and powers of the magistrates in civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of Philadelphia.

Section 13 - Fees, Fines and Penalties**Current**

All fees, fines and penalties in said courts shall be paid into the county treasury.

Recommended

Repeal.

Section 14 - Appeal from Summary Conviction**Current**

In all cases of summary conviction in this Commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.

Recommended

No Change.

Section 15 - Election of Judges**Current**

All judges required to be learned in the law, except the judges of the Supreme Court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them on the address of two-thirds of each House of the General Assembly.

Recommended

All judges required to be learned in the law, except the justices of the Supreme Court and the judges of the Superior Court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well. The Governor may remove any of them on the address of two-thirds of the members elected to each House of the General Assembly.

Section 16 - Voting for Judges of the Supreme Court**Current**

Whenever two judges of the Supreme Court are to be chosen for the same term of service each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected.

Recommended

Repeal.

Section 17 - Priority of Judges**Current**

Should any two or more judges of the Supreme Court, or any two or more judges of the court of Common Pleas for the same district, be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of

Recommended

If any two or more justices of the Supreme Court, or any two or more judges of the Superior Court, or any two or more judges of the Court of Common Pleas or of the Orphans' Court for the same district, assume office on the same day,

commission, and certify the result to the Governor who shall issue their commissions in accordance therewith.

they shall, as soon after their election or appointment as convenient, cast lots of priority of commission, and certify the result to the Governor who shall issue commissions in accordance therewith.

Section 18 - Compensation of Judges

Current

The judges of the Supreme Court and the judges of the several courts of Common Pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the State. They shall receive no other compensation, fees or perquisites of office for their services, from any source, nor hold any other office of profit under the United States, this State or any other State.

Recommended

The justices of the Supreme Court, the judges of the Superior Court, the judges of the several courts of Common Pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law and paid by the Commonwealth. They shall receive no other compensation, fees or perquisites of office for their services, from any source, nor hold any other office of profit under the United States, this Commonwealth or any other State.

Section 19 - Residence of Judges

Current

The judges of the Supreme Court, during their continuance in office, shall reside within this Commonwealth; and the other judges during their continuance in office, shall reside within the districts for which they shall be respectively elected.

Recommended

The justices of the Supreme Court and the judges of the Superior Court, during their continuance in office, shall reside within this Commonwealth. The other judges during their continuance in office, shall reside within the district for which they were elected.

Section 20 - Chancery Powers

Current

The several courts of Common Pleas, besides the powers herein conferred, shall have and exercise within their respective districts, subject to such changes as may be made by law, such chancery powers as are now vested by law in the several courts of Common Pleas of this Commonwealth, or as may hereafter be conferred upon them by law.

Recommended

Repeal.

Section 21 - Duties of Judges**Current**

No duties shall be imposed by law upon the Supreme Court or any of the judges thereof except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided. The court of Nisi Prius is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the Supreme Court shall be established.

Recommended

No duties shall be imposed by law upon the Supreme Court or the Superior Court or any of the justices or judges thereof except such as are judicial. None of the justices or judges thereof shall exercise any power of appointment except as herein provided.

Section 22 - Orphans' Courts**Current**

In every county wherein the population shall exceed one hundred and fifty thousand the General Assembly shall, and in any other county may, establish a separate Orphans' Court to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the Orphans' Courts, and thereupon the jurisdiction of the judges of the court of Common Pleas within such county, in Orphans' Court proceedings, shall cease and determine. In any county in which a separate Orphans' Court shall be established, the register of wills shall be clerk of such court and subject to its directions in all matters pertaining to his office; he may appoint assistant clerks but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate Orphans' Court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint. In every county Orphans' Courts shall possess all the powers and jurisdiction of a Register's court, and separate Register's courts are hereby abolished.

Recommended

In every county where the population exceeds one hundred and fifty thousand the General Assembly shall, and in any other county may, establish a separate Orphans' Court to consist of one or more judges who shall be learned in the law. The court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the Orphans' Courts. Thereupon the jurisdiction of the judges of the Court of Common Pleas within the county in Orphans' Court proceedings shall cease. In any county in which a separate Orphans' Court is established, the register of wills shall be clerk of the court and subject to its directions in all matters pertaining to his office. He may appoint assistant clerks but only with the approval of the court. All accounts filed with him as register or as clerk of the separate Orphans' Court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding nominate an auditor whom the court may, in its discretion, appoint.

Section 23 - Style of Process; Indictments

Current

The style of all process shall be "The Commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the Commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."

Recommended

No Change.

Section 24 - Right of Appeal

Current

In all cases of felonious homicide, and in such other criminal cases as may be provided for by law the accused after conviction and sentence may remove the indictment, record and all proceedings, to the Supreme Court for review.

Recommended

In all cases of felonious homicide, the accused, after conviction and sentence, may remove the indictment, record and all proceedings to the Supreme Court for review, and in other criminal cases to the Supreme or Superior Court as provided by law.

Section 25 - Selection of Judges

Current

Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.

Recommended

(a) Whenever a vacancy occurs by death, resignation, removal from office or expiration of a term of office in the office of justice of the Supreme Court, judge of the Superior Court, or judge of a court of record of Philadelphia or Allegheny Counties, the Governor shall fill the vacancy by appointment from a panel of three persons learned in the law and legally qualified for the office, nominated to him by a judicial commission established and organized as hereinafter provided. If none of the persons so nominated to the Governor is acceptable to him, the judicial commission shall nominate successive panels of three persons until an appointment from a panel is made by the Governor.

(b) At any municipal or general election the qualified voters of any other judicial district may, by a majority vote of those voting on the question, elect to have the judges

of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. The General Assembly shall enact the laws necessary to provide for such elections.

Where the qualified voters of any other judicial district have elected to fill vacancies in the office of judge of a court of record in the manner provided for Philadelphia and Allegheny Counties, the qualified electors of the district may thereafter, at a municipal or general election, by a majority vote of those voting on the question, elect to discontinue that method of filling a vacancy in the judicial office. The General Assembly shall enact the laws necessary to provide for such election.

(c) There shall be a judicial commission for the appellate courts, a judicial commission each for the courts of record of Philadelphia and Allegheny Counties, and a judicial commission for the courts of each judicial district which has elected to have the judges of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. Each commission shall be composed of one judge, three members of the bar selected by the members of the bar and three lay citizens. The judge and the members of the bar of each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens of each judicial commission shall be appointed by the Governor. All the members of the judicial commission for the appellate courts shall be chosen from the State at large and all the members of a judicial commission for the courts of record of a judicial district shall be chosen from that district, except the judge, who may be chosen from another district. During the terms of office for which members of judi-

cial commissions have been chosen, they shall not hold any office in a political party or organization, nor, except the members who are judges, hold any elective public office. They shall not receive any salary or other compensation for their services but shall receive their necessary expenses incurred while actually engaged in the discharge of their official duties. They shall hold office for the term of three years following the organization of the judicial commission of which they are members and shall be eligible for reappointment or reelection. They shall act only by the concurrence of a majority of the members of the judicial commission.

(d) Each justice or judge appointed by the Governor shall hold office for a term ending the first Monday of January following the next election appropriate for his election after the expiration of twelve months following his appointment. Not less than ninety days before the expiration of the term of office of a justice or a judge appointed by the Governor, or not less than ninety days before the expiration of the term of office of an elected judge entitled to succeed himself, the justice or judge may file in the office of the official charged with the duty of administering statewide elections a declaration of candidacy for election to succeed himself. If he does not file a declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on a separate judicial ballot without party designation at the election immediately preceding the expiration of his term of office to determine only the question whether the justice or judge shall be retained in office. The election shall

be regulated by law. If a majority vote against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor as herein provided. If a majority vote to retain a justice or judge, he shall be deemed elected for the full term of office provided for by the Constitution or laws of this Commonwealth, unless sooner removed in the manner provided by the Constitution. At the expiration of each term, any judge entitled to succeed himself shall be eligible for retention in office by election in the manner herein provided.

(e) Any vacancy happening in any court of record in a judicial district not electing to have the judges of the courts of record appointed in the manner provided for Philadelphia and Allegheny Counties shall be filled by appointment by the Governor, to continue until the first Monday of January next succeeding the first municipal election which shall occur three or more months after the happening of the vacancy.

(f) No justice or judge of any court of record shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor, while retaining judicial office, become a candidate at either a primary or general election for any other than a judicial office.

Section 26 - Laws Relating to Courts

Current

All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgments of such courts, shall be uniform; and the General Assembly is hereby prohibited from creating other courts to exercise the powers vested by this Constitution in the judges of the courts of Common Pleas and Orphans' Courts.

Recommended

All laws relating to courts shall be general and of uniform operation. The organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgment of such courts, shall be uniform.

Section 27 - Dispensing with Jury Trial**Current**

The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

Recommended

The parties, by agreement filed, in any civil case, or the accused in any non-capital case, may dispense with trial by jury and submit the decision of the case to the court having jurisdiction thereof. The court shall hear and determine the case, and the judgment thereon shall be subject to appeal as in other cases.

ARTICLE VI - IMPEACHMENT AND REMOVAL FROM OFFICE**Section 1 - Power of Impeachment****Current**

The House of Representatives shall have the sole power of impeachment.

Recommended

No Change.

Section 2 - Trial of Impeachments**Current**

All impeachment shall be tried by the Senate; when sitting for that purpose the Senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

Recommended

No Change.

Section 3 - Officers Liable to Impeachment**Current**

The Governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this Commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Recommended

No Change.

Section 4 - Removal of Public Officers**Current**

All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record, and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people except Governor, Lieutenant-Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.

Recommended

All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the members elected to the Senate.

ARTICLE VII - OATH OF OFFICE**Section 1 - Official Oath****Current**

Senators and Representatives and all judicial, state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others

Recommended

Senators and Representatives and all judicial, state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths:

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office with fidelity."

The oath to the members of the Senate and House of Representatives shall be administered in the Hall of the House to which the members shall be elected.

in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers and judges of the Supreme Court, shall be filed in the office of the Secretary of the Commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this Commonwealth. The oath to the members of the Senate and House of Representatives shall be administered by one of the judges of the Supreme Court or of a court of Common Pleas learned in the law, in the hall of the House to which the members shall be elected.

ARTICLE VIII - SUFFRAGE AND ELECTIONS

Section 1 - Qualifications of Electors

Current

Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

Recommended

Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided in the State one year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least two months immediately preceding the election.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided in the State one year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least sixty days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within sixty days preceding the election.

Section 2 - General Election Day; Municipal Election Day

Current

The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year, but the General Assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto: Provided, That such election shall always be held in an even-numbered year.

Recommended

General elections shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year; and municipal elections shall be held biennially on the Tuesday next following the first Monday of November in each odd-numbered year. The General Assembly may by statute fix a different day for the holding of general or municipal elections; but general elections shall always be held in even-numbered years, and municipal elections shall always be held in odd-numbered years.

Section 3 - Election of Judges and Local Officers

Current

All judges elected by the electors of the State at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward,

Recommended

All judges elected by the electors of this Commonwealth at large may be elected at either a general or municipal election, as circumstances require. All judges of the courts for the several judicial districts, and all county, city, ward,

borough, and township officers, for regular terms of service, shall be held on the municipal election day; namely, the Tuesday next following the first Monday of November in each odd-numbered year, but the General Assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto: Provided, That such elections shall be held in an odd-numbered year: Provided further, That all judges for the courts of the several judicial districts holding office at the present time, whose terms of office may end in an odd-numbered year shall continue to hold their offices until the first Monday of January in the next succeeding even-numbered year.

borough, and township officers, shall be elected for regular terms of service at a municipal election.

Section 4 - Secrecy in Voting

Current

All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: Provided, That secrecy in voting be preserved.

Recommended

No Change.

Section 5 - Electors Privileged From Arrest

Current

Electors shall in all cases except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections and in going to and returning therefrom.

Recommended

No Change.

Section 6 - Voting When in Military Service

Current

Whenever any of the qualified electors of this Commonwealth shall be in actual military service, under a requisition from the President of the United States or by the authority of this Commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

Recommended

No Change.

Section 7 - Election and Registration Laws**Current**

All laws regulating the holding of elections by the citizens, or for the registration of electors, shall be uniform throughout the State, except that laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class, and except further, that the General Assembly shall, by general law, permit the use of voting machines, or other mechanical devices for registering or recording and computing the vote, at all elections or primaries, in any county, city, borough or township of the Commonwealth, at the option of the electors of such county, city, borough or township, without being obliged to require the use of such voting machines or mechanical devices in any other county, city, borough or township, under such regulations with reference thereto as the General Assembly may from time to time prescribe. The General Assembly may, from time to time, prescribe the number and duties of election officers in any political subdivision of the Commonwealth in which voting machines or other mechanical devices authorized by this section may be used.

Recommended

All laws regulating the holding of elections by the citizens, or for the registration of electors, shall be uniform throughout the State, except that laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class.

Section 8 - Bribery of Electors**Current**

Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give, or promise to give, such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another,

Recommended

No Change.

any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

Section 9 - Violation of Election Laws

Current

Any person who shall, while a candidate for office, be guilty of bribery, fraud or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this Commonwealth; and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.

Recommended

Repeal.

Section 10 - Witnesses in Contested Elections

Current

In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony.

Recommended

No Change.

Section 11 - Election Districts

Current

Townships and wards of cities or boroughs shall form or be divided into election districts of compact and contiguous territory, and their boundaries fixed and changed in such manner as may be provided by law.

Recommended

No Change.

Section 12 - Viva Voce Elections**Current**

All elections by persons in a representative capacity shall be viva voce.

Recommended

No Change.

Section 13 - Residence of Certain Electors**Current**

For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poor house or other asylum at public expense, nor while confined in public prison.

Recommended

No Change.

Section 14 - Election Officers**Current**

District election boards shall consist of a judge and two inspectors, who shall be chosen at municipal elections for such terms as may be provided by law. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.

Recommended

No Change.

Section 15 - Disqualifications for Election Officer**Current**

No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the government of the United States, or of this State, or of any city, or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the State; nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law.

Recommended

No Change.

Section 16 - Overseers of Elections**Current**

The courts of common pleas of the several counties of the Commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required; such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each case members of different political parties; whenever the members of an election board shall differ in opinion the

Recommended

No Change.

overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all the law judges of the proper court, able to act at the time, shall concur in the appointments made.

Section 17 - Contested Elections

Current

The trial and determination of contested elections of electors of President and Vice-President, members of the General Assembly, and of all public officers, whether State, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof; the General Assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.

Recommended

The trial and determination of contested elections of electors of President and Vice-President, members of the General Assembly, and of all public officers, except Governor and Lieutenant Governor, whether State, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof. The General Assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.

Section 18 - Absentee Voting by Disabled Veterans

Current

The General Assembly may, by general law, provide a manner in which, and the time and place at which, qualified war veteran voters may vote, who are unable to attend at their proper polling places because of being bed-ridden or otherwise physically incapacitated, and may provide for the return and canvass of their votes in the election district in which they respectively reside. Positive proof of being bed-ridden or otherwise physically incapacitated shall be given by affidavit or by certification of a physician, hospital or other authenticated source.

Recommended

No Change.

Section 19 - Absentee Voting**Current**

The Legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who may, on the occurrence of any election, be unavoidably absent from the State or county of their residence because their duties, occupation or business require them to be elsewhere or who, on the occurrence of any election, are unable to attend at their proper polling places because of illness or physical disability, may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

Recommended

No Change.

ARTICLE IX - TAXATION AND FINANCE**Section 1 - Taxes to be Uniform; Exemptions****Current**

All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity and real and personal property owned, occupied and used by any branch, post or camp of honorably discharged soldiers, sailors and marines; and the General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof.

Recommended

No Change.

Section 1B - Exemptions to Residents of Other States**Current**

Taxation laws may grant exemptions or rebates to residents, or estates of residents, of other States which grant similar exemptions or rebates to residents, or estates of residents, of Pennsylvania.

Recommended

No Change.

Section 2 - Exemption From Taxation Limited**Current**

All laws exempting property from taxation, other than the property above enumerated, shall be void.

Recommended

No Change.

Section 3 - Taxation of Corporations**Current**

The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

Recommended

No Change.

Section 4 - State Debt**Current**

No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue bonds to the amount of one hundred millions of dollars for the purpose of improving and rebuilding the highways of the Commonwealth.

Recommended

(a) No debt shall be created by or on behalf of this Commonwealth unless (1) the debt has been authorized by statute, (2) the debt is for capital improvements separately specified in the statute, (3) the debt has been submitted to the qualified electors of the Commonwealth at a general, municipal, primary or special election and has been approved by a majority vote of those voting on the question, and (4) the debt is evidenced by general obligation bonds of this Commonwealth. Except as herein provided, no debt or other obligation shall hereafter be created by or on behalf of this Commonwealth, or by any authority or other agency, the repayment of which will be made either directly or indirectly from Commonwealth

revenues, whether by direct payment or through leases or other contractual obligations. The foregoing provisions do not apply (1) to debts payable solely from the revenues from designated projects and not payable out of any other revenues of the Commonwealth, (2) to debts created in a manner provided by law, by the issuance and sale of tax anticipation notes payable in the fiscal period in which they are issued, from revenues already provided, (3) to loans authorized by section eighteen of this article, and (4) to leases and contractual obligations entered into in the course of the ordinary conduct of government and not for the purpose of financing capital improvements by making payments, through rentals or otherwise, to liquidate debts created by authorities or other agencies without the approval of the qualified electors. Nor do the foregoing provisions apply to debt created to repel invasion, suppress insurrection or defend the Commonwealth in war, or to rehabilitate areas affected by disaster. No debt to supply casual deficiencies of revenue shall be created exceeding one million dollars in the aggregate at any one time.

(b) All bonds issued shall be serial bonds repayable in equal annual installments over a period not to exceed thirty years. The first payment of principal shall be not more than two years after the date of the bond.

(c) The General Assembly may authorize by statute the issuance of general obligation bonds for the purpose of assuming any debt heretofore incurred by any authority and which is currently payable from Commonwealth revenues, under leases to this Commonwealth. The General Assembly may from time to time authorize by law the issuance of refunding bonds to pay any bonded debt of the Commonwealth existing at the time.

Section 5 - Limitation on State Loans**Current**

All laws, authorizing the borrowing of money by and on behalf of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other.

Recommended

No Change.

Section 6 - State Credit Not to be Pledged**Current**

The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the Commonwealth become a joint owner or stockholder in any company, association or corporation.

Recommended

No Change.

Section 7 - Municipalities Not to Become Stockholders in Corporations**Current**

The General Assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.

Recommended

No Change.

Section 8 - Municipal Debt**Current**

The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, nor shall any such county, municipality or district incur any debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property, without the consent of the electors

Recommended

(a) No debt shall be incurred or increased by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision to an amount exceeding in the aggregate at any one time two per cent of the market value of the taxable property in the political subdivision, without the affirmative vote of a majority of the qualified electors of the political subdivision voting thereon at a public election. Except as herein provided, no debt or other

thereof at a public election in such manner as shall be provided by law. The debt of the city of Philadelphia may be increased in such amount that the total debt of said city shall not exceed thirteen and one-half ($13\frac{1}{2}$) per centum of the average of the annual assessed valuations of the taxable realty therein, during the ten years immediately preceding the year in which such increase is made, but said city shall not increase its indebtedness to an amount exceeding three (3) per centum upon such average assessed valuation of realty, without the consent of the electors thereof at a public election held in such manner as shall be provided by law. No debt shall be incurred by or on behalf of the county of Philadelphia.

In ascertaining the debt-incurring capacity of the city of Philadelphia at any time, there shall be deducted from the debt of said city so much of such debt as shall have been incurred, or is about to be incurred, and the proceeds thereof expended, or about to be expended, upon any public improvement, or in construction, purchase, or condemnation of any public utility, or part thereof, or facility therefor, if such public improvement or public utility, or part thereof, or facility therefor, whether separately, or in connection with any other public improvement or public utility, or part thereof, or facility therefor, may reasonably be expected to yield revenue in excess of operating expenses sufficient to pay the interest and sinking fund charges thereon. The method of determining such amount, so to be deducted, shall be as now prescribed, or which may hereafter be prescribed by the General Assembly.

In incurring indebtedness for any purpose, the city of Philadelphia may issue its obligations maturing not later than fifty (50) years from

obligation shall hereafter be created by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision, the repayment of which will be made either directly or indirectly from general revenues of the political subdivision, whether by direct payment or through leases or other contractual obligations.

(b) **The General Assembly may impose additional restrictions and limitations, uniform on each type or class of political subdivision, on the amount of debt that may be created either with or without the consent of the electors, and may prescribe the manner in which any debt may be created. The General Assembly may provide for the apportionment among political subdivisions of borrowing power within general limitations.**

(c) **Obligations payable solely from the net operating revenues from designated projects are not debt within the meaning of this section.**

the date thereof, with provision for a sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works or utilities of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten of this article until the expiration of said period of one year after the completion of said work.

Section 9 - Municipal Debt Not to be Assumed by State

Current

The Commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war or to assist the State in the discharge of any portion of its present indebtedness.

Recommended

No Change.

Section 10 - Tax to Liquidate Municipal Debts

Current

Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.

Recommended

No Change.

Section 11 - State Sinking Fund

Current

To provide for the payment of the present State debt, and any additional debt contracted as aforesaid, the General Assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest on such debt and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the Commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt.

Recommended

(a) To provide for the payment of the present Commonwealth debt and any additional debt contracted, the General Assembly shall continue to maintain a sinking fund sufficient to pay the principal and interest of the debt. If at any time the General Assembly fails to make appropriation for this purpose, the State Treasurer, the provisions of article three, section sixteen notwithstanding, shall set apart from the first revenues thereafter received, applicable to the appropriate fund, a sum sufficient to pay the interest, installments of principal or contributions to the sinking fund, and shall so apply the moneys so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth bonds.

(b) No part of the sinking fund shall be used or applied otherwise than in the extinguishment of the public debt until all bonded debt of the Commonwealth has been completely repaid. Any money remaining in the sinking fund at such time shall be transferred to the appropriate fund and may be appropriated by the General Assembly.

Section 12 - Surplus Funds

Current

The moneys of the State, over and above the necessary reserve, shall be used in the payment of the debt of the State, either directly or through the sinking fund, and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the bonds of the United States or of this State.

Recommended

No Change.

Section 13 - Reserve Funds

Current

The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

Recommended

Repeal.

Section 14 - Punishment For Misuse of State Moneys

Current

The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the General Assembly, shall be a misdemeanor and shall be punished as may be provided by law, but part of such punishment shall be disqualification to hold office for a period of not less than five years.

Recommended

No Change.

Section 15 - Municipal Indebtedness for Certain Public Works

Current

No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of waterworks, subways, underground railways or street railways, or the appurtenances thereof, shall be considered

Recommended

Repeal.

as a debt of a municipality, within the meaning of section eight of article nine of the Constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or, where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided, said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the Constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year. Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law.

Section 16 - Soldiers Bonus

Current

In addition to the purposes stated in article nine, section four of this Constitution, the State may be authorized by law to create debt and

Recommended

Repeal.

to issue bonds to the amount of fifty millions of dollars for the payment of compensation to certain persons from this State who served in the Army, Navy, or Marine Corps of the United States during the war between the United States and Spain, between the twenty-first day of April, one thousand eight hundred and ninety-eight, and the thirteenth day of August, one thousand eight hundred and ninety-eight, or who served in the China Relief Expedition in the Philippines or Guam, between the twenty-first day of April, one thousand eight hundred and ninety-eight, and the fourth day of July, one thousand nine hundred and two, or who served in the Army, Navy, or Marine Corps of the United States during the World War, between the sixth day of April, one thousand nine hundred and seventeen and the eleventh day of November, one thousand nine hundred and eighteen.

Section 16 - Toll Bridges

Current

In addition to the purposes stated in article nine, section four, of this Constitution, the General Assembly may provide, by law, for the issue of bonds to the amount of ten millions of dollars for the purpose of acquiring toll bridges, and may, by law, provide that, upon the acquisition of any such bridge, tolls may be charged for the use thereof, sufficient to pay the interest and sinking fund charges on such bonds and the cost of the maintenance of such bridges, until the bonds issued have been retired and such bridges are freed of tolls.

Recommended

Repeal.

Section 17 - Authorization of State to Borrow Money**Current**

The Governor, the Auditor General, and the State Treasurer, immediately upon the adoption of this amendment by the electors may borrow an amount not exceeding twenty-five million dollars, to defray the expenses of the State government for the biennium beginning June first, one thousand nine hundred thirty-three; provided the General Assembly, at its regular session of one thousand nine hundred thirty-three, has authorized the borrowing of money for this purpose.

Recommended

Repeal.

Section 18 - Use of Gasoline Taxes and Motor License Fees Restricted**Current**

All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (a) cost of administration and collection, (b) payment of obligations incurred in the construction and reconstruction of public highways and bridges shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof; and used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and air navigation facilities and costs and expenses incident thereto, and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year.

Recommended

No change.

Section 19 - Special Assessments by Philadelphia for Transit Facilities**Current**

The city of Philadelphia, in constructing, for the benefit of the inhabitants thereof, transit subways, rapid transit railways, or other local transit facilities for the transportation of persons or property, shall have the power, in order the more justly to distribute the benefits and costs of such transit facilities, to levy special assessments against such properties, whether abutting or not abutting upon said transit facilities, as are or will be specially and particularly benefited by the construction or operation of such transit facilities; such power to be exercised in accordance with existing or with future laws or pursuant to statutes enacted prior to the adoption of this amendment but made effective by it. Such special assessments, when so levied, may be made payable presently when levied or in installments over a period of years, with or without interest, and shall immediately, when so levied, be deducted from any indebtedness incurred for such purposes in calculating the debt of such city. Such city may acquire by eminent domain either the fee or less estate or easements in land necessary for the construction or operation of such transit facilities or for the disposal of earth or material excavated in the construction thereof or for other incidental purposes; but this provision shall not create any additional powers for the condemnation of any railroad or street railway in operation.

Recommended

No Change.

Section 21 - Bonds Authorized for Special Purposes**Current**

In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the

Recommended

Repeal.

amount of fifty million dollars (\$50,000,000) for the construction of public buildings, highways, drainage and sanitary systems, anti-stream pollution and flood control projects for purposes of reforestation, and for the rehabilitation and hospitalization of war veterans.

Section 22 - Soldiers Bonus

Current

In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of \$500,000,000 for the payment of compensation to certain persons from this Commonwealth who shall have served in the armed forces of the United States or of any of her allies during World War II, between the seventh day of December, one thousand nine hundred forty-one and the second day of September, one thousand nine hundred forty-five, for the service of such persons to their country whether or not they be living when distribution shall be made, and if such persons shall be deceased when distribution shall be made, such deceased person's compensation shall be paid to his spouse, child, children or parents.

Recommended

Repeal.

Section 23 - Korean Veterans Bonus

Current

In addition to the purposes stated in article nine, section four of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of one hundred fifty million dollars (\$150,000,000) for the payment of compensation to certain persons from this Commonwealth, who served in the armed forces of the United States or any of her allies during the Korean Conflict, between June twenty-five, one thousand nine hundred fifty, and July

Recommended

No Change.

twenty-seven, one thousand nine hundred fifty-three, for the service of such persons to their country, whether or not they are living when distribution is made, and, if the person is deceased when distribution is made, the deceased person's compensation shall be paid to his spouse, child, children or parents.

The law authorizing the creation of the debt and the issuance of the bonds shall not take effect, until revenue-raising measures are enacted, which the Senate and House of Representatives, by concurrent resolution, declare and deem sufficient to amortize the amount to be borrowed and paid. The revenue derived from such revenue-raising measures shall be used only for the payment of the debt created, as herein provided, and the measures shall provide for their termination when sufficient funds are accumulated to pay the debt.

ARTICLE X - EDUCATION

Section 1 - Public School System

Current

The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.

Recommended

The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of the Commonwealth may be educated.

Section 2 - Sectarian Schools Not to Receive Public School Money

Current

No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.

Recommended

No Change.

Section 3 - Females Eligible as School Officers

Current

Women twenty-one years of age and upwards shall be eligible to any office of control or management under the school laws of this State.

Recommended

Repeal.

ARTICLE XI - MILITIA

Section 1 - Militia to be Organized

Current

The freemen of this Commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The General Assembly shall provide for maintaining the militia by appropriations from the treasury of the Commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.

Recommended

The citizens of this Commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The General Assembly shall provide for maintaining the militia by appropriations from the treasury of the Commonwealth, and may exempt from State military service persons having conscientious scruples against bearing arms.

ARTICLE XII - PUBLIC OFFICERS

Section 1 - Selection of Officers not Otherwise Provided for in Constitution

Current

All officers, whose selection is not provided for in this Constitution, shall be elected or appointed as may be directed by law: Provided, That elections of State officers shall be held on a general election day, and elections of local officers shall be held on a municipal election day, except when, in either case, special elections may be required to fill unexpired terms.

Recommended

No Change.

Section 2 - Incompatible Offices**Current**

No member of Congress from this State, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary, fees or perquisites shall be attached. The General Assembly may by law declare what offices are incompatible.

Recommended

No Change.

Section 3 - Punishment for Dueling**Current**

Any person who shall fight a duel or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and may be otherwise punished as shall be prescribed by law.

Recommended

Repeal.

ARTICLE XIII - NEW COUNTIES**Section 1 - Limitation on Erection of New Counties****Current**

No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

Recommended

No Change.

ARTICLE XIV - COUNTY GOVERNMENT

Section 1 - Optional Plans of County Government

Current

County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys and such others as may from time to time be established by law; and no treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Recommended

The General Assembly shall provide by general law for the government of counties. The General Assembly may, by law applicable to all classes of counties or to a particular class, provide optional plans of county organization and government under which an authorized optional plan may be adopted or abandoned by a majority of the qualified electors of a county voting thereon. One option shall be the form of county government at the time prescribed by law for the particular class of county. Under any plan, the governing body shall be an elective body.

Section 2 - County Officers

Current

County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law.

Recommended

Elective county officers shall be chosen at municipal elections and shall take office on the first Monday of January next after their election. They shall hold office until their successors have qualified. Elective county officers shall be citizens of the Commonwealth and qualified electors of the county.

Section 3 - Residence Requirement for Appointment to a County Office

Current

No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Recommended

Repeal.

Section 4 - County Seat; Location of Offices**Current**

Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Recommended

Repeal.

Section 5 - Compensation of County Officers**Current**

The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Recommended

Repeal.

Section 6 - Accountability of Municipal Officers**Current**

The General Assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.

Recommended

Repeal.

Section 7 - County Commissioners and Auditors**Current**

Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected;

Recommended

Repeal.

any casual vacancy in the office of county commissioner or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Section 8 - Abolition of County Offices in Philadelphia

Current

(1) In Philadelphia all county offices are hereby abolished, and the city shall henceforth perform all functions of county government within its area through officers selected in such manner as may be provided by law.

(2) Local and special laws, regulating the affairs of the city of Philadelphia and creating offices or prescribing the powers and duties of officers of the city of Philadelphia, shall be valid notwithstanding the provisions of section seven of article three of this Constitution.

(3) All laws applicable to the county of Philadelphia shall apply to the city of Philadelphia.

(4) The city of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the county of Philadelphia.

(5) The provisions of article fifteen, section one of the Constitution shall apply with full force and effect to the functions of the county government hereafter to be performed by the city government.

(6) This amendment shall become effective immediately upon its adoption.

(7) Upon adoption of this amendment all county officers shall become officers of the city of Philadelphia, and, until the General Assembly shall otherwise provide, shall continue to perform their duties and be elected, appointed, compensated

Recommended

(a) In Philadelphia all county offices are abolished. The city shall perform all functions of county government within its area.

(b) Local and special laws with respect to powers granted to the City of Philadelphia shall be valid notwithstanding the provisions of article three, section seven of this Constitution.

(c) All laws applicable to the County of Philadelphia shall apply to the City of Philadelphia.

(d) The City of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the County of Philadelphia.

(e) The provisions of article fifteen of this Constitution shall apply with full force and effect to the functions of the county government performed by the city.

(f) All officers performing functions of county government shall be officers of the City of Philadelphia. Until otherwise provided by the City of Philadelphia through amendment to the Philadelphia Home Rule Charter, they shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect.

and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms.

ARTICLE XV - CITIES AND BOROUGHS

Section 1 - Incorporation and Corporate Changes

Current

Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.

Recommended

The General Assembly shall provide by general law for the incorporation and government of cities and boroughs and the methods by which municipal boundaries may be altered and municipalities may be consolidated or dissolved.

Section 2 - Optional Plans of Organization and Government

Current

No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefore by the municipal government.

Recommended

The General Assembly may, by general law, provide optional plans of municipal organizations and government, under which an authorized optional plan may be adopted or abandoned by majority vote of the qualified electors of the city or borough voting thereon.

Section 3 - Home Rule Charter Making

Current

Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

Recommended

(a) The qualified electors of any city or borough may adopt, amend or repeal a home rule charter of government. The adoption, amendment or repeal of a charter shall be proposed either by resolution of the legislative body of the city or borough or by a charter commission of not less than seven members elected by the qualified electors of the city or borough from their membership pursuant to petition for such election, bearing the signatures of at least ten per cent of the qualified electors of the city or borough and filed with the chief recording officer of the legislative body of the city or borough. The legislative body of the city or borough shall by resolution direct the election board to provide for holding the election in accordance with the provision of the election laws. On the death, resignation or inability to serve of any member of a charter commission, the remaining members shall elect a successor. A charter commission may propose (1) the adoption of a charter, (2) amendment of a charter or particular part or parts of a charter, or (3) repeal of a charter, or (4) any of these acts, as specified in the petition.

(b) The General Assembly shall provide by statute for procedure not inconsistent with the provisions of this section, and may provide by statute for a number of charter commission members in excess of seven on the basis of population. In the absence of such legislation, the legislative body of a city or borough in which the adoption, amendment or repeal of a charter is proposed shall provide by ordinance or resolution for the procedure; and the number of charter commission members shall be seven. The legislative body may, if it defaults in

the exercise of this authority, be compelled by judicial mandate, at the instance of at least ten signers of a sufficient petition filed under this section, to exercise the authority.

(c) All expenses of elections conducted under this section and all proper expenses of a charter commission shall be paid by the city or borough.

(d) Every charter, charter amendment and charter repeal proposed shall be submitted to the vote of the electors of the city or borough in the manner provided by the election laws, and shall not become effective unless a majority of the electors voting on it votes in favor of it.

(e) Any part of a proposed home rule charter may be submitted for separate vote. Alternate sections or articles of a proposed home rule charter or proposed charter amendments may be submitted. The section or article receiving the larger vote, in each instance, shall prevail if the charter or amendment is adopted.

(f) A city or borough which adopts a home rule charter may exercise any power or perform any function which the General Assembly has power to devolve upon a non-home rule charter city or borough, so long as the power or function is not denied by statute nor by its home rule charter and it is within limitations as may be established by the statute. This devolution of power does not include the power to enact private or civil laws governing civil relationships except as an incident to an exercise of an independent municipal power, nor does it include power to define and provide for the punishment of a felony.

(g) Charter provisions with respect to municipal executive, legislative and administrative structure and organization, and to the selection, compensation, terms and con-

ditions of service, removal and retirement of municipal personnel are of superior authority to statute, subject to the requirement that the members of a municipal legislative body be chosen by popular election, and except as to judicial review of administrative proceedings, which shall be subject to the superior authority of statute.

(h) A municipal legislative body or charter commission which proposes the termination of home rule charter status by repeal of a home rule charter shall incorporate in the proposition to be submitted to the qualified electors a specification of the form of government under which the city or borough would thereafter operate in the event of repeal, whether it be a form prescribed by general law for municipalities of its population class or one of such optional forms as may have been authorized by general law for cities or boroughs of its population class. A municipal legislative body or charter commission proposing charter repeal shall also, by resolution of that body, determine when the transition to the new form of government shall take place in the event of repeal and make such other provisions as may be appropriate to effect an orderly transition from home rule charter to non-home rule charter status.

(i) At least thirty days before an election thereon, notice shall be given by publication in a newspaper of general circulation within the city or borough that copies of a proposed charter, charter amendment or repeal proposition and resolution are on file in the office of the chief recording officer of the legislative body of the city or borough, and that a copy will be furnished by him to any qualified elector or taxpayer of the city or borough upon request.

(j) The qualified electors of a city or borough shall not elect a charter commission more often than once in four years.

Section 4 - Consolidation in Allegheny County**Current**

The General Assembly is hereby authorized to provide for the consolidation of the county, poor districts, cities, boroughs and townships of the county of Allegheny, and the offices thereof, into a consolidated city and county, with the constitutional and legal capacity of a municipal corporation, to be known either as "Greater Pittsburgh" or "Metropolitan Pittsburgh" or "City of Pittsburgh (Metropolitan)," and to provide for a charter for its government, and to fix the name thereof in the charter. The said charter shall be submitted to the electors of said county at a special or general election to be provided for therein. If the majority of the electors voting thereon in the county as a whole, and at least a majority of the electors voting thereon in each of a majority of the cities, boroughs and townships thereof, vote in the affirmative, the act shall take effect for the whole county.

If rejected, the said charter may be resubmitted by the county commissioners to the electors from time to time, but not oftener than once in two years, until adopted. Until a charter shall have been adopted as aforesaid, the General Assembly shall have the power to amend or modify the said charter, in which event the charter as amended or modified shall be submitted and resubmitted as aforesaid.

It shall be competent, subject to the police power of the State, for the Legislature to provide in said charter:

I. For the exercise by the consolidated city of all the powers and duties vested in the county of Allegheny, and the poor districts thereof, and such other powers appropriate to a municipality as may be specified therein, except such powers as are specifically reserved

Recommended**Repeal.**

by this section to the municipal divisions herein provided for.

II. For the election of a board of commissioners, by districts and/or at large, by the electors of the consolidated city, the number to be fixed by the charter, in lieu of present county commissioners, in which board shall be vested all the powers of the consolidated city except as otherwise provided in the charter.

III. For the organization of a government for the consolidated city, and for the appointment and/or election of any officers thereof, created by the Constitution, or otherwise, and to provide for their powers and duties.

IV. For the organization and reorganization of all courts, other than those of record, in the consolidated city, and for the appointment and/or election of the judges and officers thereof, and for the procedure thereof, including the right to provide that said court or courts be courts of record, which courts may exercise the jurisdiction, powers and rights of the magistrates, aldermen and justices of the peace, and such other jurisdiction and powers as may be conferred by law.

V. For the transfer to and the assumption by the consolidated city of the property and indebtedness of the county of Allegheny, and the poor districts thereof, and of such property and indebtedness of the cities, boroughs and townships thereof as relate to the powers and duties of said consolidated city, and to provide for an equitable adjustment and arrangement with respect thereto and for the payment of such indebtedness, and, for this purpose, any taxation therein, arising thereby, shall be uniform taxation within the meaning and intent of other provisions of the Constitution.

VI. For the assessment of property for taxation, the levying and collecting of taxes, and the payment of the cost of any public or

municipal improvement, in whole or in part, by special assessment upon abutting and non-abutting property specially benefited thereby.

VII. For the creation, by the board of commissioners, of districts for the purpose of regulating the location, height, area, bulk and use of building and premises.

VIII. For the creation of indebtedness by the consolidated city within the limits now or hereafter imposed upon cities by other provisions of the Constitution. Such power to create indebtedness shall not impair the power of the municipal divisions, within the consolidated city, to create indebtedness within the limits now or hereafter imposed upon such municipalities by other provisions of the Constitution.

IX. For the creation by the board of commissioners, of special districts for the purpose of carrying on or carrying out any public or municipal improvement, not for the exclusive benefit of any one municipal division; and, for the payment of the cost and maintenance of such property or improvement, or any part thereof, special taxes may be levied throughout such special districts, respectively, separate and apart from the general consolidated city tax.

X. For the exercise of such powers by the consolidated city as may be necessary to enable it to carry on and carry out such municipal and metropolitan powers and functions as the General Assembly may deem advisable and expedient and for the general welfare of the said city and its inhabitants:

Provided, however, That it is the intent of this section that substantial powers be reserved to the cities, boroughs and townships situated in Allegheny County. To this end, the charter shall provide for the continued existence of the said cities,

boroughs and townships, as municipal divisions of the consolidated city under their present names and forms of government, subject to the laws now or hereafter provided for government of municipalities of their respective forms and classes and to the powers conferred upon the consolidated city by the charter, and with their present boundaries. Any two or more of said municipal divisions, or portions thereof, may, with the consent of a majority of the electors voting thereon in each of such divisions at any special or general election, be united to form a single municipal division. Whenever a portion of a municipal division is involved, the election shall be held in the entire municipal division of which the said portion is a part.

The said municipal divisions shall have and continue to have the following powers:

I. The constitutional and legal capacity of municipal corporations.

II. The power to levy and collect taxes and to incur indebtedness, subject to the limitations which are or may be imposed by law upon cities, boroughs or townships of corresponding classification, for the purpose of carrying out any lawful power of said divisions.

III. The power to acquire, own, construct, maintain, operate or contract for all kinds of public property, works, improvements, utilities or services, which shall be within the municipal division and, where authorized by law, without the limits of the municipal division. Subject, however, to the right and power of the consolidated city to construct, acquire, maintain and/or operate public works, improvements, utilities and services of all kinds, including through streets, highways and/or bridges, for the use and benefit of the consolidated city and its inhabitants.

IV. The power to maintain a local police force and local fire department, either paid or volunteer, with the necessary buildings, appurtenances and equipment therefor, which may be independent of or supplemental to the police force and fire department of the consolidated city.

V. All other powers not specifically granted by the charter to the consolidated city: Provided, however, That a municipal division may surrender, by a majority vote of the electors voting thereon at any general or special election, any of its powers to the consolidated city, subject to the acceptance thereof by the board of commissioners.

After a charter has been adopted as aforesaid, it may be amended as follows:

I. In matters which relate only to the powers of the consolidated city and which do not reduce the powers of any one or more of the municipal divisions thereof by the General Assembly: Provided, however, That any amendment which changes or modifies the form of government of the consolidated city, or the number of or manner of election of the commissioners thereof, shall not be effective until such amendment shall have been ratified by a majority of the electors of the consolidated city voting thereon at a general or special election to be provided for in said amendment.

II. In matters which reduce the powers of any one or more of the municipal divisions of the consolidated city, such amendment, enacted by the General Assembly, shall not be effective until it shall have been ratified at a general or special election, to be provided for in said amendment, by a majority of the electors voting thereon in all of the municipal divisions affected thereby, and by a majority of the electors voting thereon in each of a majority of said municipal divisions so affected.

Section 5 - Acquisition of Land for Highway Construction

Current

The General Assembly may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating highways or streets connecting with bridges crossing streams or tunnels under streams which form boundaries between this and any other state, but the additional land and property, so authorized to be taken, shall not be more than sufficient to form suitable building sites on such highways or streets. Nor shall the authority hereby conferred be exercised in connection with the laying out, widening, extending or relocating of any highway or street at a point more than three miles distant from the approach to any such bridge or tunnel. After so much of the land and property has been appropriated for such highways or streets as is needed therefor, the remainder may be sold or leased and any restrictions imposed thereupon which will preserve or enhance the benefit to the public of the property actually needed for the aforesaid public use.

Recommended

Repeal.

ARTICLE XVI - PRIVATE CORPORATIONS

Section 1 - Certain Charters to be Void

Current

All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

Recommended

No Change.

**Section 2 - Conditions Imposed on Certain
Benefits to Corporations**

Current

The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

Recommended

No Change.

Section 3 - State's Right of Eminent Domain

Current

The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

Recommended

No Change.

Section 4 - Corporate Elections

Current

In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

Recommended

No Change.

Section 5 - Foreign Corporations

Current

No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

Recommended

Repeal.

Section 6 - Corporate Powers; Real Estate

Current

No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

Recommended

Repeal.

Section 7 - Stocks and Bonds; Increase of Indebtedness

Current

No corporation shall issue stocks or bonds except for money, labor done or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law.

Recommended

Repeal.

Section 8 - Compensation for Property Taken Under Right of Eminent Domain

Current

Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The General Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party be determined by a jury according to the course of the common law.

Recommended

No Change.

Section 9 - Banking Laws**Current**

Every banking law shall provide for the registry and countersigning, by an officer of the State, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the Auditor General for the redemption of such notes or bills.

Recommended

Repeal.

Section 10 - Revocation and Alteration of Corporate Charters; New Charters**Current**

The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this Commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

Recommended

All charters of private corporations now existing and revocable at the adoption of this amendment may be altered, revoked or annulled, if in the opinion of the General Assembly they may be injurious to the citizens of this Commonwealth, in such manner that no injustice shall be done to the corporators. All laws heretofore or hereafter adopted by the General Assembly dealing with the formation and regulation of private corporations and prescribing the powers, rights, duties and liabilities of private corporations, their officers, directors and shareholders, may be amended, repealed or revoked.

Section 11 - Incorporation and Powers of Banks and Trust Companies**Current**

The General Assembly shall have the power by general law to provide for the incorporation of banks and trust companies, and to prescribe the powers thereof.

Recommended

Repeal.

Section 12 - Regulation of Telegraph Lines**Current**

Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and the General Assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of, any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Recommended

Repeal.

Section 13 - Meaning of Term "Corporations"**Current**

The term "corporations" as used in this article shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Recommended

Repeal.

ARTICLE XVII - RAILROADS AND CANALS**Section 1 - To be Public Highways and Common Carriers****Current**

All railroads and canals shall be public highways and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right

Recommended

Repeal.

with its road to intersect, connect with or cross any other railroad; and shall receive and transport each the other's passengers, tonnage and cars loaded or empty, without delay or discrimination.

Section 2 - Stock Transfer Office; Books

Current

Every railroad and canal corporation organized in this State shall maintain an office therein where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them, respectively, the transfers of said stock, and the names and places of residence of its officers.

Recommended

Repeal.

Section 3 - No Discrimination in Service

Current

All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for, or in facilities for, transportation of freight or passengers within the State or coming from or going to any other State.

Recommended

Repeal.

Section 4 - Consolidation Prohibited; Restrictions on Officers

Current

No railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such a corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line; nor shall

Recommended

Repeal.

any officer of such railroad or canal corporation act as an officer of any railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil issues.

Section 5 - Limitation of Powers

Current

Recommended

No incorporated company doing the business of a common carrier shall directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company directly or indirectly engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

Repeal.

Section 6 - Officers Not to be Interested in Contracts

Current

Recommended

No president, director, officer, agent or employe of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

Repeal.

Section 7 - Discrimination and Preferences Prohibited

Current

Recommended

No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor

Repeal.

of either, by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager or employe thereof, shall make any preferences in furnishing cars or motive power.

Section 8 - Passes Prohibited; Exceptions

Current

No railroad, railway, or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employes of the company and clergymen.

Recommended

Repeal.

Section 9 - Street Railways

Current

No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.

Recommended

Repeal.

Section 10 - Acceptance of this Article

Current

No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any future legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

Recommended

Repeal.

Section 11 - Duties of Secretary of Internal Affairs

Current

The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and, in

Recommended

Repeal.

addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

Section 12 - Enforcement of this Article

Current

The General Assembly shall enforce by appropriate legislation the provisions of this article.

Recommended

Repeal.

ARTICLE XVIII - AMENDMENT AND REVISION

Section 1 - Future Amendments

Current

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and, if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or

Recommended

Amendments to this Constitution may be proposed in the Senate or House of Representatives at any regular session of the General Assembly. If agreed to by a majority of the members elected to each House, they shall be entered on their journals with the yeas and nays taken thereon; and the official charged with the duty of administering statewide elections shall publish each amendment three months before the next general or municipal election in at least two newspapers in every county in which such newspapers are published. If at the next regular session of the General Assembly the proposed amendment is agreed to by a majority of the members elected to each House, the official charged with the duty of administering statewide elections shall again and in like manner publish the proposed amendment; and it shall be submitted to the qualified

amendments shall be submitted to the qualified electors of the State in such manner, and at such time, at least three months after being so agreed to by the two Houses, as the General Assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

electors of the Commonwealth in such manner and at such time, at least three months after being agreed to for the second time by both Houses, as the General Assembly prescribes. If an amendment is approved by a majority of those voting thereon, it shall become part of this Constitution. After an amendment has been once submitted and not approved, it or one substantially related, shall not again be submitted until a period of five years has elapsed. When two or more amendments are submitted, they shall be voted on separately.

Section 2 (New) - Amendment by Initiative

Current

None.

Recommended

Amendments to this Constitution may be proposed by petition, signed by a number of qualified electors equal to five per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, and filed with the official charged with the duty of administering statewide elections. Each petition shall set forth the full text of the amendment proposed, and shall be verified by the affidavit of the persons soliciting the signatures. The official shall transmit the petition to the General Assembly, when in session, or as soon as it convenes. If an amendment proposed by petition is agreed to by a majority of the members elected to each House, it shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article as though it had been agreed to by two succeeding regular sessions of the General Assembly. If (1) the proposed amendment is rejected, or (2) it is agreed to in an amended form, or (3) no action is taken thereon within four months from the time it is received by the General Assembly, if the General Assembly is in session so long, and,

if not, then within four months after the convening of the next regular session of the General Assembly; and if so demanded by supplementary petition signed by a number of qualified electors equal to ten per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, the proposed amendment shall be submitted to the qualified electors in a manner and at a time prescribed by the General Assembly. The supplementary petition shall be filed with the official charged with the duty of administering statewide elections within six months (1) after the proposed amendment was rejected by the General Assembly, or (2) after the expiration of the four months herein provided for action on the petition by the General Assembly, if no action has been taken thereon, or (3) after the proposed amendment, as amended by the General Assembly, has been filed with the proper official. The proposed amendment shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article in the form prescribed by the supplementary petition, which shall be either as first petitioned for or with any amendments incorporated therein by either House or by both Houses of the General Assembly. If the proposed amendment is approved by a majority of the qualified electors voting thereon, it shall become a part of this Constitution. All petitions shall be in the form provided by law for nomination petitions, unless otherwise provided by law.

Section 3 (New) - Periodic Review

Current	Recommended
None.	<i>In the year nineteen hundred seventy-three and every fifteenth year thereafter, the provisions of this Constitution shall be studied and reviewed in the light of contemporary conditions and the anticipated problems and needs of the people of this Commonwealth. The General Assembly shall provide for a commission to perform the work.</i>

ARTICLE XIX (NEW) - SOCIAL WELFARE**Section 1 (New) - Care of the Needy**

Current	Recommended
None.	The aid, care, and support of the needy; the protection and promotion of the health of the inhabitants of the State; the care and treatment of persons suffering from mental disorder or defect; the custody of dependent, neglected or delinquent children; the reformation of juvenile delinquents; the detention, probation and parole of persons charged with or convicted of crime are all matters of public concern, and provision therefor shall be made by the State and its sub-divisions in such manner and by such means as the General Assembly may from time to time determine.

DRAFTS OF JOINT RESOLUTIONS

Class 1 Changes

Class 1 changes are those recommendations for amendment which the Commission deems to be of first importance, critically needed for the efficient conduct of the state government, and which the Commission strongly urges the General Assembly to approve.

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C 1.1 - Trial by Jury**A JOINT RESOLUTION**

Proposing an amendment to article one, section six of the Constitution of the Commonwealth of Pennsylvania, removing the guaranty of trial by jury except in criminal cases.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article one, section six of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 6. Trial by jury in criminal cases shall be as heretofore, and the right thereof remain inviolate.

For Historical Note and Comments, see page 18.

C 1.2 - Annual Sessions**A JOINT RESOLUTION**

Proposing an amendment to article two, section four of the Constitution of the Commonwealth of Pennsylvania, making the General Assembly a continuing body; and providing for annual sessions, and the calling of special sessions.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article two, section four of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 4. The General Assembly shall be a continuing body during the term for which its Representatives are elected. It shall meet at twelve o'clock noon on the first Tuesday of January each year. Special sessions shall be called by the Governor on petition of a majority of the members elected to each House, and may be called by the Governor whenever, in his opinion, the public interest requires.

For Historical Note and Comments, see page 19.

C 1.3 - Senatorial Districts**A JOINT RESOLUTION**

Proposing an amendment to article two, section sixteen of the Constitution of the Commonwealth of Pennsylvania, revising apportionment of senatorial districts.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article two, section sixteen of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one Senator. Each county containing one or more ratios of population shall be entitled to one Senator for each ratio, and to an additional Senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more Senators, when such county may be assigned a Senator on less than four-fifths and exceeding one-half of a ratio, and no county shall be divided unless entitled to two or more Senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

For Historical Note and Comments, see page 21.

C 1.4 - Legislative Apportionment**A JOINT RESOLUTION**

Proposing an amendment to article two, section eighteen of the Constitution of the Commonwealth of Pennsylvania, making apportionment of senatorial and representative districts mandatory.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article two, section eighteen of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 18. Before the close of each regular session of the General Assembly at which the officially certified figures of a United States decennial census first are available, the General Assembly shall apportion the Commonwealth into senatorial and representative districts. If the General Assembly fails to do so, the Governor shall, immediately after final adjournment, call the General Assembly into special session for the sole purpose of making the apportionments. At the special session

there shall be no legislation on any other subject. The General Assembly shall not adjourn sine die until it has completed the apportionment into both senatorial and representative districts.

For Historical Note and Comments, see page 22.

C 1.5 - Legislation at Special Sessions

A JOINT RESOLUTION

Proposing an amendment to article three of the Constitution of the Commonwealth of Pennsylvania, repealing section twenty-five thereof, which limits legislation at special sessions of the General Assembly.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three of the Constitution of the Commonwealth of Pennsylvania be amended by repealing section twenty-five thereof, which reads:

“Section 25. When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session.”

For Historical Note and Comments, see page 23.

C 1.6 - Succession by the Governor

A JOINT RESOLUTION

Proposing an amendment to article four, section three of the Constitution of the Commonwealth of Pennsylvania, making the governor eligible to succeed himself for one additional term.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article four, section three of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 3. The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election. Except for the Governor who may be in office when this amendment is adopted, he shall be eligible to succeed himself for one additional term.

For Historical Note and Comments, see page 24.

C 1.7 - Board of Pardons**A JOINT RESOLUTION**

Proposing an amendment to article four, section nine of the Constitution of the Commonwealth of Pennsylvania, changing the membership of the Board of Pardons and the keeping of its records.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article four, section nine of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 9. (a) In all criminal cases except impeachment, the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be recorded and filed with the Board in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor, who shall be chairman, the Attorney General, the chairman of the agency created by the General Assembly to administer paroles, and two members appointed by the Governor with the consent of a majority of the members elected to the Senate, one for three years and one for six years, and thereafter for full terms of six years. The Board shall keep records of its actions, which shall at all times be open for public inspection.

Schedule

That no inconvenience may arise from the change in the Constitution of the Commonwealth, and in order to carry it into complete operation, it is declared that:

This amendment shall take effect at the beginning of the term of the Governor taking office next following the adoption of this amendment.

For Historical Note and Comments, see page 25.

C 1.8 - Philadelphia Courts, Consolidation**A JOINT RESOLUTION**

Proposing an amendment to article five, sections six and seven of the Constitution of the Commonwealth of Pennsylvania, consolidating the courts of common pleas of Philadelphia into one court; and repealing provisions relating to the prothonotary of the courts.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five, section six of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 6. (a) In the county of Philadelphia the jurisdiction and powers now vested in the several numbered Courts of Common Pleas of that county shall be vested in one Court of Common Pleas, composed of all the judges in commission in the courts, subject to changes made by law in the number of judges. Its jurisdiction and powers shall extend to all proceedings at law and in equity instituted in the several numbered courts, and shall be subject to such change as may be made by law. The president judge of the court shall be selected as may be provided by law.

(b) In the county of Allegheny there shall be one Court of Common Pleas, subject to changes made by law in jurisdiction, powers and number of judges.

That article five, section seven of the Constitution of the Commonwealth of Pennsylvania, which reads:

"Section 7. For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said court; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the Commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket which shall contain the judgments and liens of all the said courts, as is or may be directed by law." be repealed.

Schedule

That no inconvenience may arise from the change in the Constitution of the Commonwealth, and in order to carry it into complete operation, it is declared that:

This amendment shall take effect on the first day of January next following its adoption.

Until the General Assembly provides for the selection of the president judge, the president judge of the existing numbered court of common pleas longest in continuous service in all of the several numbered courts shall be president judge of the single court of common pleas. If two or more are equal in continuous service, they shall cast lots to determine who shall be president judge.

For Historical Note and Comments, see pages 26-28.

C 1.9 - Justices of the Peace and Aldermen

A JOINT RESOLUTION

Proposing an amendment to article five, section eleven of the Constitution of the Commonwealth of Pennsylvania, changing the justice of the peace and alderman system.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five, section eleven of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 11. (a) Except in Philadelphia, each county shall be divided by the Court of Common Pleas into as many justice of the peace or alderman districts as it deems necessary and proper. The districts shall be as nearly equal in population as practicable according to the last preceding United States census. After each census the Court may create new districts based on the same unit of population, and may change the boundaries of districts. In each district there shall be one justice of the peace or alderman, who shall be chosen by the electors of the district at a municipal election. He shall have been a resident of his district for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of justice of the peace or alderman shall be filled by the Governor.

(b) For services rendered in judicial proceedings a justice of the peace or alderman shall receive a salary prescribed by the governing body of the county and paid by the county, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the county treasury for the use of the county, unless otherwise provided by law.

(c) Until otherwise provided by law, justices of the peace or aldermen in any county shall have the jurisdiction and powers of the justices of the peace or aldermen in civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices by justices of the peace or aldermen, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of the county.

Schedule

That no inconvenience may arise from the change in the Constitution of the Commonwealth, and in order to carry it into complete operation, it is declared that:

Justice of the peace and alderman districts shall be created and the salaries of justices of the peace and aldermen shall be fixed before the first day fixed by law for the circulation of nomination petitions for the municipal primary election next following the adoption of this amendment.

At the municipal election next following the adoption of this amendment a justice of the peace or alderman shall be elected in each district.

All justices of the peace and aldermen in office at the time of the adoption of this amendment and whose terms do not expire before the terms of justices of the peace and aldermen provided for hereby commence, shall continue in office until the end of the term for which they were elected and shall have concurrent jurisdiction with the justice of the peace or alderman of the district.

For Historical Note and Comments, see pages 29-30.

C 1.10 - Magistrates Courts in Philadelphia**A JOINT RESOLUTION**

Proposing an amendment to article five, sections twelve and thirteen of the Constitution of the Commonwealth of Pennsylvania, relating to magistrates courts in Philadelphia, their number, jurisdiction and rules of procedure; and repealing a supplied provision.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five, section twelve of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 12. (a) In Philadelphia there shall be established courts, not of record, one for each one hundred thousand inhabitants. The courts shall be held by magistrates, who shall be chosen by the qualified electors at a municipal election at which no voter shall vote for more than two-thirds of the number of persons to be chosen. Population shall be determined by the last preceding United States census. A magistrate shall have been a resident of the city for at least one year next preceding his election. He shall hold office for six years from the first Monday of January after his election. A vacancy in the office of magistrate shall be filled by the Governor.

(b) For services rendered in judicial proceedings a magistrate shall receive a salary prescribed by the City Council and paid by the city, and no other compensation. Fees, fines and penalties received by him in judicial proceedings shall be paid into the city treasury for the use of the city, unless otherwise provided by law.

(c) Until otherwise provided by law, magistrates shall have the jurisdiction and powers of the magistrates in civil and criminal cases existing when this amendment becomes effective. Those then in office shall serve their then unexpired terms.

(d) Rules of procedure for the conduct of their offices, not otherwise provided for by law, shall be prescribed by the Court of Common Pleas of Philadelphia.

That article five, section thirteen of the Constitution of the Commonwealth of Pennsylvania which reads:

"Section 13. All fees, fines and penalties in said courts shall be paid into the county treasury."
be repealed.

Schedule

That no inconvenience may arise from the change in the Constitution of the Commonwealth, and in order to carry it into complete operation, it is declared that:

All magistrates in office at the time of the adoption of this amendment shall continue in office until the end of the terms for which they were elected. Vacancies happening after this amendment is adopted shall not be filled until the number of magistrates is less than that provided for by this amendment.

For Historical Note and Comments, see pages 31-32.

C 1.11 - Voting for Judges**A JOINT RESOLUTION**

Proposing an amendment to article five of the Constitution of the Commonwealth of Pennsylvania, repealing section sixteen thereof, which provides for voting for judges of the Supreme Court where more than one are to be elected.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five of the Constitution of the Commonwealth of Pennsylvania be amended by repealing section sixteen thereof, which reads:

"Section 16. Whenever two judges of the Supreme Court are to be chosen for the same term of service each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected."

For Historical Note and Comments, see pages 32-33.

C 1.12 - Pennsylvania Plan for the Selection of Judges**A JOINT RESOLUTION**

Proposing an amendment to articles four, five and eight of the Constitution of the Commonwealth of Pennsylvania, providing a system for the selection of appellate court judges and of judges of certain courts of record of inferior jurisdiction.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five, section twenty-five of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 25. (a) Whenever a vacancy occurs by death, resignation, removal from office or expiration of a term of office in the office of justice of the Supreme Court, judge of the Superior Court, or judge of a court of record of Philadelphia or Allegheny Counties, the Governor shall fill the vacancy by appointment from a panel of three persons learned in the law and legally qualified for the office, nominated to him by a judicial commission established and organized as hereinafter provided. If none of the persons so nominated to the Governor is acceptable to him, the judicial commission shall nominate successive panels of three persons until an appointment from a panel is made by the Governor.

(b) At any municipal or general election the qualified voters of any other judicial district may, by a majority vote of those voting on the question, elect to have the judges of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. The General Assembly shall enact the laws necessary to provide for such elections.

Where the qualified voters of any other judicial district have elected to fill vacancies in the office of judge of a court of record in the manner provided for Philadelphia and Allegheny Counties, the qualified electors of the district may thereafter, at a municipal or general election, by a majority vote of those voting on the question, elect to discontinue that method of filling a vacancy in the judicial office. The General Assembly shall enact the laws necessary to provide for such election.

(c) There shall be a judicial commission for the appellate courts, a judicial commission each for the courts of record of Philadelphia and Allegheny Counties, and a judicial commission for the courts of each judicial district which has elected to have the judges of the courts of record of that district appointed in the manner provided for Philadelphia and Allegheny Counties. Each commission shall be composed of one judge, three members of the bar selected by the members of the bar and three lay citizens. The judge and the members of the bar of each commission shall be selected in the manner and in accordance with rules prescribed by the Supreme Court. The lay citizens of each judicial commission shall be appointed by the Governor. All the members of the judicial commission for the appellate courts shall be chosen from the State at large and all the members of a judicial commission for the courts of record of a judicial district shall be chosen from that district, except the judge, who may be chosen from another district. During the terms of office for which members of judicial commissions have been chosen, they shall not hold any office in a political party or organization, nor, except the members who are judges, hold any elective public office. They shall not receive any salary or other compensation for their services but shall receive their necessary expenses incurred while actually engaged in the discharge of their official duties. They shall hold office for the term of three years following the organization of the judicial commission of which they are members and shall be eligible for reappointment or reelection. They shall act only by the concurrence of a majority of the members of the judicial commission.

(d) Each justice or judge appointed by the Governor shall hold office for a term ending the first Monday of January following the next election appropriate for his election after the expiration of twelve months following his appointment. Not less than ninety days before the expiration of the term of office of a justice or a judge appointed by the Governor, or not less than ninety days before the expiration of the term of office of an elected judge entitled to succeed himself, the justice or judge may file in the office of the official charged with the duty of administering statewide elections a declaration of candidacy for election to succeed himself. If he does not file a declaration, a vacancy shall exist at the end of his term to be filled by appointment by the Governor as herein provided. If a justice or a judge files a declaration, his name shall be submitted to the electors on a separate judicial ballot without party designation at the election immediately preceding the expiration of his term of office to determine only the question whether the justice or judge shall be retained in office. The election shall be regulated by law. If a majority vote against retaining the justice or judge, a vacancy shall exist upon the expiration of his term of office to be filled by appointment by the Governor as herein provided. If a majority vote to retain a justice or judge, he shall be deemed elected for the full term of office provided for by the Constitution or laws of this Commonwealth, unless sooner removed in the manner

provided by the Constitution. At the expiration of each term, any judge entitled to succeed himself shall be eligible for retention in office by election in the manner herein provided.

(e) Any vacancy happening in any court of record in a judicial district not electing to have the judges of the courts of record appointed in the manner provided for Philadelphia and Allegheny Counties shall be filled by appointment by the Governor, to continue until the first Monday of January next succeeding the first municipal election which shall occur three or more months after the happening of the vacancy.

(f) No justice or judge of any court of record shall directly or indirectly make any contribution to or hold any office in a political party or organization, nor, while retaining judicial office, become a candidate at either a primary or general election for any other than a judicial office.

That article four, section eight be repealed in so far as it applies to judicial offices provided for by article five, section twenty-five of the Constitution.

That article five, sections two and fifteen and article eight, section three be repealed in so far as they apply to the election of judges selected under the provisions of article five, section twenty-five of the Constitution.

That article five, section sixteen be repealed.

For Historical Note and Comments, see pages 33-37.

C 1.13 - Dispensing with Jury Trial

A JOINT RESOLUTION

Proposing an amendment to article five, section twenty-seven of the Constitution of the Commonwealth of Pennsylvania, permitting the accused in non-capital cases to dispense with trial by jury.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article five, section twenty-seven of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 27. The parties, by agreement filed, in any civil case, or the accused in any non-capital case, may dispense with trial by jury and submit the decision of the case to the court having jurisdiction thereof. The court shall hear and determine the case, and the judgment thereon shall be subject to appeal as in other cases.

For Historical Note and Comments, see page 38.

C 1.14—Voting on Removal of Residence**A JOINT RESOLUTION**

Proposing an amendment to article eight, section one of the Constitution of the Commonwealth of Pennsylvania, changing residence requirements.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That section one, article eight of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 1. Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided in the State one year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least sixty days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within sixty days preceding the election.

For Historical Note and Comments, see pages 38-40.

C 1.15 - State Debt**A JOINT RESOLUTION**

Proposing an amendment to article nine, section four of the Constitution of the Commonwealth of Pennsylvania, providing for and regulating Commonwealth debt for capital improvements and certain other purposes; and prohibiting debts and obligations inconsistent therewith.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article nine, section four of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 4. (a) No debt shall be created by or on behalf of this Commonwealth unless (1) the debt has been authorized by statute, (2) the debt is for capital improvements separately specified in the statute, (3) the debt has been submitted to the qualified electors of the Commonwealth at a general, municipal, primary or special election and has been approved by a majority vote of those voting on the question, and (4) the debt is evidenced by general obligation bonds of this Commonwealth. Except as herein provided, no debt or other obligation shall hereafter be created by or on behalf of this Commonwealth, or by any authority or

other agency, the repayment of which will be made either directly or indirectly from Commonwealth revenues, whether by direct payment or through leases or other contractual obligations. The foregoing provisions do not apply (1) to debts payable solely from the revenues from designated projects and not payable out of any other revenues of the Commonwealth, (2) to debts created in a manner provided by law, by the issuance and sale of tax anticipation notes payable in the fiscal period in which they are issued, from revenues already provided, (3) to loans authorized by section eighteen of this article, and (4) to leases and contractual obligations entered into in the course of the ordinary conduct of government and not for the purpose of financing capital improvements by making payments, through rentals or otherwise, to liquidate debts created by authorities or other agencies without the approval of the qualified electors. Nor do the foregoing provisions apply to debt created to repel invasion, suppress insurrection or defend the Commonwealth in war, or to rehabilitate areas affected by disaster. No debt to supply casual deficiencies of revenue shall be created exceeding one million dollars in the aggregate at any one time.

(b) All bonds issued shall be serial bonds repayable in equal annual installments over a period not to exceed thirty years. The first payment of principal shall be not more than two years after the date of the bond.

(c) The General Assembly may authorize by statute the issuance of general obligation bonds for the purpose of assuming any debt heretofore incurred by any authority and which is currently payable from Commonwealth revenues, under leases to this Commonwealth. The General Assembly may from time to time authorize by law the issuance of refunding bonds to pay any bonded debt of the Commonwealth existing at the time.

For Historical Note and Comments, see pages 40-42.

C 1.16 - Municipal Debt

A JOINT RESOLUTION

Proposing an amendment to article nine, of the Constitution of the Commonwealth of Pennsylvania, providing for and regulating debt of political subdivisions, and prohibiting debts and obligations inconsistent therewith.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article nine, section eight of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 8. (a) No debt shall be incurred or increased by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision to an amount exceeding in the aggregate at any one time two per cent of market value of the taxable property in the political subdivision, without the affirmative vote of a majority of the qualified electors of the political subdivision voting thereon at a public election. Except as herein provided, no debt or other obligation

shall hereafter be created by or on behalf of any county, city, borough, incorporated town, township, school district or other political subdivision, the repayment of which will be made either directly or indirectly from general revenues of the political subdivision, whether by direct payment or through leases or other contractual obligations.

(b) The General Assembly may impose additional restrictions and limitations, uniform on each type or class of political subdivision, on the amount of debt that may be created either with or without the consent of the electors, and may prescribe the manner in which any debt may be created. The General Assembly may provide for the apportionment among political subdivisions of borrowing power within general limitations.

(c) Obligations payable solely from the net operating revenues from designated projects are not debt within the meaning of this section.

That article nine, section fifteen of the Constitution of the Commonwealth of Pennsylvania, which reads:

"Section 15. No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of water-works, subways, underground railways or street railways, or the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the Constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or, where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided, said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the Constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year. Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law."

be repealed.

For Historical Note and Comments, see pages 42 and 47.

C 1.17 - State Sinking Fund**A JOINT RESOLUTION**

Proposing an amendment to article nine, section eleven of the Constitution of the Commonwealth of Pennsylvania, regulating the Commonwealth sinking fund; and giving it priority in the application of Commonwealth funds.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article nine, section eleven of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 11. (a) To provide for the payment of the present Commonwealth debt and any additional debt contracted, the General Assembly shall continue to maintain a sinking fund sufficient to pay the principal and interest of the debt. If at any time the General Assembly fails to make appropriation for this purpose, the State Treasurer, the provisions of article three, section sixteen notwithstanding, shall set apart from the first revenues thereafter received, applicable to the appropriate fund, a sum sufficient to pay the interest, installments of principal or contributions to the sinking fund, and shall so apply the moneys so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth bonds.

(b) No part of the sinking fund shall be used or applied otherwise than in the extinguishment of the public debt until all bonded debt of the Commonwealth has been completely repaid. Any money remaining in the sinking fund at such time shall be transferred to the appropriate fund and may be appropriated by the General Assembly.

For Historical Note and Comments, see pages 45-46.

C 1.18 - County Government and Officers**A JOINT RESOLUTION**

Proposing an amendment to article fourteen of the Constitution of the Commonwealth of Pennsylvania, providing for optional plans of county government and for elective county officers.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article fourteen, sections one, two, three, four, five, six and seven of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 1. The General Assembly shall provide by general law for the government of counties. The General Assembly may, by law applicable to all classes of counties or to a particular class, provide optional plans of county organization and government under which an authorized optional

plan may be adopted or abandoned by a majority of the qualified electors of a county voting thereon. One option shall be the form of county government at the time prescribed by law for the particular class of county. Under any plan, the governing body shall be an elective body.

Section 2. Elective county officers shall be chosen at municipal elections and shall take office on the first Monday of January next after their election. They shall hold office until their successors have qualified. Elective county officers shall be citizens of the Commonwealth and qualified electors of the county.

For Historical Note and Comments, see pages 48-50.

C 1.19 - Cities and Boroughs

A JOINT RESOLUTION

Proposing an amendment to article fifteen of the Constitution of the Commonwealth of Pennsylvania, relating to cities and boroughs; providing for their incorporation, optional plans of organization and government and home rule charter making.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article fifteen of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 1. The General Assembly shall provide by general law for the incorporation and government of cities and boroughs and the methods by which municipal boundaries may be altered and municipalities may be consolidated or dissolved.

Section 2. The General Assembly may, by general law, provide optional plans of municipal organizations and government, under which an authorized optional plan may be adopted or abandoned by majority vote of the qualified electors of the city or borough voting thereon.

Section 3. (a) The qualified electors of any city or borough may adopt, amend or repeal a home rule charter of government. The adoption, amendment or repeal of a charter shall be proposed either by resolution of the legislative body of the city or borough or by a charter commission of not less than seven members elected by the qualified electors of the city or borough from their membership pursuant to petition for such election, bearing the signatures of at least ten per cent of the qualified electors of the city or borough and filed with the chief recording officer of the legislative body of the city or borough. The legislative body of the city or borough shall by resolution direct the election board to provide for holding the election in accordance with the provision of the election laws. On the death, resignation or inability to serve of any member of a charter commission, the remaining members shall elect a successor. A charter commission may propose (1) the adoption of a charter, (2) amendment of a charter or particular part or parts of a charter, or (3) repeal of a charter, or (4) any of these acts, as specified in the petition.

(b) The General Assembly shall provide by statute for procedure not inconsistent with the provisions of this section, and may provide by statute for a number of charter commission members in excess of seven on the basis of population. In the absence of such legislation, the legislative

body of a city or borough in which the adoption, amendment or repeal of a charter is proposed shall provide by ordinance or resolution for the procedure; and the number of charter commission members shall be seven. The legislative body may, if it defaults in the exercise of this authority, be compelled by judicial mandate, at the instance of at least ten signers of a sufficient petition filed under this section, to exercise the authority.

(c) All expenses of elections conducted under this section and all proper expenses of a charter commission shall be paid by the city or borough.

(d) Every charter, charter amendment and charter repeal proposed shall be submitted to the vote of the electors of the city or borough in the manner provided by the election laws, and shall not become effective unless a majority of the electors voting on it votes in favor of it.

(e) Any part of a proposed home rule charter may be submitted for separate vote. Alternate sections or articles of a proposed home rule charter or proposed charter amendments may be submitted. The section or article receiving the larger vote, in each instance, shall prevail if the charter or amendment is adopted.

(f) A city or borough which adopts a home rule charter may exercise any power or perform any function which the General Assembly has power to devolve upon a non-home rule charter city or borough, so long as the power or function is not denied by statute nor by its home rule charter and it is within limitations as may be established by the statute. This devolution of power does not include the power to enact private or civil laws governing civil relationships except as an incident to an exercise of an independent municipal power, nor does it include power to define and provide for the punishment of a felony.

(g) Charter provisions with respect to municipal executive, legislative and administrative structure and organization, and to the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel are of superior authority to statute, subject to the requirement that the members of a municipal legislative body be chosen by popular election, and except as to judicial review of administrative proceedings, which shall be subject to the superior authority of statute.

(h) A municipal legislative body or charter commission which proposes the termination of home rule charter status by repeal of a home rule charter shall incorporate in the proposition to be submitted to the qualified electors a specification of the form of government under which the city or borough would thereafter operate in the event of repeal, whether it be a form prescribed by general law for municipalities of its population class or one of such optional forms as may have been authorized by general law for cities or boroughs of its population class. A municipal legislative body or charter commission proposing charter repeal shall also, by resolution of that body, determine when the transition to the new form of government shall take place in the event of repeal and make such other provisions as may be appropriate to effect an orderly transition from home rule charter to non-home rule charter status.

(i) At least thirty days before an election thereon, notice shall be given by publication in a newspaper of general circulation within the city or borough that copies of a proposed charter, charter amendment

or repeal proposition and resolution are on file in the office of the chief recording officer of the legislative body of the city or borough, and that a copy will be furnished by him to any qualified elector or taxpayer of the city or borough upon request.

(j) The qualified electors of a city or borough shall not elect a charter commission more often than once in four years.

For Historical Note and Comments, see pages 50-55.

C 1.20 - Amendment of Constitution

A JOINT RESOLUTION

Proposing an amendment to article eighteen, section one of the Constitution of the Commonwealth of Pennsylvania, changing the method of amending the Constitution.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article eighteen, section one of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 1. Amendments to this Constitution may be proposed in the Senate or House of Representatives at any regular session of the General Assembly. If agreed to by a majority of the members elected to each House, they shall be entered on their journals with the yeas and nays taken thereon; and the official charged with the duty of administering statewide elections shall publish each amendment three months before the next general or municipal election in at least two newspapers in every county in which such newspapers are published. If at the next regular session of the General Assembly the proposed amendment is agreed to by a majority of the members elected to each House, the official charged with the duty of administering statewide elections shall again and in like manner publish the proposed amendment; and it shall be submitted to the qualified electors of the Commonwealth in such manner and at such time, at least three months after being agreed to for the second time by both Houses, as the General Assembly prescribes. If an amendment is approved by a majority of those voting thereon, it shall become part of this Constitution. After an amendment has been once submitted and not approved, it or one substantially related, shall not again be submitted until a period of five years has elapsed. When two or more amendments are submitted, they shall be voted on separately.

For Historical Note and Comments, see pages 56-57.

DRAFTS OF JOINT RESOLUTIONS

Class 2 Changes

Class 2 changes are those recommendations for amendment which the Commission deems very desirable, but which are not vital for the efficient conduct of the state government.

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C 2.1 - *Information in Indictable Cases*

A JOINT RESOLUTION

Proposing an amendment to article one, section ten of the Constitution of the Commonwealth of Pennsylvania, removing prohibition against proceeding by information for indictable offenses.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article one, section ten of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 10. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

For Historical Note and Comments, see page 60.

C 2.2 - *Members of General Assembly, Disqualifications*

A JOINT RESOLUTION

Proposing an amendment to article two, section six of the Constitution of the Commonwealth of Pennsylvania, imposing additional disqualifications on Senators and Representatives.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article two, section six of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 6. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office or employment under this Commonwealth to which a salary, fee or perquisite is attached. No member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth or any political subdivision thereof, to which a salary, fee or perquisite is attached, shall be a member of either House during his continuance in office.

Schedule

That no inconvenience shall arise from the change in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is declared that:

This amendment does not apply to Senators or Representatives heretofore elected, during the balance of the term for which they have been elected, nor to any person elected to either the Senate or House of Representatives at the same election at which this amendment is adopted, during the term for which he is then elected.

For Historical Note and Comments, see page 61.

C 2.3 - Bills to Codify Existing Law

A JOINT RESOLUTION

Proposing an amendment to article three, section three of the Constitution of the Commonwealth of Pennsylvania, permitting bills to codify existing law to contain more than one subject.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three, section three of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 3. No bill, except general appropriation bills and bills codifying existing law, shall be passed containing more than one subject, which shall be clearly expressed in its title.

For Historical Note and Comments, see page 62.

C 2.4 - Bills, Procedure

A JOINT RESOLUTION

Proposing an amendment to article three, section four of the Constitution of the Commonwealth of Pennsylvania, changing the procedure on the passage of bills.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three, section four of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 4. Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.

For Historical Note and Comments, see pages 62-63.

C 2.5 - Commonwealth Purchases

A JOINT RESOLUTION

Proposing an amendment to article three, section twelve of the Constitution of the Commonwealth of Pennsylvania, regulating Commonwealth purchases.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three, section twelve of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 12. All purchases made by the government of this Commonwealth shall so far as practicable be made under a system of competitive bidding. No member or officer of any department of the government shall be in any way interested in Commonwealth purchase contracts and all such contracts shall be subjected to the approval of the Auditor General.

For Historical Note and Comments, see page 64.

C 2.6 - Cash Refunds Without Appropriation

A JOINT RESOLUTION

Proposing an amendment to article three, section sixteen of the Constitution of the Commonwealth of Pennsylvania, authorizing cash refunds without appropriation in certain cases.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three, section sixteen of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 16. No money shall be paid out of the treasury except on appropriations made by law, and on warrant issued by the proper officer; but cash refunds of taxes, licenses, fees and other charges paid or collected but not legally due may be paid as provided by law, without appropriation, from the fund into which they were paid, on warrant of the proper officer.

For Historical Note and Comments, see page 65.

C 2.7 - Appropriations to Charitable and Educational Institutions

A JOINT RESOLUTION

Proposing an amendment to article three of the Constitution of the Commonwealth of Pennsylvania, repealing section seventeen thereof, which requires a two-thirds vote to make appropriations to certain charitable and educational institutions.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three of the Constitution of the Commonwealth of Pennsylvania be amended by repealing section seventeen thereof, which reads:

"Section 17. No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House."

For Historical Note and Comments, see page 66.

C 2.8 - Delegation of Municipal Power

A JOINT RESOLUTION

Proposing an amendment to article three of the Constitution of the Commonwealth of Pennsylvania, repealing section twenty thereof, which prohibits delegation of municipal functions to special commissions, private corporations or associations.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three of the Constitution of the Commonwealth of Pennsylvania be amended by repealing section twenty thereof, which reads:

“Section 20. The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.”

For Historical Note and Comments, see page 66.

C 2.9 - Constitutional Officers; Confirmation of Appointment

A JOINT RESOLUTION

Proposing an amendment to articles four, six, and seventeen of the Constitution of the Commonwealth of Pennsylvania, removing the Secretary of the Commonwealth, Secretary of Internal Affairs and Superintendent of Public Instruction as constitutional officers; and permitting confirmation of appointments by a simple majority of the Senate.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article four, sections one and eight of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 1. The Executive Department of this Commonwealth shall consist of a Governor, Lieutenant Governor, Attorney General, Auditor General and State Treasurer and such other officers as the General Assembly may from time to time prescribe.

Section 8. (a) The Governor shall, with the consent of a majority of the members elected to the Senate, appoint an Attorney General and other officers authorized by the General Assembly.

(b) He may, during the recess of the Senate, fill vacancies happening in offices to which he appoints by granting commissions expiring at the end of its session. He may, during the recess of the Senate, fill vacancies happening in the office of Auditor General or State Treasurer, in a judicial office or in any other elective office he is authorized to fill. If the vacancy happens during the session of the Senate, he shall nominate to the Senate, before its final adjournment, a proper person to fill the vacancy.

In the case of a vacancy in an elective office, except in a judicial office, a person shall be elected to the office on the next election day appropriate to the office, unless the vacancy happens within two calendar months immediately preceding the election day, in which case the election shall be held on the second succeeding election day appropriate to the office.

(c) In acting on executive nominations, the Senate shall sit with open doors. The vote shall be taken by yeas and nays, and shall be entered on the journal.

That article six, section four of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 4. All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the members elected to the Senate.

That article four, sections eighteen, nineteen and twenty of the Constitution of the Commonwealth of Pennsylvania, which read:

"Section 18. The Secretary of the Commonwealth shall keep a record of all official acts and proceedings of the Governor, and when required lay the same with all papers, minutes and vouchers relating thereto, before either branch of the General Assembly, and perform such other duties as may be enjoined upon him by law.

"Section 19. The Secretary of Internal Affairs shall exercise all the powers and perform all the duties of the Surveyor General, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the State as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the General Assembly.

"Section 20. The Superintendent of Public Instruction shall exercise all the powers and perform all the duties of the Superintendent of Common Schools, subject to such changes as shall be made by law." be repealed.

That article four, section twenty-one of the Constitution of the Commonwealth of Pennsylvania, which reads:

"Section 21. The terms of the Secretary of Internal Affairs, the Auditor General, and the State Treasurer shall each be four years; and they shall be chosen by the qualified electors of the State at general elections; but a State Treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successor shall be elected at the general election in the year one thousand nine hundred and twelve, and in every fourth year thereafter. No person elected to the office of Auditor General or State Treasurer shall be capable of holding the same office for two consecutive terms."

be repealed in so far as it fixes the term of the Secretary of Internal Affairs.

That article seventeen, section eleven of the Constitution of the Commonwealth of Pennsylvania, which reads:

"Section 11. The existing powers and duties of the Auditor General in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the Secretary of Internal Affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and, in addition to the annual reports now required to be made, said Secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof." be repealed.

Schedule

That no inconvenience shall arise from the change in the Constitution of the Commonwealth, and in order to carry the same into complete operation, it is declared that:

All existing statutes affecting the Secretary of the Commonwealth, the Secretary of Internal Affairs or the Superintendent of Public Instruction shall continue in force until changed by the General Assembly.

The Secretary of Internal Affairs and the Superintendent of Public Instruction in office at the adoption of this amendment shall continue in their respective offices until the end of the term for which they were elected or appointed.

For Historical Note and Comments, see pages 67, 69-72 and 76.

C 2.10 - Auditor General and State Treasurer; Succession

A JOINT RESOLUTION

Proposing an amendment to article four, section twenty-one of the Constitution of the Commonwealth of Pennsylvania, permitting the Auditor General and State Treasurer to succeed themselves for one additional term.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article four, section twenty-one of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 21. The terms of the Auditor General and the State Treasurer shall each be four years from the third Tuesday of January next following his election. They shall be chosen by the qualified electors of this Commonwealth at general elections. Except for the Auditor General and State Treasurer who may be in office when this amendment is adopted, they shall be eligible to succeed themselves for one additional term.

Schedule

That no inconvenience may arise from the change in the Constitution of the Commonwealth, and in order to carry it into complete operation, it is declared that:

The Auditor General and State Treasurer who may be in office when this amendment is adopted shall serve until the end of the term for which they were elected. The terms of the Auditor General and State Treasurer first elected after this amendment is adopted, or who are elected at the same election at which this amendment is adopted shall begin at the end of the terms of the Auditor General and State Treasurer then in office.

For Historical Note and Comments, see page 71.

C 2.11 - *Commonwealth Reserve Funds*

A JOINT RESOLUTION

Proposing an amendment to article nine of the Constitution of the Commonwealth of Pennsylvania, repealing section thirteen thereof, which limits Commonwealth reserve funds.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article nine of the Constitution of the Commonwealth of Pennsylvania be amended by repealing section thirteen thereof, which reads:

"Section 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured."

For Historical Note and Comments, see page 73.

C 2.12 - *Philadelphia, Abolishing County Offices*

A JOINT RESOLUTION

Proposing an amendment to article fourteen, section eight of the Constitution of the Commonwealth of Pennsylvania, revising the procedure for abolishing county offices in Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article fourteen, section eight of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 8. (a) In Philadelphia all county offices are abolished. The city shall perform all functions of county government within its area.

(b) Local and special laws with respect to powers granted to the City of Philadelphia shall be valid notwithstanding the provisions of article three, section seven of this Constitution.

(c) All laws applicable to the County of Philadelphia shall apply to the City of Philadelphia.

(d) The City of Philadelphia shall have, assume and take over all powers, property, obligations and indebtedness of the County of Philadelphia.

(e) The provisions of article fifteen of this Constitution shall apply with full force and effect to the functions of the county government performed by the city.

(f) All officers performing functions of county government shall be officers of the City of Philadelphia. Until otherwise provided by the City of Philadelphia through amendment to the Philadelphia Home Rule Charter, they shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect.

For Historical Note and Comments, see page 73.

C 2.13 - Corporate Charters, Amendment and Repeal

A JOINT RESOLUTION

Proposing an amendment to articles three and sixteen of the Constitution of the Commonwealth of Pennsylvania, authorizing the amendment, repeal and revoking of laws affecting corporate charters.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article three, section seven, clause twenty-five of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 7. The General Assembly shall not pass any local or special law:

* * *

(25) Creating corporations or amending, renewing or extending the charters thereof, except as provided in article sixteen.

That article sixteen, section ten of the Constitution of the Commonwealth of Pennsylvania be amended to read:

Section 10. All charters of private corporations now existing and revocable at the adoption of this amendment may be altered, revoked or annulled, if in the opinion of the General Assembly they may be injurious to the citizens of this Commonwealth, in such manner that no injustice shall be done to the corporators. All laws heretofore or hereafter adopted by the General Assembly dealing with the formation and regulation of private corporations and prescribing the powers, rights, duties and liabilities of private corporations, their officers, directors and shareholders, may be amended, repealed or revoked.

For Historical Note and Comments, see pages 63 and 74.

C 2.14 - Amendment by Indirect Initiative

A JOINT RESOLUTION

Proposing an amendment to article eighteen of the Constitution of the Commonwealth of Pennsylvania, providing for amendment of the Constitution by indirect referendum.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article eighteen of the Constitution of the Commonwealth of Pennsylvania be amended by adding a new section to read:

Section 2. Amendments to this Constitution may be proposed by petition, signed by a number of qualified electors equal to five per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, and filed with the official charged with the duty of administering statewide elections. Each petition shall set forth the full text of the amendment proposed, and shall be verified by the affidavit of the persons soliciting the signatures. The official shall transmit the petition to the General Assembly, when in session, or as soon as it convenes. If an amendment proposed by petition is agreed to by a majority of the members elected to each House, it shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article as though it had been agreed to by two succeeding regular sessions of the General Assembly. If (1) the proposed amendment is rejected, or (2) it is agreed to in an amended form, or (3) no action is taken thereon within four months from the time it is received by the General Assembly, if the General Assembly is in session so long, and, if not, then within four months after the convening of the next regular session of the General Assembly; and if so demanded by supplementary petition signed by a number of qualified electors equal to ten per cent of the total number of votes cast for Governor at the last preceding gubernatorial election, the proposed amendment shall be submitted to the qualified electors in a manner and at a time prescribed by the General Assembly. The supplementary petition shall be filed with the official charged with the duty of administering statewide elections within six months (1) after the proposed amendment was rejected by the General Assembly, or (2) after the expiration of the four months herein provided for action on the petition by the General Assembly, if no action has been taken thereon, or (3) after the proposed amendment, as amended by the General Assembly, has been filed with the proper official. The proposed amendment shall be advertised and submitted to the qualified electors of the Commonwealth as provided in section one of this article in the form prescribed by the supplementary petition, which shall be either as first petitioned for or with any amendments incorporated therein by either House or by both Houses of the General Assembly. If the proposed amendment is approved by a majority of the qualified electors voting thereon, it shall become a part of this Constitution. All petitions shall be in the form provided by law for nomination petitions, unless otherwise provided by law.

For Historical Note and Comments, see page 76.

C 2.15 - Periodic Review of Constitution

A JOINT RESOLUTION

Proposing an amendment to article eighteen of the Constitution of the Commonwealth of Pennsylvania, providing for periodic reviews of the Constitution.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of the Commonwealth of Pennsylvania is proposed in accordance with the provisions of the eighteenth article thereof:

That article eighteen of the Constitution of the Commonwealth of Pennsylvania be amended by adding a new section to read:

Section 3. In the year nineteen hundred seventy-three and every fifteenth year thereafter, the provisions of this Constitution shall be studied and reviewed in the light of contemporary conditions and the anticipated problems and needs of the people of this Commonwealth. The General Assembly shall provide for a commission to perform the work.

For Historical Note and Comments, see page 78.

Land Title Registration

AN ACT

Assigning an article and section number to a section of the Constitution of the Commonwealth of Pennsylvania added thereto without designating its position therein.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The section added to the constitution of the Commonwealth of Pennsylvania by amendment adopted November 2, 1915, which reads:

“Laws may be passed providing for a system of registering, transferring, insuring of and guaranteeing land titles by the State, or by the counties thereof, and for settling and determining adverse or other claims to and interest in lands the titles to which are so registered, transferred, insured and guaranteed; and for the creation and collection of indemnity funds; and for carrying the system and powers hereby provided for into effect by such existing courts as may be designated by the Legislature, and by the establishment of such new courts as may be deemed necessary. In matters arising in and under the operation of such system, judicial powers, with right of appeal, may be conferred by the Legislature upon county recorders and upon other officers by it designated. Such laws may provide for continuing the registering, transferring, insuring and guaranteeing, such titles after the first or original registration has been perfected by the court, and provision may be made for raising the necessary funds for expenses and salaries of officers which shall be paid out of the treasury of the several counties.”

and for which no article or section number was designated, shall be known as “Article III, Section 35 of the Constitution of the Commonwealth of Pennsylvania.”

Section 2. This act shall take effect immediately.

For Note, see pages 104-105.

MINORITY STATEMENTS

MINORITY REPORT IN SUPPORT OF GENERAL REVISION OF THE STATE CONSTITUTION

The majority of the members of this Commission have voted that the best way to effect needed changes in the Constitution is by the process of amendment. We, the signers of this minority report, are compelled to dissent from that recommendation. It is our conclusion, in brief, not only that there is a great need for general revision of the Constitution of the Commonwealth, but also that the basic work of this Commission clearly demonstrates that need. We are strongly of the opinion that, in the light of contemporary conditions and the anticipated problems and needs of the people of the Commonwealth, a general revision not only is in order but also is long overdue.

We are glad to note, at the outset of this statement, that the Commission on Constitutional Revision has embraced a considerable number of significant proposals for change in the Constitution. Those proposals include, among other things, unrestricted annual sessions of the General Assembly, eligibility of an incumbent to a second term as Governor and the Pennsylvania plan for the selection of judges. These are constructive recommendations, but simply to put them and others forward separately falls far short of what is needed.

There is a wide recognition, in the minds of thoughtful students of public affairs, of the inadequacies of state constitutions generally to meet the challenge of our times and of the years ahead. This was pointed out very forcefully by the Commission on Intergovernmental Relations, which submitted its report to the President in June, 1955. The following excerpt from the report is particularly pertinent.

Early in its study, the Commission was confronted with the fact that many State constitutions restrict the scope, effectiveness, and adaptability of State and local action. These self-imposed constitutional limitations make it difficult for many States to perform all of the services their citizens require, and consequently have frequently been the underlying cause of State and municipal pleas for Federal assistance.

It is significant that the Constitution prepared by the Founding Fathers, with its broad grants of authority and avoidance of legislative detail, has withstood the test of time far better than the constitutions later adopted by the States. A due regard for the need for stability in government requires adherence to basic constitutional principles until strong and persistent public policy requires a change. A dynamic society requires a constant review of legislative detail to meet changing conditions and circumstances.

The Commission finds a very real and pressing need for the States to improve their constitutions. A number of States recently have taken energetic action to rewrite outmoded charters. In these States this action has been regarded as a first step in the program to achieve the flexibility required to meet the modern needs of their citizens.

A principal reason that the state governments have not been playing a more effective role in the Federal system is the failure of the states

to strengthen state governmental institutions and processes. We are convinced that the needed strengthening cannot be achieved by a piecemeal attack on the problem. We believe that we can make this clear in a relatively short statement. Looking specifically to the Constitution of this Commonwealth, one finds conspicuous evidence that the Constitution of 1874 was anything but a flexible, basic charter of government. It was plainly a reflection of the times. In the 1870s the people of the state were keenly concerned about problems of corruption in government, which, unhappily, were a mark of the times. This resulted in the making in the Constitution itself of many rather detailed policy decisions, which were designed to cope with then contemporary problems, but which have no necessary relevance to this day. This Commission has recognized that there are a great many sections of the Constitution which are outmoded and should be eliminated. The point, however, goes deeper than this; the Constitution of 1874 is characterized by a kind of distrust of government and a tendency toward rigidity in structure and authority, which is not conducive to a healthy climate of public administration and does not afford the flexibility for the development of strong and effective governmental institutions. It is in marked contrast with the Constitution of the United States in this respect. The latter is a relatively simple document, which, for the most part, is couched in broad terms and is not grudging in the provision of governmental authority in keeping with responsibility.

The need of revision of the Pennsylvania Constitution has been aggravated rather than otherwise by the considerable piecemeal amendment which has taken place over the years. The people of the state have added some 59 amendments. Many of these amendments have, of course, involved very important matters and have been most needful. The overall effect, nonetheless, has been to increase the amount of ephemeral detail in the Constitution, to increase the rigidity of the document and to make the Constitution, as a whole, more a patchwork and less a coherent basic charter of government. Thus, the need of revision has been increased.

The point has been repeatedly urged by opponents of revision that a number of efforts have been made in the past to achieve revision without any success, which is to be taken as an indication that the cause is hopeless. We are not at all impressed with this reasoning. We see no basis for the impression that Pennsylvania is different in this respect from other states, several of which have adopted new constitutions in comparatively recent years. That some previous attempts were unsuccessful is no criterion as a present guide because the last few decades have evolved more changes in our body politic and in economic and social conditions than in any previous period in the history of our Commonwealth. In our view, the people of Pennsylvania, once adequately informed on the subject, will be found entirely willing to replace the present antiquated instrument of government with a well-conceived, flexible, organic law, which is fully responsive to the needs of our increasingly complex society.

The work of this Commission strongly supports the case for revision. The Commission's report lists in all 123 recommendations for amendment, - to say nothing of several others that might well have been adopted. If all of the recommendations of the Commission are taken into account, we have what amounts to proposals for substantial revision of the executive article, the judicial article, the article on county officers, the article on cities, the article on private corporations, and the article on

amendments as well as for repeal of the article on railroads and canals - all this in addition to numerous proposals for change in other articles.

It is true that an attempt is made to grade the proposals in different classes of "critically needed" and "very desirable." This, however, is obviously a more or less fanciful and arbitrary classification, there being, necessarily, various degrees both of "critical need" and "great desirability," so that these are, at best, merely relative and not absolute terms. And the question naturally arises, - since all of the recommendations are admittedly at least to some extent desirable, - for what good reason should they not all be adopted, which, because of their number, can, as a practical matter, be accomplished only by a general constitutional revision? Indeed, even if only the "first class," - the 33 so-called critically needed amendments, - were to be considered, they are far too numerous to make it realistically possible to submit them to the electorate through the amendatory process. Moreover, if they are critically needed it must be borne in mind that that process requires action by two legislatures preceding the vote of the people, involving a delay of at least three or four years, whereas a general revision could probably be accomplished in half that time.

The fact is that our Constitution, which is now 85 years old, is an antiquated instrument of government, utterly inadequate for present needs. We would, therefore, urge that the Legislature provide the necessary machinery for obtaining a general revision of the Constitution rather than for piecemeal amendments, whether 33 or 123 in number.

Respectfully submitted,

Genevieve Blatt	Jefferson B. Fordham
Richardson Dilworth	Harriet McGeehan
	Horace Stern

I wish to say a word about my vote for general constitutional revision.

Having listened to a great many expressions of opinion, both in our Commission's hearings and elsewhere, I do not believe there is any real possibility of getting approval for a constitutional convention in Pennsylvania in the immediate future. Because of this, I agree with the majority that if early improvement is to be made in the constitution, the addition of some amendments holds the more promise.

I voted with the minority in favor of a constitutional convention, however, in order to place on the record my belief that the more thorough job of revision which is needed can not come about until the citizens vote for a convention.

M. Nelson McGeary

REAPPORTIONMENT

(*Art. II, Sec. 18*)

We have reluctantly concurred in the recommendation of the majority regarding the amendment of this section.

It is our firm belief, however, that it would be much preferable to provide an alternate non-legislative means for effecting reapportionment if the General Assembly fails to act.

We agree that members of the General Assembly would be under strong moral pressure to reapportion in a special session, if one had to be called. If, however, they should resist such pressure and still refuse to act, there would be no reapportionment. In our opinion, the threat of action by some non-legislative body such as a bi-partisan commission appointed by the Governor or by the Supreme Court, or by both acting together, would produce better and surer results.

If the amendment hopefully suggested by the Commission proves ineffective, as we fear it may, we would urge further amendment along the lines we have herein suggested.

Genevieve Blatt
Richardson Dilworth

SUCCESSION BY THE GOVERNOR

(*Art. IV, Sec. 3*)

We dissent from the Commission's recommendation because, in our opinion, the possibility of succession should not be limited to one additional term.

It seems to us that the experience of the Federal Government, which is now operating under a limited succession amendment insofar as the Presidency is concerned, is ample and current evidence that the efficiency of the chief executive office becomes increasingly more handicapped as the time approaches when the term of that executive must end. In order to maintain maximum efficiency throughout the chief executive's term of office, it seems to us that the possibility should always exist that he might succeed himself, if he so desires and if the voters so decide.

We believe that the voters will retire from office any chief executive who has ceased to render service in accordance with the will of the majority of the people. They may do this at the end of his first term, or at the end of any succeeding term, but they should still have the power to keep him in office for as many terms as they may desire.

Genevieve Blatt
Richardson Dilworth

STATE TREASURER

(*Art. IV, Secs. 1, 21*)

We dissent from the recommendation of the majority of the Commission that the office of State Treasurer be continued as a constitutional, elective office.

In our opinion, the State Treasurer has come to be a banking and bookkeeping agent only, without the policy-making and other fiscal duties which may previously have justified his constitutional, elective status.

The actual collection of state funds is now handled by the Secretary of Revenue. Appropriations are made on the order of the department concerned, subject to the approval of the Auditor General. Thus, the State Treasurer merely stands in an intermediate position as the custodian and investor of state funds after their collection by one official and until their expenditure subject to the approval of another. It seems to us that he might well be appointed by the Governor. It also seems to us that, in time, the more efficient and economical operation of the state fiscal system might indicate the propriety of abolishing the office and letting the Secretary of Revenue and the Auditor General divide its functions. This, however, could not be done if there are constitutional provisions establishing the office and requiring its elective status and prescribing its duties.

Genevieve Blatt
Richardson Dilworth
Philip Price

SELECTION OF JUDGES

(*Art. 5, Sec. 25*)

In Pennsylvania the people elect their judges. The majority of the Commission is apparently of the opinion that the people make so many mistakes, that the right to choose their judges should be taken away from them. The Commission recommends the adoption of what is substantially the "Missouri Plan," renamed by its advocates as the "Pennsylvania Plan."

Under the plan, the governor, the lawyers, the judiciary and a citizens' group are all to have a hand in the selection of judges. The electorate is to have a voice only in rejecting them.

In reality, the plan provides for the appointment instead of the election of judges. All judges are to be appointed by the Governor. In theory, the Governor is to choose the appointee from a list given him by a commission composed of three citizens appointed by him, and a judge and three lawyers chosen under rules prescribed by the Supreme Court. In actuality, under the plan the Governor may appoint whomever he pleases, for he can continue to reject the Commission's suggestions until he is given the name of the person whom he desires to appoint. Of course, the Governor is free to consult whomever he wishes and to accept the recommendations of whomever he pleases. He will not even have the "check" of confirmation by the Senate, which he now has in case of interim judicial appointments made when the Senate is in session.

It is argued that the plan works in Missouri, (although there can be found those who question that). But, what will happen in Pennsylvania can best be determined from what *has* happened *here*. Pennsylvania officials and politicians have proven themselves capable of adjusting to new procedures in government, whatever they may have been.

There is every indication that governors will continue to appoint judges from members of their own party. Presidents of the United States have made only token judicial appointments of persons not affiliated with their own party. Governors of Pennsylvania have not even made token interim judicial appointments of persons outside their own political party. The electorate of Pennsylvania has a better record of

crossing party lines in selecting judges than have either presidents or governors.

In most judicial districts the election of a judge engenders as much genuine interest as the election of any official, state or national. If the people of Philadelphia look upon the election of their judges as a matter subordinate to the election of other officials, that is a matter peculiar to Philadelphia.

To suggest that the electorate is not competent to choose judges is not to attack the present method of choosing judges, but to attack democracy itself.

Under the plan the people have no part in the selection, but only in the rejection of judges. There is no way for an individual, or a segment, or even a majority of the voters to bring a candidate before the electorate—that power rests solely with the Governor. A lawyer is denied the right to submit his name to the people as a candidate for judge regardless of how many voters' signatures he could obtain on a petition.

No one can predict the approximate percentage of rejections by the electorate on a "Yes" or "No" vote, for we have no precedents. This type of voting is foreign to us; it is a procedure copied from a different type of "democracy." However, it is reasonable to assume there would be virtually no rejections. Where officials are "elected" on a "Yes" or "No" vote, approval is nearly unanimous. "You cannot lick somebody with nobody," is a tried and accepted political slogan, even in America.

The qualifications of officials are best determined by comparisons. Without a contest between different people these comparisons are not made. Those who would be willing to point out the superior qualifications of a competing candidate, are likely to remain silent rather than be put in the position of attacking a judge, even though they know he lacks the necessary qualifications.

But let us assume that, contrary to our expectations, the electorate would take to rejecting a substantial number of judges. The result would be equally unfortunate. Able and established lawyers who might, under the present system, be persuaded to run for a judicial position while still retaining their practice until assured of a ten year term, could not be persuaded to give up their practice for a 1¼ to 2¼ year appointment, if there were a substantial chance of rejection at the end of such period. To be defeated by another lawyer for a judgeship is a risk a qualified lawyer might be willing to take, but to be rejected by the electorate as unfit would be a disgrace no respected lawyer would wish to chance.

There is greater delay in filling judicial vacancies under the federal appointive system than under our state elective system. The reverse would be true if Pennsylvania adopted the plan. Choosing the members of the Commission, having a majority of them agree upon three names to be submitted, and then having the Governor choose one from the list will be time consuming. The Governor might reject the list, once, twice or oftener. This could go on for years as neither the Commission nor the Governor are required to act within any definite time. There is no reason to assume that a Governor would act on the list more promptly than he now acts on recommendations of bar associations and political leaders. Furthermore, under the plan the Governor is not

“prodded” by the practical consideration of a convening or adjourning Senate, or an approaching judicial election.

The creation of needed judgeships is more frequently postponed under the federal appointive system than under the state elective system. When the legislature and the executive are of different political parties there is a tendency to postpone the creation of new judgeships in order to deny the executive opportunities to appoint. The tendency is not as marked when judges are elected, as they are in Pennsylvania.

Taking from the people the right to choose their own judges will not improve the administration of law. It will not take politics out of either the appointment, or the “election” to which every judge will be subjected. It has “built in” machinery which will increase the delays in filling vacancies, and creating needed judgeships. It will discourage rather than encourage qualified lawyers to seek judicial office.

Milton G. Baker
Matthew A. Crawford
Robert D. Fleming
Gwendolyn W. MacCartney
O. Jacob Tallman
Edwin W. Tompkins
Robert E. Woodside

UNIFORMITY OF TAXATION

(Art. IX, Sec. 1)

The failure of the majority of the Commission to recommend amendment of this section is, in our opinion, a serious mistake. It is an omission which may vitiate much of the hard work done by the Commission in pointing out other but less fundamental modernizations of our basic law.

The greatest need of this Commonwealth, it seems to us, is a tax system which is sufficiently flexible to raise enough revenue to meet the Commonwealth's needs without unreasonable hardship on any taxpayer. Yet such a system, based on the well reorganized principle of “ability to pay,” is probably impossible under this section.

Tax laws which permit neither graduation nor exemption work great hardships on many taxpayers, and impose far too great a proportionate share of the tax burden on people of limited means. Such tax laws, however—flat income taxes, sales taxes and various kinds of uniformly levied excise taxes—are inevitable under this section.

Adoption of an amendment which would permit the graduation of taxes and certain exemptions would obviously and certainly not require the enactment of non-uniform taxes; it would still be for the General Assembly to decide when and if such taxes should be levied. Nor would adoption of such an amendment of itself provide exemptions or graduations in any tax laws, such as are now provided by the federal government and several other states; it would, again, be for the General Assembly to say when and if any such exemption or graduation should be allowed.

Amendment of this section would, in our opinion, remove the shackles which have prevented the General Assembly from enacting modern and adequate tax legislation in the past. It would likewise leave

the General Assembly free to modernize Pennsylvania's tax structure as future needs and conditions may require.

Genevieve Blatt
Richardson Dilworth
Harriet McGeehan

I agree that the present requirement of uniformity in taxes is too inflexible.

If the General Assembly voted an income tax, for example, it should be able to say that of two men with incomes of \$10,000, the one with a wife and five children (three of them in college) should not have to pay as heavy a tax as the one who was a bachelor.

M. Nelson McGeary

LIEUTENANT GOVERNOR

(Art. 4, Sec. 4)

I have reluctantly concurred in the Commission's decision to recommend no change in regard to the office of Lieutenant-Governor, but I would have strongly preferred to see this office abolished. Its fundamental purpose is to provide a successor to the Governor, in the event of the Governor's resignation, death or removal from office, but the new Alaska and New Jersey Constitutions, for example, provide for succession by another official, and I think such succession would be just as suitable. The prescribed functions of the Lieutenant-Governor, to preside over the Senate and to act as Chairman of the Board of Pardons, could easily be handled by others. The Senate could elect its own presiding officer, as the House of Representatives does, and some other member of the Board of Pardons could certainly be designated as Chairman.

Genevieve Blatt

APPROPRIATIONS FOR PUPIL TRANSPORTATION

(Art. 10, Sec. 2)

Although I concur with the majority opinion of the Commission that this section does not necessarily have to be changed to permit transportation of any school children in a public school-bus, whether or not such children attend a public school—there being no clear prohibition herein of such action—I would prefer to see the Constitution state in positive terms that the provision of transportation service for any school-age child to any accredited school in a public school-bus is permissible.

Parents who pay the required school taxes, and who see that their children attend schools accredited by the state, should not be denied transportation which is provided for some school children just because they have chosen to enroll their children in an accredited but non-public school. Transportation is a service for the child and its parents, not support for the school which a child attends, and it seems to me that a clear statement to that effect would be desirable.

The General Assembly or local government legislative bodies might or might not want to provide such transportation, but it seems to me that the decision should be left to these agencies, without possibility of constitutional prohibition.

Genevieve Blatt

HOME RULE FOR TOWNSHIPS

(Art. 15)

I strongly support the proposed grant of Home Rule powers to cities and boroughs and the other recommendations made in this Article regarding the government of cities and boroughs, but I feel that similar provisions should be made for townships.

Some townships are larger than some cities and many boroughs. Some are so large that they would rank among the most heavily populated local government areas in the state. I can see no reason for denying these townships any governmental privileges allowed the cities and boroughs, particularly in relation to Home Rule, nor can I see any reason for not allowing such privileges to all townships, even small ones.

It is the opinion of the majority of the Commission that to give townships these privileges might lead to a bewildering diversity of township government and such lack of uniformity that any state-wide statistics regarding township activity would be practically impossible to assemble, and any state-wide controls almost impossible to enforce. It seems to me that this fear would apply equally well in relation to cities and boroughs, and, if a diversity is to be tolerated in regard to cities and boroughs, it might equally well be tolerated in regard to townships.

Genevieve Blatt

A STATEMENT BY THE HONORABLES RICHARDSON DILWORTH AND JEFFERSON B. FORDHAM

In filing this separate minority report, we have one major general point and several specific points to make.

The general observation is a brief statement of our philosophy of constitutionalism.

We think of a constitution as an organic instrument which should provide a basic charter of government with a minimum of detail. At this stage in the development of our society, there is more compelling reason than ever before to embrace the organic conception. Life is so interdependent and change so rapid that we need great flexibility. To us this bespeaks a constitutional pattern, which leaves a maximum area of policy decision-making and power devolution to the legislative representatives of the people. In short, we should minimize the making of more or less specific policy decisions at the constitutional level and maximize such decision-making at the legislative level.

Our specific points refer largely to instances of the failure of the Commission to embrace the organic conception of a constitution. Instead of concentrating upon the revitalization of representative government with the flexibility of action demanded by the problems of our day, the Commission has indulged to a considerable extent in the unhappy business of proposing to perpetuate ephemeral policy decisions in the basic law. It has timidly eschewed bold, imaginative thinking and this at a time when, in the international realm, we are playing "for keeps" as to the very survival of the race. Tinkering with a detailed contemporary-minded constitution of the post Civil War period is hardly calculated to strengthen and invigorate state and local governmental institutions and processes for their great role in the Federal System.

The Legislative Branch - Unicameral Form

In undertaking to vitalize the legislature and to render it equal to the responsibilities of its key policy-making and power distribution role, we need to make a fresh start. The unicameral or single-chamber form would be structurally a fresh start of a dramatic character calculated to fix political and institutional responsibility and to make legislative processes more understandable to the people. The unicameral plan could be expected to add stature to membership. The operation of a bicameral legislature is diffuse and dilatory - something we would find quite insupportable in local government and in business organization.

The Legislative Branch - Unshackling as to Taxing and other Powers

The legislature should be freed from the limitations on its substantive powers (other than those in the Declaration of Rights), which abound in the constitution. Conspicuous among these is the requirement of uniformity of taxation, which has been interpreted to apply to all forms of taxation and that so restrictively that no personal exemption nor deduction for dependents can be made to the lowest paid wage-earner under a flat-rate income or wage tax. It is a commonplace that in many of our sister states the constitutional uniformity clause applies only to ad valorem property taxation. Section 1 of Article IX of the Pennsylvania Constitution should be so amended as to render its uniformity clause applicable only to ad valorem property taxes. Beyond this, adequate protection for the individual is provided by the state Declaration of Rights and the Fourteenth Amendment.

The majority have been greatly concerned about state finance, so far as the borrowing power is concerned, but have failed to attack the more basic problem of taxation and revenue. Borrowing, be it remembered, is a way of anticipating future revenues. The state is faced with a grave revenue problem, nor is there any basis for predicting other than that the need for public revenue will increase as time passes. It is, then, a critically bad mistake to refuse to unshackle the legislature in revenue matters. We do not speak here for any particular form of taxation; we do insist that the legislature should have broad power of taxation, in the exercise of which it may take into account ability to pay as well as governmental benefits received, in order that sufficient money may be raised and the burden fairly distributed.

The majority would add a new limitation on legislative power in the form of a requirement of competitive bidding in state purchases. This is statute-level policy and we strongly object to its elevation to the constitutional plane.

The Executive Branch

In relation to the executive branch the majority have not followed through on the principle of focalizing responsibility and strengthening the hand of the governor. They would permit a particular individual to serve two terms as governor but no more. This is an expression of distrust in democratic processes which does not eliminate lame-duck status but defers it until a second term. There is a growing awareness that the two-term limit on the presidency is a mistake. We should not repeat it in Pennsylvania.

The majority would retain the office of state treasurer as a con-

stitutional elective office, while relegating that of secretary of internal affairs to the statutory level. Neither should be a constitutional, elective office. The state treasurer's responsibilities are simply of a banking and bookkeeping character. These are administrative matters which call for an officer appointed by and responsible to the Governor.

The Judicial System

The Commission's proposals are fraught with detail as to the judicial system. In contrast with the Constitution of the United States, which directly creates only the Supreme Court, the Commission's proposals call for constitutional status for a whole array of courts down to and including magistrates courts, which last may be manned by laymen not learned in the law. We dissent from this. At the most, the constitutional courts should be the supreme court, the superior court and the courts of common pleas with authority in the legislature to provide such other courts as may be needful. There should be effective integration of the judicial system to be implemented under the administrative direction of the "Chief Justice of Pennsylvania." What is needed is a thorough overhaul of the judicial system initiated by a constitutional convention.

Richardson Dilworth
Jefferson B. Fordham

A STATEMENT BY THE HONORABLE EDWIN W. TOMPKINS

A constitution may be classified as a fourth level of government in the nature of self-insurance created by the people as a protection from encroachments against them by the other three levels of government, the Executive, Legislative and Judicial. It further serves to shield the people against hasty action taken at times when tempers run high and public feeling erupts. Because of the slow processes by which it may be amended or changed, it is an American concept of Government that compels us to count to ten before we act.

This I conceive to be the underlying reason why the people of this Commonwealth have on five separate occasions since 1874 rejected any general revision of their "insurance policy." It is true that they have authorized 59 amendments during that period, but many of them were for the purpose of creating debt for highway and bridge construction and for the payment of Veterans Bonuses.

Such terms as "antiquated" and "outmoded" have been and are being used to describe the Constitution of 1874. With such expressions I cannot agree. Although history assigns many and varied reasons for the adoption of some of the proposals contained in the 1874 Constitution, we still cannot and should not consign to oblivion the wisdom of its authors which has successfully piloted us across time, years and circumstances from an agrarian age and society through the industrial, machine, electronic, air and into the atomic and space age; and through several world upheavals to our present position, still intact as a free and independent people. It has preserved our precious liberties which I certainly hope are not considered "antiquated" and "outmoded."

When we recommend the addition of a new section to the Constitution providing:

"The provisions of this Constitution shall be studied and reviewed every fifteen years, in the light of contemporary conditions and the anticipated problems and needs of the people of this Commonwealth,"

I am compelled to recall the observation of Daniel T. Finkbeiner as expressed in his booklet "Pennsylvania Vote Trends in National and State Elections, 1856-1956" wherein he says:

"Attempts to 'outsmart' the constitution during the past quarter of a century seem to have become a popular exercise of the art of government. The natural question which now arises is, if constitutional doctrine is molded by necessity, what is the purpose of having a written constitution?"

Like the silken thread which runs through all the ropes of the British Navy are proposals in this report for all practical purposes abolishing elective officers and disenfranchising the people.

Article V - Section 25

This is the so called Pennsylvania Plan for the Selection of Judges. The proposal would commit to the hands of an appointed Commission, in whose selection the people have no voice, to recommend who shall preside over our Courts.

The eventual choice would be in the hands of the Governor. "If none of the persons so nominated to the Governor is acceptable to him the Judicial Commission shall nominate successive panels of three persons until an appointment from a panel is made by the Governor."

In the hands of a politically partisan Governor, this weakness in the plan could be dangerously abused. The results could become more objectionable than the occasional selection by the people of a person who would prove to be mediocre.

Having joined with Honorable Robert E. Woodside and others in a minority report on this section, I will let that minority report speak for itself.

Article XIV - County Government

I must dissent from the recommendation contained in this Article.

Under Section 1, the recommendation would abolish the offices of sheriffs, coroners, prothonotaries, register of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts and district attorneys.

The recommendation would take away from the people the right to say who shall be their county officers and place the right in the General Assembly, who could at their political whim harass any county they saw fit.

As an alternate the recommendation authorizes what is termed an "optional" plan of government. This plan would take such form as the General Assembly would provide. County Government could and would exist only by the definition and direction of the General Assembly. The recommendation casts aside a long and well established system of County Government without offering any well defined substitute what-

soever - in marked contrast to the detailed recommendations for Philadelphia, and for borough and city governments.

The recommendations, in addition to casting aside all county government as we know and understand it, also provide for repeal of the residence and citizenship requirements of county employees; the maintenance of offices at the county seat; the compensation of county officers; the accountability of officers, and the minority representation of county commissioners and auditors.

Do the recommendations mean government by imported, trained social scientists? Will representative government through locally elected officials be destroyed? Will "we the people" dare to govern our own community affairs or sacrifice local autonomy to a super government of appointed officers as provided under "optional plans," "Charter Government" or so called "Home Rule?" Are we saying that the people no longer have the ability to govern themselves from among their own ranks, but rather only the "expert" can do it? Why, if the need requires, could not local government employ "experts" to assist in the operation of their government thereby keeping control in the hands of the people, rather than to abolish or subordinate the government in favor of the "expert" or "specialist."

I cannot consent to recommendations which have built into them the seeds of destruction of self government.

There should be no rush to change the finest government the world has ever seen. The American form of government has given its citizens more liberty, more privileges, more security, more freedom of speech and action, greater wealth and prosperity than the government of any nation at any time in world history.

To commit the destiny of our form of Government to the shifting pressures of the General Assembly would be one of the tragedies of our history. While anchored to the rock of our Constitution over which only the people themselves have control, I will fear no danger.

Article XV - Home Rule for Cities and Boroughs

With that portion of the proposal of Article XV, Section 3(g) which provides that "... the selection, compensation, terms and conditions of service, removal and retirement of municipal personnel are of superior authority to statute . . ." I am in hearty accord. It should not, however, be limited to charter government only but should extend to all forms of city and borough government.

Although the proposed Sections 1, 2 and 3 of this Article are quite lengthy and contain considerable detail, much of what has been said herein about County Government applies equally as well to cities and boroughs.

If we can honeycomb the operation and control of government at the local level with "experts" and "specialists" instead of operation and control by the people, it will be only a matter of time until it will reach itself upward into state and national Governments, and we shall witness Government of the people, by the people and for the people vanish from this earth.

I have nothing against experts and specialists. In today's economy and society they play an ever increasing important role and function. In the field of government their functions should be to advise, consult and recommend; not operate, dictate and control. Only the people them-

selves should operate and control, and any system that substitutes itself for the people is but destructive of the ends of self government.

Edwin W. Tompkins

A STATEMENT BY THE HONORABLE ROBERT E. WOODSIDE

It is not surprising that many different points of view were presented during the deliberation of the Commission and that we were frequently divided. I envisioned less need for change than some of the other Commissioners, and probably voted in the minority as frequently as any member of the Commission.

I deeply regret what I consider to be a basic inconsistency in the Commission's recommendations. Many students of government believe that our present Constitution is too long, made so primarily because it contains provisions which are legislative in nature. It was contended that these provisions should be removed and the Legislature entrusted with the responsibility of dealing with them as it sees fit. The Constitution, it was argued, should be limited to those provisions necessary to establish the basic structure of government.

Following this concept, the Commission recommended the removal from the Constitution of numerous provisions it deemed legislative in nature. Unfortunately, the Commission abandoned this concept when considering suggested changes in government which it deemed desirable. The concepts of "trusting the legislature" and shortening the Constitution were ignored, as recommendations were adopted which added thousands of words to the Constitution and dealt with procedures in the minutest detail.

I am not convinced of the necessity or desirability of adding such provisions as Article V, Section 25, Article XV and Article XVIII, Sections 2 and 3, or making such changes as were proposed in Article I, Section 10, Article II, Section 16 and Article XIV, Sections 1 to 7. There were other changes recommended which, although less important, seemed to me to be unnecessary or undesirable either in whole or in part.

Robert E. Woodside

AN ACT

Creating a temporary State commission to study the Constitution of the Commonwealth to recommend possible amendment or revision; prescribing the powers and duties of the Commission; and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Commission on Constitutional Revision.

Section 1. A temporary State commission, to be known as the "Commission on Constitutional Revision," is hereby created. The commission shall consist of fifteen citizens of this Commonwealth, of whom five shall be appointed by the Governor, five shall be appointed by the Speaker of the House of Representatives, and five shall be appointed by the President pro tempore of the Senate.

Creation and membership.

Section 2. The members of the commission shall elect from its membership a chairman and a vice-chairman. Vacancies in the membership of the commission shall be filled in the manner provided for original appointments.

Officers and vacancies.

Section 3. The commission shall study the Constitution of the Commonwealth, as amended, in the light of contemporary conditions and the anticipated problems and needs of the people of the Commonwealth. If the commission finds change in the constitution advisable, it shall consider the best means of effecting such change. If the commission determines that the best means is by amendment, it shall so recommend and its report shall contain drafts of the proposed amendment or amendments. If the commission determines that the best means is by general revision, it shall collect, compile and analyze such information as it may deem useful to the delegates at a constitutional convention, and shall make any recommendations relating to the substance of revision as it may consider appropriate.

Duty of commission.

Section 4. The commission shall submit its final report to the Governor and the General Assembly not later than one week after the convening of the General Assembly in regular session in 1959.

Final report.

Section 5. The commission is authorized to make any studies or analyses it may deem relevant through its own personnel or in cooperation with any public or private agency including universities, colleges, foundations and research organizations.

Powers.

Section 6. The members of the commission shall receive no compensation, but shall be reimbursed for all expenses necessarily incurred in the performance of their duties.

Compensation and expenses.

Personnel.

Section 7. The commission may employ, and at its pleasure remove, such personnel as it may deem necessary for the performance of its functions, and fix their compensation within the amounts made available by appropriation.

Contracts.

Section 8. The commission is authorized to make and sign any agreements for research or otherwise, and to do and perform any acts that may be necessary, desirable or proper to carry out the purposes of this act.

Meeting of
commission.

Section 9. The commission may meet within and without the State, and may hold public or private hearings.

Cooperation
directed.

Section 10. The heads of the several departments, agencies, boards, commissions, authorities and instrumentalities of the Commonwealth and of the governmental subdivisions of the Commonwealth, are directed to cooperate with the commission with such facilities, assistance and data as may be necessary or desirable for the commission properly to carry out its functions under this act, and which will not interfere with the proper conduct of the respective departments, agencies, boards, commissions, authorities, instrumentalities and governmental subdivisions.

Appropriation.

Section 11. The sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, is appropriated for the expenses of the commission in carrying into effect the provisions of this act. Payment from the appropriation shall be made on requisition of the chairman of the commission in the manner provided by law.

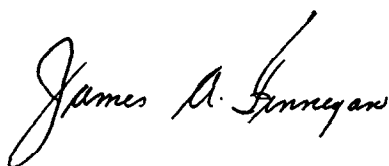
Act effective
immediately.

Section 12. This act shall take effect immediately.

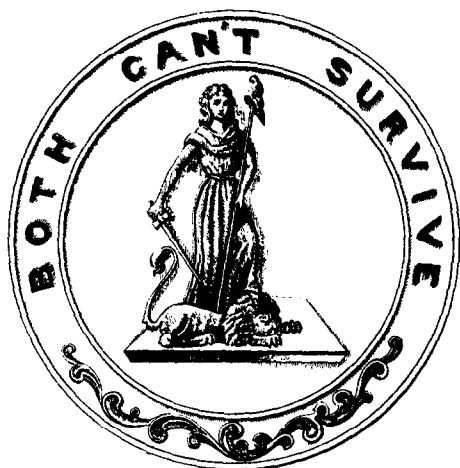
APPROVED—The 15th day of July, A. D. 1957.

GEORGE M. LEADER

The foregoing is a true and correct copy of Act of the General Assembly No. 400.

A handwritten signature in dark ink, reading "James A. Finneyan". The signature is written in a cursive, flowing style with a large initial "J".

Secretary of the Commonwealth.



REVERSE.

THE GREAT SEAL
OF THE
COMMONWEALTH OF PENNSYLVANIA
(OFFICIAL)