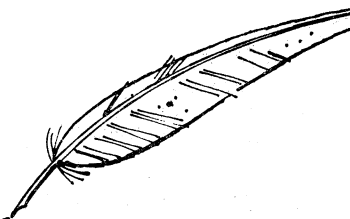




Constitutional Convention Bulletin



No. 3

Published by the Pennsylvania State Chamber of Commerce

December 15, 1967

Organization And Rules

Mail: All delegate mail should be addressed to the Constitutional Convention, P. O. Box 6, Harrisburg, Pennsylvania 17108. Delegate mail will be picked up by the Convention staff and distributed to individual mail boxes in Room 511 of the North Office Building.

Telephone: The Convention's main telephone number is (717) 787-7100. The Convention operator will attempt to locate a delegate and transfer calls to him.

Executive Offices: Room 500, North Office Building, Telephone Number (717) 787-2915.

Time of Daily Meeting: 1:30 P.M. on Mondays and 9:30 A.M. on other days unless otherwise ordered by a majority vote of the Delegates present.

Lobbyists: All lobbyists must register with the Secretary of the Convention.

Seating Arrangement: Delegates are seated alphabetically.

Note: The State Chamber will distribute a Convention Directory in the near future.

The Pennsylvania Constitutional Convention has completed its organization and has adopted a permanent set of rules. The following officers have been elected:

President	Raymond J. Broderick
1st Vice President	Robert P. Casey
2nd Vice President	Frank A. Orban, Jr.
Secretary	James A. Michener

Eight committees and 16 subcommittees have been set up. Each committee has a co-chairman, one from each political party. The membership of the committees is divided equally between the two parties. The committee organization is as follows:

COMMITTEES

- I. JUDICIARY
Co-Chairmen: William W. Scranton
Gustave G. Amsterdam
- II. LOCAL GOVERNMENT
Co-Chairmen: Frank J. Pasquerilla
Louis L. Manderino
- III. TAXATION AND STATE FINANCE
Co-Chairmen: Robert L. Leonard
Carleton T. Woodring
- IV. LEGISLATIVE APPORTIONMENT
Co-Chairmen: William J. Devlin
Thomas L. Fagan

SUBCOMMITTEES

Selection of Judges, Tenure of Judges, Incompatible Activities of Judges, Retirement and Post-Retirement Service of Judges, Judicial Administration and Organization.

Structure and Organization, Annexation and Boundary Changes, Local Finance, Home Rule, County Government, Apportionment.

Taxation, State Debt, Sinking Fund.

Method of Apportionment, Composition of Legislature.

- V. **STYLE AND DRAFTING**
Co-Chairmen: Lawrence L. Pelletier
Roy H. Johnson
- VI. **ARRANGEMENT, SUBMISSION AND ADDRESS TO THE PEOPLE**
Co-Chairmen: James W. Nelson
William H. Gray, Jr.
- VII. **RULES**
Co-Chairmen: Charles P. Leach, Sr.
Max P. Gabreski
- VIII. **ADMINISTRATION AND FINANCE**
Co-Chairmen: Israel C. Bloom
Guy J. Swope
-

COMMITTEE RULES AND PROCEDURES

Each committee shall review and study existing constitutional provisions in the area of its jurisdiction.

After substantial completion of such study, each committee shall then proceed to consider all proposed changes of the present Constitution under the limitations set forth in Act No. 2, Session of 1967, the legislation authorizing the Convention. (These limitations are explained in the State Chamber's **Constitutional Convention Bulletin, No. 1**, dated October 6, 1967, page 1.)

Every scheduled committee or subcommittee meeting will be open to the public unless the committee, by a vote of a majority of the members of the committee present and entitled to vote, shall order an executive session.

Public Hearings

The standing committees and subcommittees may hold public hearings on the subject matter lying within the jurisdiction of each.

The co-chairmen of such group shall give public notice of each public hearing as far in advance as practicable. Said notice shall include the date, time and location of the hearing, together with a brief description of the subject matter of said hearing.

All proposals set for hearings by any committee or subcommittee must be published in the daily Calendar and notice thereof forwarded to the Convention news media not less than five days in advance of such hearing. However, this rule shall not prevent any committee or subcommittee from hearing any proposal on Tuesday and Wednesday, where action of the committee or the committee chairmen setting such proposal for hearing was taken on the preceding Friday or Saturday and the notice thereof is published in the daily Calendar for the following Monday.

Persons or organizations requesting an opportunity to appear shall be notified by the Secretary of the Convention as to the day, date, time and place of said appearance.

Persons or organizations scheduled for an appearance shall submit a typewritten statement covering their proposals or views, not later than three days prior to their appearance. The statement shall be sent to the Secretary of the Convention.

Persons or organizations wishing to present their proposals or views without appearing may do so by sending a typed, legible statement of such proposals or views to the Secretary of the Convention.

All persons or organizations duly scheduled to appear at a hearing shall be entitled to present an oral statement of not more than fifteen minutes for the purpose of explaining their written statement or presenting additional information, unless otherwise restricted or extended by a majority vote of the committee or subcommittee conducting the hearing.

Oral statements pertaining to provisions of the Constitution shall be limited to those set forth in Act No. 2, 1967 Session. The oral statement of any organization shall be limited to one spokesman for each organization at each committee or subcommittee hearing; however, more than one representative of an organization may be in attendance at any hearing.

Committee Operations

Each committee and subcommittee shall maintain a calendar showing the proposed order and date of consideration of particular matters within its jurisdiction, including witnesses to be heard.

A journal will be maintained and shall contain the record of formal action taken by the committee, the subjects discussed, witnesses heard and reports submitted.

A majority of the total membership of any standing committee or subcommittee shall constitute a quorum for the transaction of its business, including the adoption of any amendments to any proposal. At least a majority of all delegates constituting a standing committee shall be required to report a proposal from the committee to the Convention.

Delegates are required to attend all sessions and to vote on each question unless otherwise excused.

It shall be the duty of every Delegate to report to the Secretary of the Convention the cause for his absence.

The President, Vice Presidents and Secretary shall be ex-officio members of all committees and subcommittees, but shall have no vote in any committee or subcommittee.

Nothing in these rules shall prevent a majority (82) of the Delegates from discharging a committee from further consideration of any measure; provided, the committee shall have had in its possession for a period of not less than ten Convention days the measure sought to be brought to the floor by such action.

A notice of at least one day shall be given of a motion to discharge any such committee, the notice to be in writing and entered upon the Journal.

Each committee shall present to the Convention for the information of Delegates not serving on such committee periodic informal reports of its progress and activities and the progress and activities of its subcommittees.

Not later than December 21, 1967, each committee shall file with the President, in writing, proposed dates for the completion by such committee of its activities.

INTRODUCTION OF PROPOSALS

Every suggested amendment or revision of the Constitution shall be referred to as a proposal.

A proposal may be introduced only by a Delegate or Delegates and endorsed by the Delegate or Delegates introducing them or by co-chairmen of a committee on behalf of a majority of such committee and endorsed by them.

The President shall report the Committee to which each proposal has been referred either on the day of introduction or the next day the Convention is in session.

No proposal shall be accepted for introduction by the President unless: (1) it is in accordance with the limitations set forth in Act No. 2, Session of 1967; and (2) it has been prepared by the Convention Drafting Bureau designated by the Committee on Administration and Finance to draft proposals prior to their introduction (the Legislative Reference Bureau).

Proposals shall be numbered as follows: (a) Delegate Proposals start at No. 1000; (b) Committee Proposals start at No. 1; and (c) Committee Proposals shall contain a Printer's No. in the upper right-hand corner.

CONSIDERATION OF PROPOSALS

Every proposal reported from committee shall be considered on three different days before a final vote is taken. (Only Committee Proposals will be reported from Committee.)

A committee proposal shall be printed, placed on the desks of the Delegates and appear on the Calendar for at least one Convention day before the Convention considers it for the first time.

No proposal shall be considered for a second or third time until it is printed, appears on the Calendar and the desks of the Delegates.

When a proposal has been agreed to for a second time, it shall be referred by the President to the Committee on Style and Drafting for incorporation in final draft.

The Committee on Style and Drafting shall report to the Convention any proposal referred to it, which proposal shall be placed on the third consideration calendar.

Amendments

A proposal may be amended by a committee to which it is referred when reporting such proposal. Any Delegate may offer amendments to a proposal on second consideration and with the consent of a majority of the Delegates present when it is on third consideration. No amendment may be offered on first consideration or final passage. (If the Convention gives a proposal consideration for a third day but does not act finally on it, the proposal will appear on the Calendar the next day as up for final passage.)

Amendments must be prepared by the Convention Drafting Bureau (the Legislative Reference Bureau.)

No amendment may be offered to any proposal or to any amendment to a proposal which is not germane to the original object or purpose or in the nature of a substitute if the substitute is not germane.

No proposal shall be deemed passed unless a majority of the one hundred sixty-three Delegates (82) shall have voted in favor. Upon final passage, the proposal is referred to the Committee on Arrangement, Submission and Address to the People.

DEADLINES

All public hearings by committees and subcommittees shall be completed on or before January 19, 1968, unless otherwise authorized, by a majority (82) vote of the Convention.

No Delegate proposal shall be introduced after January 19, except upon consent of a majority (82) of the Delegates; except that any Delegate proposal in preparation on the above date may be introduced when it is received from the Convention Drafting Bureau as designated by the Committee on Administration and Finance.

All hearings on Delegate proposals shall be completed on or before January 19, 1968.

All committee proposals and supporting reports shall be submitted to the Convention on or before February 2, 1968.

Second consideration of all committee proposals shall be completed on or before February 7, 1968.

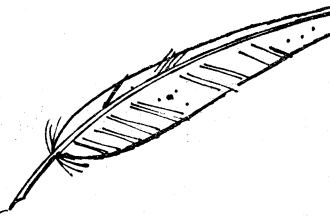
The Committee on Style and Drafting shall complete its consideration of all committee proposals and make its recommendations on or before February 9, 1968.

The Committee on Arrangement, Submission and Address to the People shall make its final recommendations on or before February 16, 1968.

The Convention shall adjourn sine die on or before February 29, 1968.



Constitutional Convention Bulletin



No. 4

Published by the Pennsylvania State Chamber of Commerce

December 29, 1967

One Month Gone, Two to Go

The Constitutional Convention has been in session one month and has two months more to go before the mandatory adjournment date of February 29, 1968.

It has been a productive and orderly session thus far. The organizational phase has been completed and a \$1.5 million budget has been adopted.

The dominant theme has been bipartisanship. Although the Republican delegates outnumber the Democrats 88 to 75, the leadership positions, committee chairmanships, and committee memberships have been equally divided between the two parties. The delegates also were seated alphabetically in the Convention Hall rather than by party designation.

Some observers question if party politics can be divorced from many of the controversial issues before the Convention, particularly since the delegates were selected by political parties and were elected by political designations. Others believe that the emphasis on bipartisanship only tends to build up the importance of party designations. However, all this is theory and must await the test of Convention action.

A by-product of the equal party representation in committee memberships has been that Democratic delegates have received more committee assignments proportionately than their Republican colleagues and, therefore, the minority Democratic delegates have a relatively stronger voice in Convention deliberations.

Delegates Propose. Fifty-eight different proposals already have been introduced for revising the Constitution within the limits of the enabling legislation. This Act limits the Convention's considerations to four general topics: legislative apportionment, judiciary, taxation and State finance, and local government. Twenty-seven of the 58 Delegate Proposals relate to local government, 13 relate to the judiciary, 10 concern taxation and

State finance, and eight, legislative apportionment.

Thus far, a few proposals have been declared out of order by Convention President Broderick because they would be beyond the scope of the limits imposed on the Convention, including a proposal to limit the sessions of the General Assembly to no more than 150 days a year, and another to prohibit the General Assembly from counting votes of absentee members.

Convention Resolutions, however, appear to have no limits. For example, a resolution expressing "deep interest in the continued success" of Liberia was approved and one of the delegates is authorized to hand carry the resolution to the President of that country.

Delegates will have until January 5 to submit proposals and it is expected that a large number will be on file by that time. All Delegate Proposals are referred to one of the four study committees in the Convention—Legislative Apportionment (comprising three subcommittees and 30 delegates), Judiciary (five subcommittees and 48 delegates), Taxation and State Finance (three subcommittees and 38 delegates), and Local Government (six subcommittees and 50 delegates).

The Delegate Proposals, as such, will not be reported from Committee; they are submitted only for study purposes. After the Committee studies the various Delegate Proposals it will prepare its own proposals which will be given a separate number and designation. These will be the proposals subject to consideration on the floor of the Convention.

Taxation and State Finance

The Pennsylvania State Chamber of Commerce has endorsed, in principle, the proposals of the Pennsylvania Bar Association for revision of the Constitution's present Taxation and State Finance provisions. These proposals are set forth in Delegate Proposal 1016.

The following sections of Article IX would not be changed in any way:

Section 1—which provides that all taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax and providing for certain exemptions from taxation including public property used for public purposes, places of religious worship, places of burial not held for private profit, institutions of public charity, real and personal property used by veterans organizations, real property taxes on certain crippled veterans, and occupational privilege taxes on persons deriving less than \$1,000 per year from that occupation. (Also included is an authorization for special taxation of private forest reserves.)

Sections 1b, 2 and 3—which provide for reciprocity of tax exemptions among States, limit tax exemptions to those specifically listed in the Constitution, and prohibit the State from surrendering or suspending its power of taxation to corporations.

Section 14—which establishes a penalty for the misuse of public monies.

Section 18—the anti-diversion clause, which earmarks certain revenues to the Motor License Fund.

Revisions would be made in Sections 4 and 5—relating to the State debt. This would permit the General Assembly to create debt, without the consent of the voters, for the following purposes: to suppress insurrection, to rehabilitate areas affected by disaster, the issuance of tax anticipation notes, or to implement the au-

thority recently voted by the electors on two amendments authorizing the creation of debt for conservation and recreational purposes, one in the amount of \$70 million and the other for \$500 million.

The General Assembly could issue debt for any other purpose if the purpose was separately specified in the statute authorizing it, and the question of whether the debt shall be incurred has been submitted to and approved by the voters. Within the framework of this procedure, there would be no dollar limit to the amount of State indebtedness.

This proposal would not prohibit the continued use of authorities for borrowing money for capital purposes. Such borrowing may be authorized by the General Assembly without the consent of the electorate, and has become the most prevalent type of borrowing.

Sections 11 and 12, relating to the State Sinking Fund, would be modernized by eliminating some of the existing detailed provisions concerning the operation of the Fund and rewording the provision requiring that money in the fund be used exclusively for retirement of the Commonwealth's debt.

Section 13, requiring that all reserves must be applied to either current expenses or repayment of State debt, would be revised to permit establishment of a "necessary" reserve. Such reserves would permit accumulation of funds for capital purposes and for mandated increases in appropriations.

Six obsolete sections, which authorized the issuance of bonds for specific purposes many years ago, and Sections 24 and 25, which authorize borrowing for conservation and recreational purposes, would be repealed. The latter two sections would be repealed since they would be included under the proposed new provisions relating to State indebtedness.

Tax Exemptions. Aside from Delegate Proposal 1016, there have been nine other proposals introduced thus far that have been referred to the Taxation and State Finance Committee. Four of these relate to tax exemptions: (1) D. 1018 would remove all the present constitutional tax exemptions and prohibit any tax exemption except "actual places of religious worship." (See above for the listing of constitutional tax exemptions.) It is difficult to interpret the implications of the provision which prohibits any tax exemption. If this provision refers to the ability of the General Assembly to grant statutory tax exemptions, it would have serious reper-

cussions on Pennsylvania's consumers and producers and result in an extremely regressive and inequitable tax system. (2) D. 1043 would repeal all the existing constitutional tax exemptions except the current exemption for occupational privilege taxes, i.e., for persons deriving less than \$1,000 per year from such occupation. However, there is no general prohibition against tax exemption such as proposed in 1018. (3) D. 1047 would expand the constitutional listing of exemptions to include corporations engaged solely in public redevelopment. (4) D. 1050 also would expand the list of constitutional tax exemptions to include any real estate with an assessed valuation of \$10,000 or less owned by a person 65 years of age or older and used as a principal homestead.

Debts. Two proposals relate to State debt: D. 1049 repeals the \$1 million limit in the present Constitution and authorizes the General Assembly to create State debt for specified purposes without any constitutional limitations, and D. 1047 would authorize public redevelopment corporations to borrow funds using general obligation bonds of the Commonwealth.

Two other proposals relate to local debt and perhaps these two should be considered as a package: D. 1042 would eliminate all existing constitutional debt limitations on local governmental units, and D. 1032 would prohibit creation of municipal authorities and require all existing municipal authorities to be liquidated within ten years.

Under the present Constitution local governments, with the exception of the City of Philadelphia, are permitted to authorize indebtedness to total 5% of assessed value of taxable property by vote of the governing body and 15% of the assessed value with voter approval. Philadelphia City has separate constitutional debt limits. Its debt may not exceed 13½% of the annual assessed valuation of taxable realty during the ten years immediately preceding the year the increase is made. Of this amount, debt up to 3% of such average assessed value may be incurred without consent of the electorate.

The Pennsylvania Bar Association has recommended that all political subdivisions, including Philadelphia, should have the same constitutional debt restrictions and the current limits of 5% and 15% should be retained. The State Chamber has endorsed this view.

Pennsylvania local government has made extensive use of the authority device to circumvent the present con-

stitutional debt limits or to overcome rigidities of municipal boundary lines. Such authorities were first established in Pennsylvania in the mid-1930's and now number in excess of 1,700. The Pennsylvania Department of Internal Affairs reports that \$3.3 billion of local authority bonds had been issued between 1933 and 1965, of which \$2.3 billion was outstanding as of December 31, 1965.

Most local government borrowing in recent years has been by authority revenue bonds rather than by general obligation bonds. Authority borrowing is generally considered more costly than general obligation financing.

On the other hand, advocates for authority financing point up the flexibility of this type of financing. Authorities very often extend their services beyond the boundaries of their political jurisdiction and in this way overcome some of the problems of outdated local government structure.

The Judiciary

The Pennsylvania State Chamber of Commerce has endorsed, in principle, the proposals of the Pennsylvania Bar Association for revision of the Constitution's present judicial provisions. This proposal is set forth in D. 1000 (D. 1011 is a similar proposal.)

The Bar Association recommends the repeal and replacement of the entire Judiciary Article of the present Constitution.

All the Courts of the Commonwealth would be unified under the supervisory and administrative authority of the Supreme Court.

Each judicial district would have one District Court. All existing Orphans' Courts would be retained and renamed "Estates Courts." These latter two Courts would have unlimited original jurisdiction, except as may be assigned to Community Courts by the Supreme Court.

Justices of the Peace. All existing courts not of record (Minor Judiciary) would be abolished and replaced by a system of Community Courts presided over by salaried, full-time judges learned in the law. The number of Community Courts would be determined by the Supreme Court, and their actions would be subject to review by the District Courts.

The selection of all judges in the State would be on a uniform, non-political, merit basis. (An alternate proposal of the Bar Association would make the merit selection of judges mandatory only for State-wide courts, Philadelphia and Allegheny Counties,

and in any judicial district by special referendum. This alternate version is contained in **D. 1054.**)

Two additional delegate proposals would make changes in the minor judiciary system. **D. 1044** would substantially reduce the number of justices by providing that not more than two be elected from each legislative district. In order not to overburden the reduced number, the justices would be relieved of jurisdiction over civil cases, and cases arising from violations of local ordinances. The justices would be paid by salary instead of fee.

D. 1048 would permit the election of one justice of the peace for each 10,000 persons or fraction thereof in each city, borough or township. Justices would be paid a salary between \$8,000 and \$10,000, and would be induced to take training courses established by the General Assembly.

Nominations—Qualifications. State-wide Judicial Nominating Commissions would be established for the Supreme and Superior Courts. In addition, each judicial district would have a nominating commission to nominate judges for District, Estate, and Community Courts. All judges initially would be appointed by the Governor. Senate confirmation would not be required.

When a vacancy occurs on the Supreme or Superior Courts, the State-wide Judicial Nominating Commission would submit to the Governor six names for his consideration. The district Judicial Nominating Commissions would submit to the Governor the names of three qualified persons residing within the judicial district in which the vacancy exists.

At the end of their appointed terms, judges would run for election. They would not have any opposition or political designation in the elections. The voters would determine only the question of whether or not they should be retained in office. At the end of their elected terms, judges could run for reelection. Their terms would be virtually permanent and overlapping with mandatory retirement ages prescribed by the General Assembly.

Terms for judges of the Supreme Court, Superior Court, District Courts and Estates Courts would be for ten years. Community Court terms would be prescribed by the General Assembly but could not be for more than 10 years.

D. 1031 is similar to **D. 1000**. One major difference is that judges of Community Courts would not have to be members of the bar. The minimum

requirements for such judges would be either eight consecutive years as justices of the peace or successful completion of a special training course of no more than six months prescribed by the Supreme Court.

Several proposals deal with the nomination and qualifications of judges. **D. 1008** would create a seven-member Nominating Commission for the Supreme and Superior Courts only. **D. 1024** would create Nominating Commissions for the State as a whole and for each judicial district. In addition to choosing candidates, the Nominating Commissions would also serve as Judicial Qualification Commissions, to recommend to the Supreme Court the removal, discipline or compulsory retirement of judges. **D. 1025** would establish a Qualifications Commission to be chosen, and to operate, according to rules of the Supreme Court.

D. 1013 would prohibit judges over 67 years of age from serving on any court but the Supreme Court. Judges currently serving would be permitted to finish their terms.

D. 1056 would rewrite the Judicial Article. Major changes include establishment of Justice of the Peace Courts to replace all existing courts not of record. The justices would be elected for four-year terms "in a manner as shall be directed by law" and would not have to be members of the bar but shall have completed a special training course. **D. 1056** would also set up a Commonwealth Court of five judges to meet at least once a year in Philadelphia, Pittsburgh, Harrisburg, Scranton and Williamsport. This court would have jurisdiction in matters in which the Commonwealth is involved. Presently, Dauphin County Court also serves as the Commonwealth Court. Judges of all courts except Justice of the Peace Courts would be nominated in a manner similar to that proposed by the Bar Association. The proposal does not specify if the election will or will not be by party designation.

Local Government

Local government appears to offer the greatest and most controversial challenge in the revision of Pennsylvania's present Constitution. The local governmental proposals extend into two of the other three authorized areas of revision; i.e., apportionment, and taxation and finance.

The local government revisory recommendations of the Pennsylvania Bar Association, which the State Chamber has endorsed in principle, are embodied in **Delegate Proposal 1007**. This proposal would combine

all local governmental provisions into one Article. It would also permit the Legislature to provide optional governing forms for counties, cities and boroughs, with local adoption subject to voter approval. Additionally, cities and boroughs could select their own home rule charters while the present constitutional debt provisions would be unified for all local units.

Apportionment. Two proposals would compel local governing bodies to conform to the "one man, one vote" principle of equal representation. **D. 1010**, would require governing bodies elected from districts (e.g., cities, boroughs, first class townships, and school districts) to apportion themselves every ten years on the basis of total population, within one year of the Federal census. The highest court of the county would have jurisdiction to determine compliance and to order at-large elections if the local unit fails to comply. These provisions would not apply to governing bodies which are elected at large (e.g., counties, incorporated towns, and second class townships).

The other proposal, **D. 1057**, would permit the Legislature to prescribe the manner and time of local apportionment.

Both proposals would add a new article as the present Constitution is silent on this issue.

Boundary Adjustment. Two different proposals to solve local boundary disputes would add a new article to the present Constitution. The first, **D. 1033**, would prohibit annexation of cities, boroughs, incorporated towns, and townships unless first approved in a public referendum by the electors of the areas involved. The second, **D. 1028**, would create a local boundary commission or board in the executive branch of the State government to consider any proposed boundary change or to establish boundary adjustment procedures.

Home Rule. Home rule is intended to permit local control over local problems by embracing freedom of decisions and consideration of matters which are within the local purview. The present Constitution contains provisions which permit the Legislature to authorize any class of city to adopt home rule charters. However, the City of Philadelphia is currently the only local unit in the State which has been granted the authority to adopt such a charter.

One proposal, **D. 1002**, adds a new article to the Constitution by permitting cities, boroughs, incorporated towns, and townships to incorporate

and to adopt optional governing plans and home rule charters. It would also require local electorate consent in local boundary changes, consolidations or dissolutions.

Another proposal, D. 1021, would extend the Constitution's present home rule provisions to boroughs, incorporated towns, and townships; D. 1037, would repeal the current home rule section and the section pertaining to the consolidation of local units in Allegheny County. This latter proposal would add a new home rule charter section for cities.

Intergovernmental Relations. A new article would be added by D. 1015 to enable contiguous political subdivisions to form joint commissions for the furnishing of local services. This proposal also provides for the administration and membership of these commissions. Through inter-jurisdictional agreements, Pennsylvania's local governments are currently empowered by the Legislature to cooperate with each other in every activity that they are authorized to undertake alone.

Referenda. The present Constitution contains no provision for an advisory vote on local matters by the local electorate. D. 1001 would permit the General Assembly to provide for such a referendum system.

Residual Powers. All local governmental units are created by the State and are endowed by it with whatever powers they possess. As their existence is not based on any original or inherent right, they have no reserved or residual powers. This means that local governments can exercise only those powers expressly granted (or implied) to them by the State Constitution or statute.

D. 1030 would grant all cities, boroughs, incorporated towns, and townships the right to exercise all powers not prohibited by the Constitution or law. D. 1035 would only extend such powers to home rule or optional charter cities.

A somewhat related proposal, D. 1038, would allow local governments exclusive power in matters relating to local governmental employees. The General Assembly currently regulates many local personnel policies.

Taxation and Finance. Authority financing enables local governments to avoid the present Constitutional debt limitations. D. 1039 would remove these restrictions and allow the Legislature to regulate local taxing and borrowing powers. D. 1053 would prohibit home rule charter cities from imposing taxes on residents of other

local units which are not authorized to enact similar taxes.

Counties. D. 1029 eliminates fees and provides that row officers shall receive only salaries. Various other proposals would eliminate certain county offices (e.g., coroners and surveyors), while D. 1051 would remove the present Constitutional requirement that all counties contain eleven elective row offices. This latter recommendation would permit the county electorate or the General Assembly to select county organizational structure.

Pennsylvania's local governmental system would be revamped and based on the County, by D. 1017. In this proposal, the county would be the principle local unit and any county that fails to provide and maintain minimum health, safety and welfare services as established by the Legislature would be merged with other counties. Counties would establish minimum services for their local governments and each such local unit that maintains these standards would have the right, through referendum, to frame its own charter. A local government commission would be created to propose to the General Assembly or to the county boundary changes in order to assure these minimum services.

D. 1012 would also expand the power of county governments. It provides for interstate and regional agreements.

Legislative Reapportionment

It is virtually certain that the Constitutional Convention will rewrite the Sections in our present Constitution which define the statewide apportionment of seats in our General Assembly. These Sections, 16 and 17 of Article II, are no longer being adhered to since the Pennsylvania Supreme Court has ruled that they violate the "one man, one vote" provisions of the Federal Constitution.

It also seems fairly certain that Section 18 of Article II, which provides for self-reapportionment by the Legislature every ten years, will be rewritten.

The General Assembly failed to successfully reapportion itself when the most recent re-alignment of legislative seats was required, forcing the State Supreme Court to develop a new reapportionment plan.

Bar Association Proposal. Delegate Herman Buck from Fayette County has introduced D. 1006 embodying the changes in Article II, Sections 16, 17 and 18, which have been recommended

by the Pennsylvania Bar Association and endorsed by the Pennsylvania State Chamber of Commerce. This proposal provides for single member Senate and House of Representatives districts "of compact and contiguous territory as nearly equal in population as may be." It further requires that, unless absolutely necessary, no ward, borough or township shall be divided by a legislative district.

Under the proposal, the Senate would have 50 members, the same number as at present. The House of Representatives, on the other hand, would have 210 members, 7 more than the current membership.

Mr. Buck would retain the present Constitutional provision requiring reapportionment of the Legislature after each Decennial U. S. Census; however, his proposal would add several new features. The Legislature would have two opportunities to reapportion itself, first during the regular session immediately following each official U. S. Census, then if it fails to act during that session, a special 120-day session is to be called and devoted exclusively to reapportionment. If the General Assembly still cannot develop a plan, the State Supreme Court would be given the responsibility to reapportion the General Assembly "as expeditiously as possible." The Supreme Court's plan would be final and have the effect of law.

Further changes would provide that following each reapportionment all legislators would be nominated at the first primary election occurring at least 60 days after reapportionment and elected at the following November election. If that November election is a municipal election, the initial terms of all Representatives would be three years; the initial terms of Senators from even-numbered districts would be five years, while Senators from odd-numbered districts would serve for three years. At the expiration of these initial terms all Senators and Representatives would be elected for four and two-year terms respectively.

Other Proposals. In addition to the Bar Association's proposal, two other proposals, D. 1003 and D. 1022, have been introduced which would rewrite all three present apportionment sections in the Constitution. D. 1003 differs from the Bar Association proposal in that it provides for a 200-member House of Representatives, with each Senatorial District being divided into 4 Representative Districts. Such a membership plan for the House has been advocated by the AFL-CIO. In addition, D. 1003 would

amend Section 18 to provide that the decennial reapportionment of the General Assembly would be completed by the Legislature itself within six months after each U. S. Census or be performed by a five-man commission consisting of the Lt. Governor and Majority and Minority Leaders of the House and Senate. D. 1003 would also provide the Supreme Court with exclusive jurisdiction for reapportionment appeals.

D. 1022 is similar to D. 1003 in respect to reapportionment.

Two proposals have been introduced, D. 1004 and D. 1005, to rewrite only Sections 16 and 17 of Article II. D. 1004 provides for 50 single member Senatorial Districts, each divided into 2 single member House of Representative Districts. D. 1005, while providing for an identical Senate membership, would provide for a 150 member House of Representatives, dividing each Senatorial District into three House of Representatives Districts.

The three remaining Delegate Proposals dealing with legislative apportionment, D. 1019, D. 1034 and D. 1045 would amend only Article II, Section 18.

D. 1019, would retain the General Assembly as the body responsible for its own periodic reapportionment; however, this proposal suggests the addition of an incentive to encourage the legislature to develop a plan without delay when needed following an official Federal census. Under D. 1019, members of the General Assembly would have their terms cut short and be forced to run for re-election each year until they succeeded in developing a reapportionment plan.

D. 1034 would require the Governor to prepare a reapportionment plan within 90 days after each U. S. Census and submit it to the General Assembly. The Legislature would then have 90 additional days to either adopt the Governor's plan or to develop one on its own. If they failed to do either within the time allotted, the Governor's proposal would become law.

D. 1045 would allow the General Assembly a 90-day period following each official U. S. Census to reapportion itself; if the legislature failed to act within that time limit, this plan would require a commission made up of the Lt. Governor, and the Majority

and Minority Leaders of the House and Senate to develop a reapportionment plan within an additional ninety day period.

Overlooked. It is curious that no proposals have been offered which would provide for an odd number of State Senators. Some observers have pointed out that such a change in the make-up of the Senate could prevent any future danger of an ineffective session because of an even split in party membership in that body.

There has also been no proposal introduced which fully comes to grips with the problem of passing through the reapportionment process without unfairly cutting short the terms of certain individual Senators. D. 1006 does recognize the problem and provides something of a solution in the event the first post-reapportionment election is a municipal election. There is no provision, however, in any of the proposals submitted so far to define which Senators would be elected for a two-year term and which for a full four-year term if the first post-reapportionment election is a general election.

Delegate Proposals Introduced

• TAXATION AND STATE FINANCE •

D. 1016-Hook—embodies the recommendation of the Pennsylvania Bar Association relating to taxation and State finance.

D. 1018-Tate—amends an article removing from the Constitution a long list of properties which the General Assembly may exempt from taxation, retaining the exemption on actual places of religious worship only.

D. 1020-Baldrige, Leach—amends an article prohibiting laws requiring expenditures or making appropriations unless the source of the funds is specified.

D. 1032-Thomson—adds an article prohibiting creation of municipal authorities, and requiring existing municipal authorities to be liquidated and abolished within 10 years.

D. 1042-Thomson, Aberman—repeals all the sections which impose limits upon indebtedness of local governmental units.

D. 1043-Thomson—amends an article repealing all of the constitutional tax exemptions except the exemption from occupational privilege taxes of persons deriving less than \$1,000 per year.

D. 1046-Goldman—amends an article permitting the Commonwealth to pledge its credit to any corporation engaged exclusively in public redevelopment.

D. 1047-Goldman—amends an article permitting exemption from taxation of any corporation engaged solely in public redevelopment.

D. 1049-Tate—amends an article repealing the \$1 million constitutional debt limit and authorizing creation of State debt by act of the General Assembly.

D. 1050-Camardella, Powell—amends an article permitting the General Assembly to grant a tax exemption for any real estate with an assessed valuation of \$10,000 or less owned by a person 65 years of age or older and used as a principal homestead.

• JUDICIARY •

D. 1000-Thornburgh—embodies the recommendation of the Pennsylvania Bar Association relating to the judiciary.

D. 1008-McGlynn—amends an article providing for judicial nominating commissions for Superior and Supreme Courts.

D. 1009-Jirolanio, Prendergast—amends an article establishing a Commonwealth court of five judges to meet in all the major sections of the state.

D. 1011-Tate—similar to D. 1000.

D. 1013-Huggins, Redick—adds an article providing for retirement of judges at age 67, except for Supreme Court Justices, or judges now serving elected terms.

D. 1024-Clinger, Gabreski—amends an article calling for the appointment of Judicial Nominating Commissions and Judicial Qualifications Commissions.

D. 1025-Clinger, Gabreski—amends an article setting procedures to be followed by the Judicial Qualifications Commission in proposing to the Supreme Court the removal, discipline or compulsory retirement of judges.

D. 1031-Burkholder, Feather—repeals an article and proposes an entirely new Judicial Article, similar to D. 1000, differing mainly in the education and experience requirements of judges of community courts.

D. 1044-Morton—amends an article concerning the election, training, jurisdiction and compensation of justices of the peace.

D. 1048-Redick, Huggins—amends an article relating to election and training of justices of the peace.

D. 1052-Rea—amends an article establishing family courts for exclusive jurisdiction on matters relating to marriage, divorce, and adoption of children.

D. 1054-J. W. Keller, Barron, Nelson, Clinger—repeals an article and adds an entirely new judiciary article

similar to D. 1000, but provides for an alternate method of selection of judges.

D. 1056-Ruth, Warman—repeals an article and adds an entirely new judiciary article providing for a Justice of the Peace Courts, a Commonwealth Court, and providing for nomination and election of judges.

● LOCAL GOVERNMENT ●

D. 1001-Wilcox, Himes—Adds an article providing for advisory referenda in local governmental units.

D. 1002-Otto, Thomson, Dumbauld—Adds an article providing for the incorporation of cities, boroughs, towns and townships and optional governing plans and home rule.

D. 1007-Braham—Embodies the Pennsylvania Bar Association proposals relating to local government.

D. 1010-Shoemaker, Hook—Adds an article providing for apportionment of political subdivisions and establishing the time and method therefore.

D. 1012-Aberman, Rappaport—Adds an article providing for county organization and powers, regional governments, and intergovernmental authorities.

D. 1014-Powell, Meyer, Baldwin—Amends an article eliminating surveyors as county officers.

D. 1015-Shoemaker, Michael, Ruth—Adds an article enabling contiguous political subdivisions to form commissions for the joint furnishing of services.

D. 1017-Bunting—Adds an article providing for the organization services, boundary changes, powers, and duties of local units.

D. 1021-Thomson—Amends an article authorizing boroughs, incorporated towns and townships to adopt home rule charters.

D. 1023-Fohl, Pott, Welsh, Fawcett, Baldus, Powell—Amends an article eliminating coroners as county officers.

D. 1026-Roberts—Amends an article abolishing coroners and establishing medical examiners as county officers.

D. 1027-Rea—Repeals the provisions relating to consolidation in Allegheny County.

D. 1028-Johnson, Solomon, Sahli—Adds an article providing for a local boundary commission or board.

D. 1029-Powell, R. Miller—Amends an article relating to compensation of county officers.

D. 1030-Thomson—Adds an article providing for residual powers for local governmental units.

D. 1033-Orbin—Adds an article providing for annexation of municipalities and townships.

D. 1035-Scott, Huggins, Baldrige—Amends an article providing for residual powers for home rule or optional charter cities.

D. 1036-Scott, Sahli, Redick—Amends an article providing for optional plans of city organization.

D. 1037-Scott, Pelletier, Scarlett—Amends an article providing for optional home rule charter government for cities.

D. 1038-Scott, Leach, Filson, Feather—Adds an article granting local governments exclusive power to regulate wages, hours, and working conditions of their employees.

D. 1039-Scott, Devlin, Johnson—Amends an article repealing the present local governmental debt limits and granting to the General Assembly power to regulate the taxing and borrowing powers of local governmental units.

D. 1040-Scott, Pelletier, Huggins—Amends an article allowing local governmental units to give financial assistance to public service enterprises.

D. 1041-Fohl, Pott—Amends an article eliminating surveyors as county officers.

D. 1051-Thornburgh—Amends the article removing the specification of county officers and changing the election of county officers.

D. 1053-Rea, Redick, Pott—Amends an article limiting the power of cities adopting home rule charters to tax residents of other municipalities.

D. 1055-Murray—Adds an article authorizing local governmental units to exempt or reduce real estate taxes imposed on the residence owned and occupied by persons 65 years of age or over.

D. 1057-Sharp—Amends an article providing for apportionment of local governmental units by the Legislature when such apportionment is regulated by law.

● LEGISLATIVE APPORTIONMENT ●

D. 1003-Morton—Amends an article providing for 50 senatorial districts, each divided into four representative districts, to be proposed by a commission consisting of the Lieutenant Governor and the Majority and Minority Leaders of both houses. If the Legislature should fail to adopt the Commission's plan or develop one of its own within six months, the Commission's report would be binding.

D. 1004-Otto, Dumbauld—Amends an article providing for a Senate of 50 seats and a House of Representatives of 100, the Senatorial Districts to be coterminous with the House Districts.

D. 1005-Huggins, Otto, Dumbauld—Is identical to D. 1004, except that it provides for a House of Representatives of 150 seats.

D. 1006-Buck—Embodies the Pennsylvania Bar Association proposal relating to legislative apportionment.

D. 1019-Shapiro—Amends an article to end the terms of all members of the General Assembly on December 31 of any year in which the General Assembly is supposed to reapportion itself, but does not.

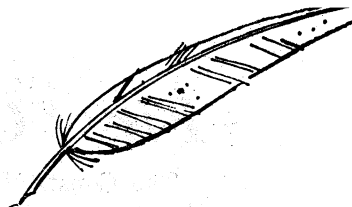
D. 1022-Keller—Similar to D. 1003, above.

D. 1034-Tate—Amends an article providing that the Governor shall submit a plan of legislative apportionment to the General Assembly within 90 days after each U. S. Census, which plan is to take effect if the General Assembly does not apportion itself within 180 days of the Census.

D. 1045-Goldman—Amends an article requiring a commission (identical in make-up to the commission provided for in D. 1022 and D. 1003) to reapportion the General Assembly if that body fails to reapportion itself within 90 days after each official U. S. Census.



Constitutional Convention Bulletin



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An Editorial . . .

A Delegate Decision

The Constitutional Convention has up to now given many signs that it intends to carry out its work with efficiency and dispatch. It has avoided the extreme partisanship which marred the New York convention, and which may have contributed to the embarrassingly decisive rejection by New York voters.

In the list of Delegate Proposals introduced to date, however, there is seen a trend which could in the end be just as damaging to the work of the Pennsylvania Convention. We refer to proposals which contain detailed provisions for the operation of government, provisions which, however well-intentioned, might better be left to the legislative process.

Among the major criticisms of the present Constitution has been the argument that it was a "horse and buggy" Constitution, which froze our structure of government into a pattern that was suitable for the 1870's, but which prevented the application of modern principles of management. Our Secretary of Internal Affairs, originally charged with the sensitive task of approving railroad charters, was made an elective official. His elective status continued long after there was any need for such independence. Our county row officers, justices of the peace and other officials were placed beyond the reach of legislative change. There was even, so the critics complained, a restriction on duellists.

Some of the proposals would write constitutional sections to authorize changes which are already permitted under the present document. Proposal Number 1015, for example, would authorize political subdivisions to enter into agreements mutually delegating their powers to joint commissions. The commissions would have between five and thirty-five members, including at least one from each component local government. This may be an excellent idea for improving local government, but it is very similar to the school jointures of the 1950's, which were created under our 1873 charter. The one real change made by the proposal is that it would effectively prevent the true consolidation of local government, which for school districts became a reality two years ago.

Other Delegate Proposals would compel the Legislature to do what it now appears to neglect, as the proposal to require audit control of legislative expenditures, or would forbid the Legislature certain powers it now may exercise, as proposals to restrict or eliminate tax exemptions.

It is easy to understand the temptation for delegates to correct what may seem to be legislative inertia. In 1922, for example, an amendment to our present Constitution was adopted to permit optional forms of government for cities. It was not until 1957, however, that the Legislature actually implemented the amendment by statute.

Remembering the delay, a delegate might well be tempted to by-pass the Legislature by writing into the charter the exact provisions he thinks best for Pennsylvania government. To the extent that he does, he may be building into the Constitution the obsolescence of the future, replacing, perhaps, the "horse and buggy" Constitution with a "model T" document.

The Legislature may be a frustrating body at times, but it is the best device we have yet found for passing laws. The Convention, wise and statesmanlike though it may be, is meeting for the first time in more than ninety years. The Convention might serve the Commonwealth best by the exercise of self-restraint, so that it does not confuse its function with that of the Legislature.

Robert Hibbard
Executive Director

First Committee Report-Tax Exemptions

The Constitutional Convention's Committee on Taxation and State Finance set January 17 as the target date for release to the Convention floor of a proposal dealing with tax exemptions.

The committee has reached preliminary agreement on the proposals brought forth by its subcommittee on taxation. A final vote is scheduled for Monday.

One of the biggest departures from the present Constitution would be the proposal to allow tax exemptions both at the State and local level on public property used for public purposes or institutions of purely public charity—but only after requiring the collection of a “fair and equitable compensation” for governmental services rendered to these institutions.

The proposed amendment would give the Legislature the broad responsibility to set up a statewide formula governing the collection of revenue for such services as police and fire protection, sewage, and garbage collection.

The subcommittee also proposed provisos permitting exemptions for the aged and poor, as well as the disabled and infirm, based on the element of “need” rather than just flat exemptions for each.

The proposal would again empower the Legislature to set the standards and qualifications for exemptions, but also require the General Assembly to set up a formula for reimbursing local governments for revenue lost through the exemptions.

The committee also agreed to retain the current property exemptions for places of religious worship; and property owned or occupied by any branch, post or camp for honorably discharged men and women of the Armed Forces.

In another proposed change, the subcommittee rewrote the provision on exemptions for cemeteries, eliminating those engaged in direct competition with tax-paying businesses.

The matter of public utility exemptions and exemptions for private forest reserves is still to be resolved.

Convention Hearing Testimony

A second round of public hearings was held in conjunction with the Pennsylvania Constitutional Convention. These hearings, which were held on December 27, 28 and 29, yielded about 110 statements by various State and local organizations and some individuals.

The State Chamber of Commerce submitted statements setting forth its endorsement, in principle, of the Pennsylvania Bar Association recommendations. These recommendations, plus those of other Statewide associations, are summarized below.

The State Chamber's Constitutional Convention Bulletin No. 1, dated October 6, 1967, explained in some detail the Bar Association's recommendation and summarized statements given by other associations at the first series of public hearings held by the Preparatory Committee for the Convention. If the December testimony of any of these associations was essentially the same as submitted at the first hearings, it is not included in this Bulletin.

The deadline set by the Convention for holding of public hearings is January 19. However, as of the date of publication of this Bulletin, no further public hearings are planned.

• LEGISLATIVE APPORTIONMENT •

PENNSYLVANIA BAR ASSOCIATION

1. Senate apportioned into 50 districts.
2. House apportioned into 210 districts.
3. Legislative districts apportioned compactly and contiguously.
4. Legislature to reapportion itself after each U. S. census.
5. Apportionment subject exclusively to State Supreme Court review.

PENNSYLVANIA VEGETABLE GROWERS ASSOCIATION

1. Senate apportioned into 50 districts.
2. House apportioned into 200 districts.
3. One House district for each county (67) with remainder of districts (133) defined by State's total population.
4. Bipartisan legislative committee to reapportion Legislature after each decennial census.
5. State Supreme Court to reapportion Legislature if committee fails.

PENNSYLVANIA DEMOCRATIC STUDY COMMITTEE

1. Senate apportioned into 40 districts.
2. House apportioned into 160 districts with each Senate district divided into four coterminous House districts.
3. Legislative districts apportioned compactly and contiguously.
4. Legislative district with greatest population not to exceed district with least population by more than 10%.
5. Legislators elected from single-member districts only.
6. Legislative majority to represent at least 49% of State's electorate.

7. Apportionment commission to reapportion Legislature after each Federal census.
8. Apportionment subject exclusively to State Supreme Court review.
9. State Supreme Court to reapportion Legislature if commission fails.

● JUDICIARY ●

PENNSYLVANIA BAR ASSOCIATION

1. Revise judicial administration.
2. Replace Minor Judiciary with Community Courts.
3. State-wide judicial selection by nonpolitical merit.
4. Establish Judicial Nominating and Qualifications Commissions.
5. Prohibit political activity of Judiciary.
6. Prohibit imposition of nonjudicial duties on Judiciary.

PENNSYLVANIA MAGISTRATES ASSOCIATION

1. Reduce number of Minor Judiciary.
2. Retain popular election of Minor Judiciary.
3. Require minimum education for Minor Judiciary.
4. Increase jurisdiction of Minor Judiciary.
5. Code of Ethics for Minor Judiciary.
6. Replace Minor Judiciary fees with salaries.
7. Facilities, staff assistance and maintenance provided by counties for Minor Judiciary.
8. Retain gubernatorial appointment for Minor Judiciary vacancies.

PENNSYLVANIA AAA FEDERATION

1. Replace Minor Judiciary fees with salaries.
2. Reduce number of Minor Judiciary.
3. Set Minor Judiciary qualifications by statute or rule of court.
4. Court appointment for Minor Judiciary.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

1. Unify court system under supervision of Supreme Court.
2. Replace Minor Judiciary with courts of record.
3. State-wide judicial selection by nonpolitical merit.

PENNSYLVANIA DEMOCRATIC STUDY COMMITTEE

1. Revise and place unified judicial administration under supervision of Supreme Court.
2. Appellate jurisdiction and original apportionment jurisdiction for Supreme Court.
3. Appellate jurisdiction only for Superior Court.
4. No special venue rules.
5. Permit district courts to establish branch courts (Community Courts).
6. Permit legislature to establish limited Minor Judiciary Courts with fee system eliminated.
7. State-wide judicial election by nonpolitical merit.
8. Life tenure for Supreme, Superior and District Courts.
9. Establish a judicial review commission to recommend removal of judges for cause.
10. Legislature to establish mandatory judicial retirement ages.
11. Prohibit imposition of nonjudicial duties on Judiciary.
12. Civil service for all nonjudicial personnel.

● TAXATION AND STATE FINANCE ●

THE PENNSYLVANIA BAR ASSOCIATION

1. Require approval by Legislature and Electorate for State debt.
2. Require that purpose of such debt be specified.
3. Permit continuation of authority financing.
4. Permit establishment of reserves.
5. Modernize provisions relating to the State Sinking Fund.
6. Retain present tax exemptions.

HOSPITAL ASSOCIATION OF PENNSYLVANIA

1. Retain tax exemption for non-profit hospitals and related health care institutions.

PENNSYLVANIA ASSOCIATION OF COLLEGES AND UNIVERSITIES

1. Retain tax exemptions for colleges and universities.

PENNSYLVANIA DEMOCRATIC STUDY COMMITTEE

1. Retain the authority for the Legislature to permit tax exemptions for public property, actual places of religious worship, places of burial not used for profit, institutions of purely public charity, and real and personal property of veterans organizations.
2. Retain the authority for the Legislature to permit special provisions for taxation of private forest reserves.
3. Retain the real property tax exemption for certain disabled veterans.
4. Retain the authorization for any taxing authority to exempt from occupational privilege taxes persons deriving less than \$1,000 from such occupation and extend the authorization to permit exemption from liability for increased real estate taxes on residences owned by persons over 65 years of age.
5. Permit the Legislature to exempt from direct taxes (except sales and use taxes) individuals or families with incomes below a minimal subsistence level.
6. Render void all laws and/or prior judicial interpretations exempting property from taxation other than property enumerated above.
7. Remove all constitutional limits on State and municipal debt.
8. Permit the State to lend money to local governments.
9. Permit State-wide or regional collection of taxes for distribution to local governments.
10. Prohibit collection of fees by tax collectors.
11. Delete all sections of present Finance Article dealing with bond issues.

PENNSYLVANIA HOME BUILDERS ASSOCIATION

1. Tighten tax exemptions on religious, educational, and/or non-profit corporations which directly compete with tax-paying commercial firms.
2. Permit tax incentives, abatements, and postponements.
3. Permit some kind of State income tax.
4. Provide uniform real estate assessment procedure.
5. Permit interim reassessment relief on land utilized for residential construction.
6. Raise or remove State debt limit.
7. Permit State credit to be pledged to private enterprise; or permit State credit for purchase of pollution control facilities by private enterprise.
8. Permit greater municipal borrowing power.
9. No real property, wage and/or income tax exemption to persons over 65.
10. Meet the problem of payments in lieu of taxes due local governments from State and/or Federal property.

PENNSYLVANIA LEAGUE OF CITIES

1. No constitutional or legislative local tax exemptions.

PENNSYLVANIA STATE EDUCATION ASSOCIATION

1. Grant broad revenue raising authority to Legislature and local units.
2. Eliminate revenue raising restrictions.
3. Public money for education only for public education.
4. Eliminate long-range financing restrictions.
5. Debt creation not to require electorate approval.

PENNSYLVANIA STATE PLANNING BOARD

1. Permit Legislature to borrow money in amounts consistent with the State's ability to pay.
2. Prevent borrowing for current expenses.
3. Discourage use of authority financing.

● LOCAL GOVERNMENT ●

PENNSYLVANIA BAR ASSOCIATION

1. Optional government for counties, cities and boroughs.
2. Electorate option to modify or retain county structure.
3. Unify local constitutional debt provisions.
4. Home rule for cities and boroughs.

PENNSYLVANIA CORONERS ASSOCIATION

1. Retain present coroner system.

PENNSYLVANIA MEDICAL SOCIETY

1. Replace coroners with a State-wide county medical examiner system.

PENNSYLVANIA STATE ASSOCIATION OF ELECTED COUNTY OFFICIALS

1. Retain present system of county government, except:
 - a. Remove Surveyor as elective office.
 - b. Permit Treasurer succession in office.

PENNSYLVANIA LEAGUE OF CITIES

1. Residual powers for home rule or optional charter cities only.
2. Establishment of a municipal boundary commission.
3. Optional government for cities only.
4. Self-executing home rule for cities only.
5. Permit exclusive local jurisdiction over local government employees.
6. No constitutional local debt limits.
7. Permit local financial assistance to public service enterprise.
8. No constitutional or legislative local tax exemptions.

PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES

1. No consolidation into metropolitan units (i.e., retain small local units).
2. Legislature to provide home rule and optional government by referendum for cities and boroughs.
3. Residual powers for cities, boroughs and townships.
4. Permit local units by referendum to transfer jurisdiction to equal or higher levels of government.
5. Legislature to provide uniform boundary adjustment procedure by referendum.
6. No special legislation for local governments.
7. Permit excess local government condemnation.

PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

1. Residual powers for local governments.
2. No constitutional local debt limits.

3. No constitutional property tax exemptions.
4. Permit exclusive local jurisdiction over local government employees.
5. Optional government for cities, boroughs, and townships.
6. Uniform annexation procedure for all local units.

PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION

1. Retain present 15% and 5% local debt limits.
2. Uniform debt limits for all local units.
3. Permit local units to issue nondebt revenue bonds (i.e., self-sustaining and self-liquidating debt).

PENNSYLVANIA HOME BUILDERS ASSOCIATION

1. Ease annexation and merger requirements to facilitate formation of larger local units.
2. Strengthen county government by increasing number of commissioners.
3. No constitutional limitations on erection of new counties.
4. Require local units to provide basic public services.
5. Permit State loans to private enterprise for pollution control.
6. Permit local unit loans for pollution control.
7. Permit reform of local governmental structure.
8. Require counties to enact planning and zoning codes for all local units.
9. Prohibit public condemnation without just compensation.

PENNSYLVANIA DEMOCRATIC STUDY COMMITTEE

1. General legislation for all local units.
2. Require Legislature to provide local boundary adjustment procedure.
3. Require equal representation on local governing bodies.
4. Home rule for all local units by local referendum.
5. Require Legislature to provide optimum of local self-government and minimum of local units.
6. Require Legislature to provide for federation of local units and integration of services.
7. Permit local units by referendum to transfer functions to counties or cities.
8. Permit counties by referendum to exercise concurrent or exclusive jurisdiction over local units.
9. Permit division of counties into administration and/or taxation districts.
10. Residual powers for cities only.
11. Home rule units not to enact laws governing private relationships or felonies.
12. Civil Service for all local units.
13. Abolish county government in Philadelphia.

Delegate Proposals Introduced

Thus far 210 Delegate Proposals have been introduced. The deadline for introduction of proposals was January 5 but due to a delay in processing, proposals were submitted as late as January 11. This Bulletin contains descriptions of **Delegate Proposals 1058 to 1209**. The first 58 proposals were described in Bulletin No. 4, dated December 4, 1967.

The Taxation and Finance Article of the pres-

• LEGISLATIVE APPORTIONMENT •

D. 1081-O'Donnell—Amends an article providing for 50 Senate districts, 200 House districts, and providing for an apportionment commission to reapportion the General Assembly after each Federal decennial census.

D. 1088-Otto, Croop—Amends an article permitting the General Assembly to reapportion itself.

D. 1089-Bunting, Roberts—Amends an article providing for 50 Senate districts and 200 House districts with each Senate district containing 4 House districts.

D. 1123-Forster—Amends an article providing for 49 Senate districts and 151 House districts.

D. 1127-Warman—Amends an article providing for 51 Senate districts.

D. 1130-Gerber, Hostetler, Leinbach, Pott, Gabreski, Corey, Warman, Kauffman—Amends an article providing for 50 Senate districts, 200 House districts with each Senate district containing 4 House districts, and permitting the General Assembly to reapportion itself after each Federal decennial census.

D. 1161-Scarlett—Amends an article providing for not less than 40 and not more than 50 Senate districts, not less than 135 and not more than 203 House districts, and permitting the General Assembly to reapportion itself after each Federal decennial census.

D. 1186-Baldrige, Tomascik—Amends an article making changes relating to legislative apportionment.

D. 1193-Huggins, Mattioni, Pelletier, Hostetler, Tully—Amends an article requiring the use of computers in apportioning legislative districts.

D. 1196-Hostetler, Gerber, Gouger—Amends an article providing that the legislative district with the greatest population shall not exceed the district with the least population by more than 10% and establishing an apportionment commission to reapportion the General Assembly after each Federal census.

D. 1199-Tomascik—Amends an article providing for 40 Senate districts, 160 House districts, and establishing an apportionment commission to reapportion the General Assembly after each Federal decennial census.

• JUDICIARY •

D. 1063-Welsh—Amends an article providing for a system of district courts to handle appeals from summary convictions and judgments of magistrates or courts not of record.

D. 1068-Benfield—Amends an article reducing the numbers of justices of the peace and aldermen and requiring the General Assembly, by general law, to provide that a course of training and education be completed by certain justices of the peace and aldermen hereafter selected.

D. 1071-Otto, Huggins, Thomson—Amends an article providing for selection of the chief justice of the Supreme Court and the selection of president judges of other courts.

D. 1080-Amsterdam—Amends an article providing a merit system for non-judicial employees of the courts.

D. 1087-Baldus, Bashoff—Amends an article revising the term of Supreme Court judges and providing for non-partisan reelection of all judges on their records.

ent Constitution has been referred to in previous **Constitutional Convention Bulletins** as Article IX. The **Delegate Proposals**, on the other hand, refer to this Article as No. VIII. The latter number is the correct one. Governor Shafer, in a Proclamation dated July 7, 1967, renumbered this article because some conflicts have resulted from the amendment or repeal of certain articles at the General Election in 1966 and the Primary Election in 1967.

D. 1093-Curran, Banes, Barry—Amends an article requiring the election of judges.

D. 1095-Barry, Banes—Amends an article providing for separate courts in Philadelphia and Allegheny Counties to exercise the jurisdiction and powers heretofore exercised by courts of oyer and terminer and courts of quarter sessions of the peace.

D. 1097-Banes, Barry—Amends an article regulating the election of justices of the peace and aldermen and providing for their compensation.

D. 1101-Burkholder—Repeals an article relating to the Judiciary and adds a new Judiciary article.

D. 1103-Fohl—Amends an article providing for a State Court of Appeals.

D. 1106-Bunting—Amends an article providing for a Judicial Nominating Committee Selection Commission to establish State and District Judicial Nominating Committees for the nomination of justices and judges to vacancies in the courts.

D. 1121-Baldrige, Leach, Filson—Amends an article providing for the election and terms of justices of the peace.

D. 1139-Shrager, Silverman, Murray, Amsterdam—Amends an article providing for establishment by the Supreme Court of a merit system for non-judicial personnel and administration thereof; and conforming the provisions dealing with the office of prothonotary of Philadelphia and register of wills with the establishment of such merit system.

D. 1140-Caputo—Amends an article providing for a unified judicial system.

D. 1141-Caputo—Amends an article prohibiting compensatory activities of judges.

D. 1142-Strickler, Shettig, Silverman, Clinger—Amends an article providing for the retirement of justices and judges and their post-retirement judicial activities.

D. 1145-Hook—Amends an article providing for judicial nominating commissions.

D. 1156-Powell—Amends an article providing for a panel of associate judges for the hearing of real estate and condemnation appeals.

D. 1158-Tate—Amends an article providing for the number of judges in judicial districts.

D. 1159-Tate—Amends an article providing for the retirement of justices and judges.

D. 1160-Nelson—Amends an article providing for non-partisan election of judges in judicial districts that do not voluntarily adopt an appointive judicial selection system for an alternate method of selection of judges.

D. 1164-Caputo—Amends an article providing for family courts.

D. 1167-Cortese—Repeals an article relating to the Judiciary and adds a new Judiciary article.

D. 1169-Scales, Orbin, Mangery—Amends an article providing for training courses for the minor judiciary.

D. 1173-Sharp—Repeals an article relating to the Judiciary and adds a new Judiciary article.

D. 1174-Levin—Repeals an article relating to the Judiciary and adds a new Judiciary article.

D. 1189-Scales, Orbin, Mangery—Amends an article providing for life tenure and mandatory retirement of judges.

D. 1200-Tomascik—Amends an article providing for elections, salaries and training courses for justices of the peace and aldermen.

D. 1202-Mattioni, Huggins—Repeals an article relating to the Judiciary and adds a new Judiciary article.

D. 1203-Murray, Rappaport—Amends an article abolishing the offices of alderman, justice of the peace and magistrate; and providing for a system of community courts.

D. 1204-Devlin—Adds an article providing a judicial system for Philadelphia.

D. 1205-L. B. Lee—Amends an article providing for the adoption by referendum of a system for selecting judges of district courts.

● TAXATION AND STATE FINANCE ●

D. 1058-Clark, Whittum, Himes—Amends an article removing from the Constitution the \$1 million limitation on State debt and permitting the creation of debt for purposes specified by statute if approved by the electorate.

D. 1067-Pott, Gerber, Baldus, Camardella, Henderson, Heyburn, Krill, Leinbach, Mangery, R. W. Miller, Powell—Amends an article requiring institutions of public charity to make a payment in lieu of taxes for governmental services rendered.

D. 1070-Bunting—Amends an article deleting constitutional tax exemptions for actual places of religious worship, places of burial, institutions of public charity and real and personal property owned by veterans organizations, removing the authority for local occupational privilege tax exemptions, expanding the tax exemption for disabled veterans to include all taxes, terminating all existing exemptions from taxation not specified in the Constitution within 10 years of adoption of the amendment, eliminating the \$1 million State debt limitation and authorizing creation of debt by approval of a $\frac{2}{3}$ vote of the General Assembly.

D. 1072-Otto, Dumbauld, Huggins—Amends an article requiring that a budget be submitted to the General Assembly by the first day of April.

D. 1073-Amsterdam—Amends an article repealing the provision requiring the limitation on reserve funds to amounts required for current expenses.

D. 1075-Amsterdam—Amends an article specifically requiring public utilities to be subject to all taxes, mandating that the General Assembly make special provisions for the taxation of forest reserves, and requiring the General Assembly to exempt persons of low income from real estate taxation.

D. 1076-Amsterdam—Amends an article permitting the Commonwealth to assume the debt of political subdivisions, individuals, associations or corporations if such debt was contracted by reason of riot, civil disorder, or to enable the State to suppress insurrection or defend itself at time of war.

D. 1077-Amsterdam—Amends an article repealing the limitation on State debt.

D. 1082-Cosetti, Fohl, Pott, Baldus, Baldwin, Baldrige—Amends an article adding a new section requiring the submission by the Governor of a budget for the next fiscal year and a financial plan for each of the succeeding 5 fiscal years and requiring that the budget and the financial plan be balanced.

D. 1083-Cosetti, Fohl, Baldus—Amends an article repealing the \$1 million State debt limitation and authorizing creation of debt by statute for capital improvements or for the assumption of obligations issued by an authority or instrumentality of the State if the annual debt service shall not exceed 4% of the sum of the tax revenues of the previous 3 fiscal years, and requiring a two-thirds vote of approval by the General Assembly if such debt is in excess of 4% but not in excess of 6% of the sum of the tax revenues of the previous 3 fiscal years, and authorizing debt for other purposes specifically enumerated by statute if approved by the electorate.

D. 1084-Cosetti, Baldus, Baldwin, Baldrige—Amends an article adding a new section requiring the Commonwealth to reimburse local governments for constitutional tax

exemptions with the exception of tax exemptions for actual places of religious worship.

D. 1085-Cosetti, Baldus, Baldwin, Baldrige—Amends an article limiting tax exemptions to cemeteries not engaged in the sale of personal property in competition with taxpayers.

D. 1091-Baldus, Cosetti, Conley, Thornburgh—Amends an article adding a new section authorizing the General Assembly to set standards for the granting of tax exemptions and financial assistance by the State and local taxing authorities to organizations and corporations providing public services.

D. 1092-Buck, Stout, Bunting, Sprogell, Goldman, Gray, Nelson, Gouger—Amends an article adding a new section requiring approval of a majority of the electors at a General Election for increases in salaries or other benefits paid to elected public officials.

D. 1096-Banes, Barry—Amends an article requiring all assessments of property for tax purposes to be at the full value of the property.

D. 1098-Gerber, Otto, Dumbauld—Amends an article authorizing the General Assembly to make special provision for the taxation of land used for residential construction or agricultural purposes.

D. 1099-Gerber, Otto, Dumbauld—Amends an article authorizing the General Assembly to provide for the exemption, postponement or abatement of taxation on land used for residential construction or agricultural purposes.

D. 1105-Bagenstose, Wilcox—Amends an article adding a new section requiring that authority bonds be sold at public sale.

D. 1109-Scott—Amends an article adding a new section requiring bills introduced in the General Assembly to indicate the method of financing.

D. 1111-Shrager, Aberman, Mattioni, Murray, Bashoff, Kelly—Amends an article authorizing the Commonwealth to assume debt of political subdivisions incurred by reason of riot or similar disorder.

D. 1115-Shrager, Aberman, Tate, Murray, Rappaport, Mattioni—Amends an article repealing the provision requiring the limitation on reserve funds to amounts required for current expenses.

D. 1116-Levin—Amends an article adding a new section limiting the sales tax to 5% unless a higher rate is approved by the electorate and prohibiting the State from applying a sales tax to food, clothing, "paper items necessary for health and sanitation" and prescription medication.

D. 1117-Thornburgh—Amends an article removing the specific constitutional tax exemptions and granting the General Assembly and taxing authorities power to create exemptions.

D. 1118-Pott, Fohl, Goldman—Amends an article adding a new section for tax exemption of corporate capital stock.

D. 1120-Hook—Amends an article adding a new section authorizing the General Assembly to provide for excise and franchise taxes and taxes on the production of minerals.

D. 1122-Michael—Amends an article eliminating existing tax exemptions and providing that "there shall be no exemptions."

D. 1124-Ruth—Amends an article adding a new section forbidding increases in compensation for any State official in excess of 10% annually.

D. 1125-Warman—Amends an article authorizing taxing authorities to exempt from real estate taxes disabled, aged or indigent persons.

D. 1126-Warman—Amends an article authorizing persons 65 years of age or over who are heads of households to be exempt from real estate taxes.

D. 1128-Fay—Amends an article adding a new section prohibiting the exemption from taxation of public utilities.

D. 1129-Fay—Adds a new article including the present list of tax exemptions, adding an authorization to exempt persons over the age of 65 from increases in real estate taxes, exempting from direct taxation individuals with incomes below a minimal subsistence level, removing the present \$1 million limitation on State debt, and prohibiting collection of fees by tax collectors.

D. 1133-Levin—Amends an article eliminating tax exemptions for disabled veterans, exemptions for persons deriving less than \$1,000 per year from occupational privilege taxes, and eliminating the authorization to levy special taxes on private forest reserves.

D. 1134-Donaldson, Kauffman—Amends an article authorizing the State to loan money to individuals, companies, corporations or associations for the purchase of facilities to control pollution.

D. 1137-Murray—Amends an article adding a new section requiring a referendum for any new tax or increased rate of a tax that would result in an increase of 10% or more revenue over the previous fiscal year.

D. 1144-Huggins, Redick, Johnson, Otto, Fohl—Amends an article adding a new section prohibiting the compensation of elected and appointed officers by fees.

D. 1146-Shrager—Amends an article permitting the General Assembly to exempt persons of low income from taxation for housing and requiring that property of quasi-public corporations shall not be exempt from tax.

D. 1153-Powell, Meyer—Amends an article adding a new section requiring every county to reevaluate all real property upon a 20% change in the population, or every ten years, or "when economic conditions warrant."

D. 1154-Powell, Meyer—Amends an article adding a new section providing that the valuation of real property shall be determined "by all known and accepted approaches to value."

D. 1155-Powell, Meyer—Amends an article adding a new section requiring all taxing units to start their fiscal year on July 1.

D. 1157-Powell, Meyer—Amends an article adding a new section requiring that property shall be valued "using all known and accepted approaches to determine property value."

D. 1165-Amsterdam—Amends an article authorizing the General Assembly to provide tax exemption for property owned and used for redevelopment plans.

D. 1166-Caron, Bagenstose, Leinbach, Feather, Horne—Amends an article subjecting to taxation property operated by an institution of public charity for profit.

D. 1168-Fohl, Pott, Powell—Amends an article adding a new section requiring an audit by the Auditor General of all State government agencies "or any body created or funded by the Commonwealth."

D. 1172-Caron, Bagenstose—Amends an article permitting the General Assembly to impose taxes on property of public utilities and to divide the proceeds between the State and the local governments in which the utilities are located.

D. 1178-Popil, Percey, Pott, Powell—Amends an article repealing the \$1 million State debt limitation, authorizing creation of State debt by statute for capital projects and emergency purposes, requiring approval of the electorate for other purposes, and prohibiting the use of authority financing except for self-liquidating projects.

D. 1179-Tate, Conley—Amends an article adding a new section permitting the General Assembly or any local taxing authority to loan its credit or extend direct grants or loans to any individual, corporation or association for the purpose of encouraging private investment in specified fields of endeavor.

D. 1181-Orbin, Scales, Mangery, Otto—Amends an article adding an exemption from local real estate taxes for real estate owned by a person 65 years of age or older.

D. 1187-Scales, Orbin, Mangery, Hook—Amends an article prohibiting the exemption from taxation of public utilities and their property.

D. 1192-Cosetti, Baldus, Fohl—Amends an article removing from the Constitution the \$1 million limitation on State debt and permitting the creation of debt by statute for capital improvement if the annual debt service on all debt is not in excess of 4% of the sum of the tax revenues of the previous 3 years. For such debt in excess of 4% of the sum of the tax revenues on the previous 3 fiscal years, but not in excess of 6%, approval by two-thirds vote of the General Assembly would be required. Debt for any other purposes, separately specified in statute, would be submitted to the electorate for approval.

D. 1198-Orbin, Mangery—Amends an article providing for exemptions from local real estate taxes for persons of low income.

D. 1206-Tomascik—Adds a new article relating to taxation and finance.

D. 1209-Redick, Huggins, Mattioni—Amends an article allowing partial property tax exemptions for residents 67 years of age or over with an annual income of less than \$4,500. The exemption would be limited to \$100.

● LOCAL GOVERNMENT ●

D. 1059-Richter—Amends an article providing for a minimum of minority representation in elected local government bodies.

D. 1060-McGeary—Adds an article providing for optional plans of local government.

D. 1061-Hook—Amends an article establishing medical examiners as county officers.

D. 1062-Hook—Amends an article permitting county treasurers to succeed themselves.

D. 1064-Swope—Amends an article providing for limited nomination and election of county commissioners and auditors.

D. 1065-Thomson—Amends an article requiring the General Assembly to provide for consolidation of cities, boroughs, incorporated towns and townships, and for changing the boundaries of such municipalities and townships.

D. 1066-Sharp—Amends an article providing for organization, home rule and powers of local government.

D. 1069-Benfield—Amends an article authorizing county treasurers to succeed themselves.

D. 1074-Amsterdam—Repeals the section relating to special assessment for transit facilities in Philadelphia.

D. 1078-Amsterdam—Amends an article prohibiting municipalities from becoming stockholders in corporations.

D. 1079-Amsterdam—Amends an article providing for abolishment of county offices in Philadelphia.

D. 1086-Roberts—Amends an article providing for a county zoning administrator.

D. 1090-Scott—Amends an article providing that the General Assembly shall reimburse local government units for revenue lost on account of exemptions granted from local taxes.

D. 1094-Banes, Barry—Amends an article authorizing counties to frame and adopt their own charters and to exercise the powers and authority of local self government.

D. 1100-Jirolanio, Rappaport, Kauffman, Johnson, J. W. Keller, Horne, Huggins—Amends an article providing for the public defender as a county officer.

D. 1102-Amsterdam—Amends an article providing for the extent of land permitted to be taken for public improvements.

D. 1104-Ruth—Amends an article providing for compensation, accountability, and bonding of officers of local governmental units.

D. 1107-Otto, Huggins—Amends an article providing for election of auditors in cities, boroughs, incorporated towns and townships.

D. 1108-Scott, Scarlett, Pelletier, Sahli, Scales, Johnson, Solomon, Gerber—Amends an article providing that cities can adopt home rule charters and that the General Assembly shall prescribe procedures for adopting charters, and, in case the General Assembly fails to prescribe such procedures, that alternate procedures may be employed.

D. 1110-Aberman, Rappaport, Tate, Bashoff, Mattioni, Kelly—Amends an article providing that all officers performing functions of Philadelphia county government shall be officers of the city of Philadelphia and shall continue to perform their duties and be elected, appointed, compensated and organized in the manner now in effect, until provided otherwise by amendment to the Philadelphia Home Rule Charter.

D. 1112-Shrager, Aberman, Bashoff—Amends an article requiring the General Assembly to provide for incorporation and government of cities and boroughs, to alter

municipal boundaries, to consolidate or dissolve municipalities, to empower the General Assembly to provide optional plans of municipal organization and government, to provide for adoption of such plans, to grant to cities and boroughs the right and power to frame and adopt home rule charters, and to empower them to exercise powers and authority of self-government, subject to the General Assembly.

D. 1113-Shrager, Aberman, Murray, Mattioni, Rappaport, Tate, Bashoff—Repeals a section deleting the grant of power to Philadelphia to levy special assessments and to acquire land by eminent domain.

D. 1114-Shrager, Aberman, Rappaport, Tate, Mattioni—Amends an article allowing political subdivisions to become financially affiliated with certain entities for public purposes.

D. 1119-Hook—Amends an article providing for construction and maintenance of highways, bridges, culverts and airports by counties, municipalities and townships.

D. 1131-Levin, Desmond—Amends an article providing for a limitation on the annexation of counties.

D. 1132-Levin—Amends an article providing for assistance to local governments by means of a uniform aid tax to be levied by the General Assembly.

D. 1135-Van Sant, Tully, M. V. Keller, Musselman, Markley—Amends an article providing for county officers and authorizing the combination or consolidation thereof.

D. 1136-Donaldson, Kauffman—Amends an article permitting the General Assembly to authorize any county, city, borough, incorporated town or township to loan money or pledge its credit to any corporation, association, institution or individual for the purchase of facilities or equipment to control pollution of air, water or land.

D. 1138-Baldus, Cosetti, Waldron, Fagan, Conley, Richter, Thornburgh, D. Miller, Aurentz, Welsh—Amends an article providing for the exercise of powers of local self-government by cities.

D. 1143-Förster—Amends an article providing for the consolidation or merger of municipalities.

D. 1147-Scales, Orbin, Mangery—Adds an article providing for optional plans of local government.

D. 1148-Scales, Orbin, Mangery—Amends an article eliminating surveyors as county officers and the provision that the county treasurer may not succeed himself.

D. 1149-Powell, Meyer—Amends an article extending residual powers to local governments.

D. 1150-Powell, Meyer—Amends an article removing the requirement that county offices be kept in the county town.

D. 1151-Powell—Amends an article permitting county treasurers to succeed themselves.

D. 1152-Powell, Meyer—Repeals the provision relating to accountability of municipal officers.

D. 1162-Thomson—Amends an article providing that each county, city, borough, incorporated town and township shall have the exclusive power to provide for all matters relating to wages, hours and working conditions of its employees.

D. 1163-Gerber—Amends an article providing for the organization, powers, election, compensation of county officers, and a new structure and revised duties for county government in certain counties.

D. 1170-Solomon, Laputka, Sprogell—Amends an article changing provisions relating to the election and appointment of county commissioners and county auditors.

D. 1171-Solomon, Laputka, Harding—Amends an article changing provisions relating to the election of county commissioners and the appointment of county commissioners and county auditors.

D. 1175-Huggins, Redick—Amends an article increasing the number of county commissioners to five.

D. 1176-Scales, Thornburgh, Waldron, Corey, Gehrlein, Cosetti—Amends an article providing for liquidation of debts of political subdivisions.

D. 1177-Scales, Thornburgh, Tate, Orbin, Mangery—Amends an article providing for the giving of financial assistance or leasing of property by political subdivisions for public service, industrial or commercial enterprises if it is necessary to the health, safety or welfare of the Commonwealth or any of its political subdivisions.

D. 1180-Scales—Amends an article providing for excess condemnation in the acquisition of land for highway construction.

D. 1188-Scales, Orbin, Mangery—Amends an article providing for consolidation and boundary changes of local governmental units by referendum.

D. 1190-Goldman, Gerber—Amends an article relating to compensation and fees of county officers and the accountability of municipal officers for moneys paid to them.

D. 1191-Goldman, Otto—Amends an article increasing the powers of counties and providing residual powers for local governments.

D. 1194-Shrager, Silverman, Murray, Rappaport, Tate, Bashoff, Aberman, Kelly, Fineman, Gray, Camardella, McGlynn—Amends an article eliminating provisions for condemnation of additional land and property for approaches to certain bridges and tunnels, to provide for taking by any political subdivision of land for public purposes in addition to land proposed to be retained and to dispose of such additional land subject to protective restrictions.

D. 1195-Gerber—Amends an article establishing only two forms of local governmental units other than counties and the cities of Philadelphia and Pittsburgh.

D. 1197-Michael—Amends an article providing for removal of local governmental elective officers for misbehavior.

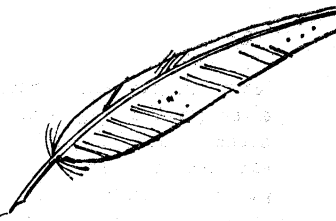
D. 1201-Mattioni—Amends an article establishing the county unit as the basic local governmental unit in Pennsylvania.

D. 1207-Corey, Kauffman—Amends an article prohibiting the General Assembly from abolishing local units but authorizes local government legislation on an area basis.

D. 1208-Cosetti, Rappaport—Adds an article granting residual powers to local governments.



Constitutional Convention Bulletin



Published by the Pennsylvania State Chamber of Commerce

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January 26, 1968

An Editorial . . .

No Brag, Just Fact

Last week, the Pennsylvania State Chamber wrote to the Convention delegates that it opposed granting residual powers to local governments. "Residual powers," as the accompanying article explains, would mean that the local government could do anything that the State can do, unless restrained by general law or the Constitution.

For its stand, the Chamber has been criticized in some quarters as soldiers of the status quo, as representatives of vested interests who are opposed to modernizing local government. We would like to set the record straight.

The State Chamber believes that a more effective local government structure may be one of the most important contributions the Convention can make to the future of Pennsylvania. We hope and expect that the local government article that finally emerges from the Convention will be one that the Chamber can support, along with other business groups. It

was in the hope that we could avoid unnecessary opposition that we expressed our position on residual powers.

We believe that if residual power is incorporated in the final Convention proposal, it will be necessary for the business community to oppose it at the polls, and we believe that the grant of residual power is unnecessary to any local government in the exercise of its municipal function.

The Chamber represents its business members, and tries to maintain a government climate in which its members can operate efficiently. If this makes us representatives of vested interests, then that is what we are. We suggest, however, that the delegates recognize that local government associations may also be "vested interests," and that proposals advanced on behalf of their municipal members should be scrutinized just as closely as proposals advanced by business organizations.

Robert Hibbard
Executive Director

RESIDUAL POWERS: A Blank Check

All local governmental units in Pennsylvania are created by the State's Constitution or by statute and as such are instrumentalities or creatures of the State. They exist for the use and convenience of the State and are endowed by it with whatever powers they possess.

As their existence is not based on any original or inherent right, they have no reserved or residual powers. This means that local governments can exercise only those powers expressly granted (or implied) to them by the Constitution or statute.

The United States Supreme Court has described a local governmental unit as "a political subdivision of the State, created as a convenient agency for the exercise of such of the governmental powers of the State as may be entrusted to it."

The prevailing doctrine on municipal powers and limitations throughout the United States has its roots in Dillon's

Rule. This decision was handed down by Justice Dillon of Iowa in 1868 and states as follows:

"It is a general and undisputed proposition of law that a municipal corporation possess and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation,—not simply convenient, but indispensable."

Dillon's Rule finds its basis in Pennsylvania law in a Supreme Court decision in the case of *Philadelphia vs. Fox et al* (64 Pa. 169, 180 (1870)). This rule applies to all local units and underscores the subordinate relationship of local government to the State.

Pennsylvania's local government units today have a wide range of jurisdiction and are able to enjoy much local legis-

lative liberty and control of matters within their purview, although the Legislature sets guidelines in some of these areas. Through local governing charters or general powers statutes, the Legislature has given to all of the State's local governing units (except counties) broad grants of power to manage their own affairs.

Through a wide constitutional grant of residual powers, local governments could enact license laws for business, could enter into the entire field of labor legislation, and could engage in business activity in direct competition with private enterprise. In other words, local governments could engage in areas of activity that are traditionally reserved by the State.

The delegates to Pennsylvania's present Constitutional Convention could well heed the words of the learned legal antiquary, Thomas Madox, when he wrote in 1726 the preface to his *Historical Essay Concerning the Cities, Towns, and Boroughs of England*, taken from *Records*: "Whoso desireth to discourse in a proper manner concerning corporated towns and communities, must take in a great variety of matter and should be allowed a great deal of time and preparation. The subject is extensive and difficult."

—The State Chamber opposes the granting of residual powers to municipalities, and challenges the supporters of these powers to point to a specific case in which such a sweeping constitutional grant is necessary to exercise the function of a municipality.

ON TAXATION AND STATE FINANCE

The Taxation and State Finance Committee deliberations are also touching on some sensitive areas, such as real estate tax exemptions for public utilities and for private educational and charitable institutions.

The Committee has approved, in principle, a proposal to "tighten" the constitutional tax exemptions for property used for educational, charitable or public purposes. Under the present Constitution, property used for contractual research, for student and staff residences, for parking facilities, and for spectator sports may be tax exempt.

The intent of the Committee's proposal would be to grant exemptions only for portions of property "actually and principally" used for the purposes cited in the Constitution. However, the exact language has not been agreed upon.

The Committee is also considering a subcommittee proposal (approved by a 5-4 vote) that would give the General Assembly the power to set up a statewide taxbase for assessment of public utilities for real estate taxation, with reimbursement provided for local governments.

It also was proposed that if the General Assembly fails to act, said property shall be subject to real estate taxes imposed by local taxing authorities.

The real property of public utilities, by court decision, is exempt from property taxation except where such property is not necessary for carrying out of corporation purposes. Special acts of the General Assembly grant Philadelphia and Pittsburgh the right to tax real property of railroads except the superstructure of the road and water stations.

Public utilities also are subject to a special State levy on their gross receipts estimated to yield \$48.7 million this fiscal year. Some of the public utilities have suggested that a part of this revenue might be allocated to local governments rather than imposing an additional tax. Higher utility taxes would merely lead to increased utility rates, thus in-

creasing the cost of living and doing business in this Commonwealth.

It is seriously questioned why there is a need for a special provision in the Constitution relating to taxation of public utilities. This should be a matter for the General Assembly to decide as it can under the present Constitution.

A major change already approved by the Taxation and State Finance Committee would be the repeal of the present \$1,000 exemption from the occupational privilege tax and the real property tax exemption for disabled veterans. These provisions would be replaced with a far-reaching exemption, under which the General Assembly would be permitted to establish as classes of subjects of taxation "... the property, franchises or privileges of persons who, because of age, disability, infirmity or poverty, are determined to be in need of tax exemption or of special tax provisions."

Then the State or "any other taxing authority" could "impose taxes, grant exemptions or make special tax provisions in accordance therewith," except for taxes upon the sale or use of personal property. Also, no exemption from real estate taxes could be granted unless provision was made for the reimbursement of local taxing authorities for the revenue loss incurred by such exemption.

The Committee also proposes that the exemption for actual places of religious worship be retained, and that the exemption for cemeteries be changed to eliminate those engaged in direct competition with tax-paying businesses. Also, property owned, occupied and "actually and predominantly used for benevolent, charitable or patriotic purposes" by any branch, post or camp of honorably discharged servicemen would be exempt.

Another proposal now under Committee study would authorize State indebtedness by action of the General Assembly up to one and one-half times annual tax collections without approval of the electorate. All debt in excess of that amount would require approval of the electorate. State authority indebtedness would be included under this debt ceiling. Excluded would be self-sustaining indebtedness.

LOCAL BOUNDARY CHANGES

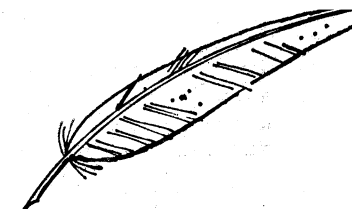
The ability of local governments to expand, alter and adjust their boundaries is vital to the solution of many problems of urban government and metropolitan areas. Through annexations, consolidations or mergers, local units can eliminate conflicts of authority, duplication of services, and can protect orderly local growth which is today hampered in many instances by the existence of numerous fragmented and overlapping units of local government. The preservation of our historic traditions of local self-government and autonomy is directly related to effecting necessary local solutions without relinquishing local authority to higher levels of government.

The rules and procedures whereby local governments may change their boundaries should be derived from the Legislature and not mandated by the Constitution. Uniform, flexible boundary change statutes would permit local governments to control their own destiny and to grow and prosper while allowing people to live where they choose.

—The State Chamber believes that the Constitutional Convention should aim to provide maximum flexibility in the structure and boundaries of local governments, and opposes any attempt to freeze or perpetuate the boundary arrangements of local governments.



Constitutional Convention Bulletin



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February 9, 1968

7 PROPOSALS PRESENTED

Committees' Charter Changes Complete

The seven Committee Proposals for rewriting the State Constitution are now on the Floor of the Convention. The first two proposals concern legislative apportionment; proposals three, four and five concern taxation and State finance; six is the local government proposal; and seven the judicial article.

All of these proposals must be considered by the Convention on three different days. Second consideration of all Committee Proposals was scheduled to be completed by February 7, but the Convention is running behind schedule. As of 5 P.M. on February 8, only Proposals No. 1 and 2 have passed second consideration. After second consideration, the proposals are to be submitted to the Committee on Style and Drafting which is scheduled to make its recommendations by February 9. The proposals will then be ready for final consideration and final vote.

Any Delegate may offer amendments to a proposal while it is before the Convention on second consideration and, with the consent of the majority of the Delegates present, when it is on third consideration. Many delegates have suggested amendments and a number have been approved.

After proposals have been adopted by a majority vote of the 163 Delegates they will be referred to the Committee on Arrangement, Submission and Address to the People. This Committee is to make its final recommendations by February 16. The Convention is scheduled to adjourn by February 29.

The text of the Committee Proposals as of February 8, together with comments (printed in bold) concerning some of their implications, is set forth in this Bulletin.

APPORTIONMENT

Proposal No. 1

Art. II, Section 16. Senatorial Districts: Ratio.—The State shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one Senator. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the total population of the State by the number fifty.

Section 17. Representative Districts: Ratio.—The State shall be divided into two hundred three representative districts of compact and contiguous territory as nearly equal in population as practicable, and each district shall be entitled to elect one representative. Unless division shall be absolutely necessary, no county, city, town, ward, borough or township shall be divided in the formation of a representative district. The representative ratio shall be ascertained by

Status of Proposals

(as of 5 P.M. Feb. 8)

No. 1	Legislative ApportionmentStyle & Drafting Committee
No. 2	Legislative ApportionmentStyle & Drafting Committee
No. 3	Taxation & State Finance2nd Consideration
No. 4	Taxation & State Finance2nd Consideration
No. 5	Taxation & State Finance2nd Consideration
No. 6	Local Government2nd Consideration
No. 7	Judiciary2nd Consideration

dividing the total population of the State by the number two hundred three.

This section would maintain the present number of senators and representatives.

Proposal No. 2

Art. II, Section 18. Legislative Reapportionment Commission.—A Reapportionment Commission, consisting of five members, shall be appointed as follows:

(1) The majority and minority leaders of the State Senate, and the majority and minority leaders of the House of Representatives, either themselves or by deputies appointed by any of them, shall be four of the members. The names of the four members shall be certified to the Secretary of the Commonwealth no later than the fourth Monday in January of the year in which the Federal decennial census is certified.

(2) The four members, within forty-five days after their appointment and certification, shall select a fifth member to serve as chairman who shall be a citizen of the Commonwealth other than a local, State or Federal official elected or appointed to an office to which compensation is attached. The name of the member so selected shall be immediately certified to the Secretary of the Commonwealth.

(3) In the event the four members fail to select the fifth member within the time prescribed in subsection (2) of this section, a majority of the entire membership of the Pennsylvania Supreme Court shall within thirty days thereafter appoint a citizen as aforesaid as the fifth member and chairman of the commission.

(4) Any vacancy occurring in the commission shall be filled within fifteen days thereafter in the same manner in which such position was originally filled.

Section 19. Report of Commission.—No later than ninety days after the commission has been duly constituted and certified or after the Federal decennial census has been certified, whichever is later in point of time, the commission

shall file a report with the Secretary of the Commonwealth, dividing the Commonwealth into senatorial and representative districts agreeably to the provisions of sections 16 and 17 of this article.

The report shall be published in newspapers of general circulation of each Senatorial and House of Representative District of the State in a manner calculated to apprise all interested persons. Such publication shall contain a map of the State showing the overall apportionment and, if the individual area where published, a map showing the apportionment covering the area normally served by the publication. Such publication shall also state the population of the smallest and largest House of Representative and Senatorial Districts and the percentage variation from mean population of such districts.

Section 20. Expenses of Commission.—The General Assembly shall appropriate sufficient funds for a staff appointed by the commission and to pay the expenses of members and other necessary expenses.

The members of the Reapportionment Commission shall be entitled to such compensation for their services as the General Assembly from time to time shall decide, but no part of same shall be paid until a report nisi is filed.

In the event the commission does not file a report nisi within the time prescribed by section 19 herein, unless said time be extended by the Supreme Court, for cause shown, they shall forfeit all rights of compensation and the Supreme Court shall immediately proceed on its own motion to reapportion the Senate and House of Representatives by districts.

Section 21. Exceptions: Final Plan.—The commission shall have thirty days after its initial filing to make corrections in its report.

Any party aggrieved by the report shall have the same period of thirty days to file exceptions with the commission, in which case the commission shall have thirty days after the date of such filing to prepare and file a revised final apportionment plan.

Said revised final apportionment plan shall be subject to the same publication requirements prescribed by Section 19 herein.

Section 22. Appeals.—Any aggrieved party shall have the right within thirty days after the final plan is filed to file an appeal from the final plan directly to the Pennsylvania Supreme Court. If, upon appeal, the appellant establishes that said plan is contrary to law, the Supreme Court shall remand such plan to the commission, together with an order directing the commission to apportion the Commonwealth in manner not inconsistent with such order. If no exception or appeals are filed in said thirty days, the Reapportionment Commission's final plan shall have the force of law and the districts therein provided shall be those used thereafter in elections to the General Assembly of Pennsylvania, until a new plan is made by the next reapportionment commission pursuant to a later Federal decennial census.

This section is entirely new, and is intended to relieve the Legislature from the task of periodically reapportioning itself.

TAXATION AND STATE FINANCE

Proposal No. 3

Article VIII, Section 4. Commonwealth Indebtedness.—

(a) No debt shall be incurred by or on behalf of the Commonwealth except by law and in accordance with the provisions of this section.

(b) Debt may be incurred without limit to suppress insurrection, rehabilitate areas affected by disaster, or other

catastrophy, or to implement unissued authority approved by the electors prior to the adoption of this article.

(c) The Governor, Treasurer and Auditor General jointly may issue tax anticipation notes having a maturity date within the fiscal year in which they are incurred and payable from revenues received during the same fiscal year.

(d) The Governor, Treasurer and Auditor General jointly may incur debt for the purpose of refunding other debt; provided that such refunding debt matures within the term of the original debt.

(e) Debt may be incurred without the approval of the electors for capital improvements separately specified in a capital budget; provided that said debt shall not cause the amount of all net debt outstanding to exceed one and three-fourth times the average annual tax receipts deposited for the previous five years as certified by the Auditor General. Debt incurred for the purposes set forth in subsections (b) and (c) of this section shall not be deemed debt outstanding for the purposes of this subsection. Debt incurred for the purposes set forth in subsection (d) of this section shall be deemed debt outstanding only if the original debt to be refunded would be so considered. Debt incurred under subsection (f) shall not be deemed debt outstanding unless the General Assembly names it as such.

(f) Debt may be incurred without limit for purposes specifically enumerated in the law authorizing such debt; provided that the question of whether the debt shall be incurred has been submitted to the electors and approved by a majority of those voting on the question.

(g) All debt incurred for capital improvements shall mature within a period not to exceed the estimated useful life of the major property or improvements for which it is incurred, and such period of usefulness shall be stated in the law authorizing the projects. All debts, except tax anticipation notes shall be payable in periodic installments commencing within a period of not more than one-tenth the term of the debt.

(h) As used in this section, debt shall mean the issued and outstanding obligations of the Commonwealth and shall include those obligations of its agencies or authorities which are to be repaid from lease rentals or other charges payable directly or indirectly from revenues of the Commonwealth. Debt, to the extent that it is self liquidating, shall not include obligations to be repaid (1) from charges made to the public for the use of the assets financed, when so determined by the Auditor General, or (2) from lease rentals or other charges payable by a school district or other local taxing authorities, or (3) by agencies or authorities created for the joint benefit of this Commonwealth and one or more other State governments.

(i) If at any time the General Assembly shall fail to appropriate sufficient funds to provide for the timely payment of the interest upon and installments of principal of all debt, the State Treasurer shall set apart from the first revenues thereafter received applicable to the appropriate fund of the Commonwealth a sum sufficient to pay such interest and installments of principal, and shall so apply the money so set apart. The State Treasurer may be required to set aside and apply such revenues at the suit of any holder of Commonwealth obligations.

(Sections 5 and 6, which relate to pledging of State credit and assumption of municipal debt by the State, would not be changed.)

The above version of the Taxation and State Finance Committee Proposal on State debt is the result of several significant amendments which were suggested from the Convention floor and adopted on February 8. The Proposal, as originally submitted by the Committee, would have provided

the General Assembly with less flexibility for incurring debt on its own initiative for capital improvement and highway construction purposes.

The Proposal suggests several substantial changes from present constitutional provisions relating to State indebtedness.

Presently, through the use of State authorities (General State Authority and State Highway and Bridge Authority), there is no constitutional limit to the amount of State indebtedness that may be incurred without voter approval by the General Assembly and the Governor for capital improvement or highway construction purposes. The Committee's proposal would eliminate this open-ended authorization. The General Assembly and the Governor would be allowed to incur such debt without voter approval only when total outstanding State debt* is not in excess of 1.75 times the average annual tax receipts of the previous five years. (The original Committee version used a multiplying factor of 1.5 rather than 1.75.)

This new limit is designed to provide the General Assembly with substantial latitude of action for carrying out construction programs. If the debt limit formula were to be applied in the current fiscal year, total allowable debt would approximate \$2.4 billion, about \$1.1 billion in excess of the current total of outstanding State debt which would be subject to the proposed debt limit.

Not limited by the formula in subsection (e) would be State authority debt which is to be repaid by tolls or other direct charges to the using public (for example, debt issued for construction or repair of the Pennsylvania Turnpike).

Other significant changes would allow the General Assembly to incur unlimited debt on its own initiative to rehabilitate areas affected by a disaster or other catastrophe (such as a riot or civil disorder) and, with specific voter approval, to incur unlimited debt for any other enumerated purpose whatsoever. Under present provisions, State debt may be incurred for specific enumerated purposes only through a constitutional amendment (requires approval by two successive sessions of the General Assembly in addition to approval of the voters).

Also of significance in the proposal is the abolishment of the constitutional requirement for a State Sinking Fund. Subsection (i), above, has been designed to serve the purpose which was fulfilled in the past by this Fund.

Proposal No. 4

Article VIII, Section 14. Audit.—(a) The affairs of the Commonwealth, including matters relating to the receipt and expenditure of public moneys by any department or agency of State government, or by any body created or funded by the Commonwealth, shall be audited regularly. Such audits shall be made in accordance with generally accepted auditing standards.

(b) The Auditor General shall have responsibility for the post-audit of the fiscal affairs of the Commonwealth and of all agencies which are recipients of or otherwise account for State funds, other than for his own department, and the State Treasurer shall have responsibility for pre-audit.

(c) The General Assembly shall enact legislation which shall (i) describe the audit function, regularity and purposes of audits of the Commonwealth, and (ii) designate the officer, department agency or body responsible for the audit functions and purposes described, other than those set forth in subsection (b) of this section.

*Including State authority debt outstanding, but excluding debt which is authorized by referendum.

(d) 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 punished as may be provided by law.

This rather detailed provision concerning the auditing function is all new material except for subsection (d) which is essentially similar to the provision in the present Constitution. The proposal would require a formal separation of the pre-audit and the post-audit functions of the Commonwealth. This is the current practice.

Section 26. Governor's Budget and Financial Plan.—

(a) Within the time fixed by law, the Governor shall submit to the General Assembly:

(1) A balanced operating budget for the ensuing fiscal year setting forth in detail all proposed debt service, authority rentals and operating expenditures by each department or agency for each proposed program of the State. The budget shall set forth in detail the estimated receipts from all sources. Proposed expenditures shall not exceed the estimated receipts. If the total estimated receipts are insufficient to pay all proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay such deficiency, together with the estimated receipts which would be derived from each source, and

(2) A capital budget for the ensuing fiscal year setting forth in detail the capital expenditures proposed to be financed from the proceeds of State debt or appropriations from operating funds.

(b) In addition to the budgets for the ensuing fiscal year, the Governor shall annually submit to the General Assembly a financial plan for no less than each of the succeeding five fiscal years. The financial plan shall include for each such fiscal year:

(1) Proposed debt service, authority rentals and operating expenditures for each program of the State, in reasonable detail, and receipts, by major categories, from existing and proposed sources, and

(2) Proposed capital expenditures by separate purpose, project or facility and proposed source of financing each.

Section 27. General Assembly's Appropriations and Financial Plan.—(a) The General Assembly shall:

(1) Approve a balanced operating budget for the ensuing fiscal year. Appropriations made by the General Assembly shall not exceed the actual and estimated receipts available for said appropriations.

(2) Approve a capital budget for the ensuing fiscal year.

(3) Annually approve a financial plan for no less than each of the succeeding five fiscal years.

(b) All estimates of anticipated receipts from any source whatsoever shall be made only as certified by the Governor.

Section 28. Surplus.—All surplus of funds shall be assigned for appropriation during the ensuing fiscal year.

Sections 26, 27 and 28 would be new provisions not covered in the present Constitution except that the courts have construed the present document to require an annual balanced operating budget. In recent years a capital budget has been submitted to the General Assembly biennially rather than annually as proposed in Section 26 (2) above. The idea of annual preparation of a formal five-year fiscal plan (such as proposed in Section 26 (b) above) is new although long-range planning has not been entirely neglected by recent Governors.

A question has been raised concerning the need for the General Assembly to "approve" a five-year plan. Such a requirement may make such plans more rigid than they

should be. Section 28, relating to the use of surplus funds, would replace Article 8, Sections 11 and 12 of the present Constitution, which requires that surplus funds be deposited in the State Sinking Fund and be used to retire debt.

Proposal No. 5

Article VIII, Section 1. Uniformity of Taxation.—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.

Section 1A. Exemptions.—(a) The General Assembly may, by general laws, exempt from taxation:

- (1) Actual places of regularly stated religious worship;
- (2) Actual places of burial, when used or held by a person or organization deriving no private or corporate profit therefrom and not regularly engaged in the business of selling personal property in connection therewith;
- (3) That portion of public property which is actually and regularly used for public purposes;
- (4) That portion of the property owned and occupied by any branch, post or camp of honorably discharged servicemen or servicewomen which is actually and regularly used for benevolent, charitable or patriotic purposes;
- (5) Institutions of purely public charity, but only that portion of real property of such institution which is actually and regularly used for the purposes of the institution.

(b) The General Assembly may, by general laws, set up standards and qualifications for private forest reserves, and make special provision for the taxation thereof.

(c) The General Assembly may, by general laws, establish as a class or classes of subjects of taxation the property, franchises or privileges of persons who, because of age, disability, infirmity or poverty, are determined to be in need of tax exemption or of special tax provisions.

For any such class or classes so established, the General Assembly shall set up uniform standards and qualifications.

The Commonwealth, or any other taxing authority, may adopt or employ such class or classes and said standards and qualifications and, except for taxes upon the sale or use of personal property, may impose taxes, grant exemptions or make special tax provisions in accordance therewith, provided that no exemption from any tax upon real estate shall be granted hereunder except by laws providing for the reimbursement of local taxing authorities for revenue losses occasioned by such exemption.

(d) The General Assembly may by general laws set up standards and qualifications by which local taxing authorities may, for a limited period of time, enact uniform special tax provisions for the improvement, development, reconstruction, or rehabilitation of real estate with the primary and only purpose of upgrading deteriorating property or areas through the medium of the private sector of the economy.

(e) The General Assembly may by general laws set up standards and qualifications by which local taxing authorities may, for a period not to exceed two years, provide special tax provisions on the increased value of residential real estate resulting from construction.

Section 1B (This Section, which relates to reciprocal exemptions, would not be changed.)

Section 1C. Public Utilities.—The real property of public utilities shall be subject to real estate taxes imposed by local taxing authorities. Gross receipts taxes imposed by the Commonwealth on said public utilities shall, however, be in lieu of local taxes on that real property which is used or useful in furnishing their public utility services. The General As-

sembly shall provide for the annual distribution among all local taxing authorities of an amount equal to the gross amount of real estate taxes which the local taxing authorities of the Commonwealth otherwise could have imposed upon said real estate in the preceding year. Such distribution shall be by an equitable method having due regard for the proportion which the tax receipts of each such taxing authority bears to the tax receipts of all such taxing authorities. That real property of public utilities which is not used or useful in furnishing their public utility services shall remain subject to local taxation.

The "uniformity clause" of the present Constitution would not be changed but there would be changes in all the current tax exemptions except the provisions for private forest reserves and for reciprocal tax exemptions. The following exemptions would be "tightened": places of worship, places of burial, public property, veterans facilities, and charitable and educational institutions. The present exemption for disabled veterans and for low incomes from occupational privilege taxes is "broadened" substantially to permit the General Assembly to set up exemptions because of "age, disability, infirmity or poverty." Two new exemptions would be established. The General Assembly would be permitted to authorize special tax provisions, for a limited period of time, for upgrading deteriorating property or areas and for residential real estate construction. One existing exemption would be eliminated. Public utilities would be made subject to local real estate taxes but the State gross receipts tax would be levied in lieu of the local tax. A State distribution to localities, "by an equitable method" in an amount equal to the gross yield of a real estate tax on utilities is required of the General Assembly. It is not clear whether the proposal intends to include all public utilities, or only those now subject to the gross receipts tax. Presently, utilities such as water and sewer and some municipally-owned operations are not subject to the gross receipts tax.

LOCAL GOVERNMENT

Proposal No. 6

Article IX, Section 1. Local Government.—The General Assembly shall provide by general law for local government within the Commonwealth. Such general law shall be uniform as to all classes of local government regarding procedural matters.

The uniform procedural matter requirement in this section is vague.

Section 2. Home Rule.—Municipalities shall have the right and power to frame and adopt home rule charters. The General Assembly shall provide by general law for all municipalities the right and power to frame and adopt a home rule charter. If the General Assembly does not so provide within four years from the adoption of this article, any municipality may by initiative and referendum, or by act of its governing body, provide for the adoption of a home rule charter. Adoption, amendment, or repeal of a home rule charter shall be by referendum. A municipality having a home rule charter may exercise any power or perform any function not denied by this Constitution, by the General Assembly or by its home rule charter.

This is one of the most significant sections in this article. Home rule is intended to permit local control over local problems by embracing freedom of local decisions and consideration of matters which are within the local purview. Although the present Constitution contains provisions which permit the Legislature to authorize any class of city to adopt home rule charters, Philadelphia is the only city which has been granted the right to adopt such a charter.

Additionally, an extremely broad grant of residual powers (those powers not reserved by the State) would be given to any home rule municipality. This authorization is contained in the last sentence of the subject section. Under the present Constitution, a local government must have express legislative authority to act on any matter. The State Chamber opposes the granting of residual powers to local units.

The entire section would become self-executing for all Pennsylvania counties, cities, boroughs, incorporated towns, and townships if the Legislature fails to provide home rule charter adoption procedures within four years after ratification of this article.

Section 3. Optional Plans.—Municipalities shall have the right and power to adopt optional forms of government as provided by the General Assembly. The General Assembly shall provide by law optional forms of government for all municipalities. An optional form of government shall be presented to the voters, by initiative, action of the governing body of the municipality, or by the General Assembly. Adoption or repeal of an optional form of government shall be by referendum.

Except for counties, there is presently no constitutional prohibition which prevents the Legislature from authorizing optional governing forms for any type of local government in Pennsylvania. Counties are an exception, however, as their organizational structure of eleven elective row offices is mandated by the present Constitution. Three optional forms of government have been available to third class cities since the passage of enabling legislation in 1957.

Section 4. County Government.—County officers shall consist of commissioners, controllers or auditors, district attorneys, treasurers, sheriffs, registers of wills, recorder of deeds, prothonotaries, clerks of the courts, and such others as may from time to time be established by law.

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 shall be filled in such a manner as may be provided by law.

County officers shall be paid only by salary as prescribed by general law for services performed for the county or any other governmental unit. Fees incidental to the conduct of any county office shall be payable directly to the county or State Treasury, or such office as may be prescribed by general law.

Three county commissioners shall be elected in each county. 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.

The above form of county government shall not be changed except in a county which has adopted a home rule charter or an optional form of government. The above optional form of county government shall be one of the optional forms of government provided by the General Assembly.

This section removes the county surveyor and coroner as constitutionally required offices. The county row office fee system also is eliminated, and county treasurers are permitted to succeed themselves in office. Moreover, counties could adopt home rule charters and optional forms of government.

Section 5. Intergovernmental Cooperation.—A municipality, by act of its governing body, may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility and delegate or transfer any function, power or responsibility to one or more other governmental units

including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit.

Through interjurisdictional agreements, Pennsylvania's local governments are currently empowered by the Legislature to cooperate with each other in every activity that they are authorized to undertake alone.

Section 6. Area Government.—The General Assembly shall provide for the establishment and dissolution of government of areas involving two or more municipalities or parts thereof.

Section 7. Area-wide Powers.—The General Assembly may grant powers to municipalities within a given geographical area in which there exists intergovernmental cooperation or area government and designate the classes of municipalities subject to said legislation.

Sections 5 through 7 permit the Legislature to establish or create special purpose or service governments within a given geographical area.

Section 8. Consolidation, Merger or Boundary Change.—Uniform Legislation. The General Assembly shall, within two years following the adoption of this article, enact uniform legislation establishing the procedure for consolidation, merger or change of the boundaries of municipalities.

Initiative. By initiative and referendum, municipal governments shall have the right to consolidate, merge and change boundaries upon a majority vote of those voting thereon in each municipality, without the approval of the governing bodies.

Study. The General Assembly shall delegate to an agency of the Commonwealth the responsibility for studying consolidation, merger and boundary changes, advising municipalities on all problems which might be connected therewith, and initiating local referendum.

Legislative Power. Nothing herein shall prohibit or prevent the General Assembly from providing additional methods for consolidation, merger and boundary changes.

The meaning and effect of this section is not clear, although uniformity is the apparent objective. The present Constitution does not contain any provision relative to the subject matter of this section. The State Chamber opposes any attempt to freeze local boundaries.

Section 9. Appropriation for Public Purposes.—The General Assembly shall not authorize any municipality 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. The General Assembly may provide standards by which municipalities or school districts may give financial assistance or lease property to public service, industrial or commercial enterprises if it shall find that such assistance or leasing is necessary to the health, safety or welfare of the Commonwealth or any municipality or school district. Existing authority of any municipality or incorporated district to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual, is preserved.

The first sentence is very similar to provisions in the present Constitution. The provision permitting municipalities or school districts to give financial assistance or lease property to commercial or industrial enterprise is new and its implications are unclear. It is of interest to note that school districts are mentioned in this provision for the first time in this Proposal.

Section 10. Local Government Debt.—Subject only to the restrictions imposed on it by this section, the General As-

sembly shall by general law prescribe the debt limits of all units of local government including municipalities and school districts. For such purposes, the debt limit base shall be a percentage of the total revenue, as defined by the General Assembly, of the unit of local government computed over a specific period immediately preceding the year of borrowing. The debt limit in every such case to be prescribed shall exclude all indebtedness (1) for any project to the extent that it is self-liquidating or self-supporting or which has heretofore been defined as self-liquidating or self-supporting, or (2) which has been approved by majority vote at a public election held in such manner as shall be prescribed by law. The provisions of this paragraph shall not apply to the City or County of Philadelphia.

Any unit of local government, including municipalities and school districts, incurring any indebtedness, shall, at or before the time of so doing, adopt a covenant, which shall be binding upon it so long as any such indebtedness shall remain unpaid, to make payments out of its sinking fund or any other of its revenues or funds at such time and in such annual amounts specified in such covenant as shall be sufficient for the payment of the interest thereon and the principal thereof when due.

This represents a substantial change in the borrowing authorization of local governments (except for the city of Philadelphia which was left unchanged—see note under Section 12). The present Constitution permits local government debt to total 5% of the assessed value of taxable property by vote of the governing body. The above proposal would use a per cent of local government revenue as the base rather than assessed value and would require the General Assembly to determine the appropriate per cent. Self-liquidating debt would be excluded from this provision, although presumably school building authority debt is to continue to be considered self-liquidating debt. Also, under the present Constitution, additional local debt can be incurred up to 15 per cent of the assessed value of taxable real estate if approved by the voters. The above proposal would remove any constitutional limitation from local debt approved by the electorate. The State Chamber has suggested that the existing local debt provisions not be changed. The current provisions were adopted in 1966.

Section 11. Local Apportionment.—Within the year following certification of each Federal decennial census, and at such other times as the governing body of any municipality shall deem necessary, each elected governing body shall apportion itself, to the extent it shall not be elected at large, or be apportioned as shall otherwise be provided by uniform law, into districts that shall be compact, contiguous, and substantially equal in population.

This section would require governing bodies elected from districts (e.g., cities, boroughs and first class townships) to reapportion themselves on the basis of total population, within one year of each Federal decennial census.

Section 12. (This Section, which relates to the debt of Philadelphia City, would be essentially unchanged.)

Section 12 relates to the City of Philadelphia borrowing authority. It is unchanged from the present Constitution. The City of Philadelphia requested that no change be made in order to preserve its credit rating.

It is of interest to point out that Philadelphia City is authorized to issue obligations maturing over a 50-year period while the State of Pennsylvania and other local governments would have no constitutional limitation on the maturities of their bonds.

Section 13. (This Section, which relates to abolition of county offices in Philadelphia, would not be changed.)

Section 14. Definitions.—As used in this article, the following words shall have the following meanings:

“Municipality” means a county, city, borough, incorporated town or township or any similar form of government which shall hereafter be created by the General Assembly.

It is significant to note that counties and townships are included in this definition of “municipalities.” Generally, the term has applied only to incorporated areas, e.g., cities, boroughs and incorporated towns.

“Initiative” means the filing with the applicable election officials at least ninety days prior to the next primary or general election of a petition containing a proposal for referendum signed by electors comprising ten per cent of the number of voters voting for the office of Governor in the last gubernatorial general election in any municipality affected. The applicable election official shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at said election. Initiative on a similar question shall not be submitted more often than once in five years.

“Referendum” means approval of a question placed on the ballot, by initiative or otherwise, by a majority vote of the electors voting thereon.

THE JUDICIARY

Proposal No. 7

Article V, Section 1. Courts.—(a) The judicial power of this Commonwealth shall be vested in a unified judicial system consisting of a Supreme Court, a Superior Court, a Commonwealth Court, courts of common pleas, community courts, justices of the peace, municipal and traffic courts in the City of Philadelphia, and such other courts as may be provided by law.

(b) The jurisdiction and powers of the unified judicial system shall be as provided by law, except that the jurisdiction and powers presently vested in the courts of this Commonwealth shall be vested in the unified judicial system created hereby and the General Assembly shall not remove any of said jurisdiction or powers from said system or any part thereof without prior approval of the Supreme Court.

Section 2. Supreme Court.—(a) The Supreme Court shall be the highest court of this Commonwealth and shall possess all judicial powers possessed by it at the time of the adoption of this article.

(b) The Supreme Court shall consist of seven justices, one of whom shall be Chief Justice.

(c) The jurisdiction of the Supreme Court shall be as provided by law.

Section 3. Superior Court.—The Superior Court shall consist of seven judges, one of whom shall be President Judge, and its jurisdiction shall be as provided by law.

Section 4. Commonwealth Court.—The Commonwealth Court shall consist of the number of judges and have such Statewide jurisdiction as shall be provided by law. One of its judges shall be President Judge.

Section 5. Right of Appeal.—There shall be a right of appeal in all cases to an appellate court of Statewide jurisdiction.

Section 6. Courts of Common Pleas.—(a) There shall be one court of common pleas for each judicial district, having such divisions and number of judges as shall be provided by law. One of its judges shall be President Judge.

(b) The courts of common pleas shall have unlimited original jurisdiction in all cases except as may otherwise be provided by law or in this Constitution.

Section 7. Community Courts; Philadelphia Municipal Court and Traffic Court.—(a) In judicial districts other than the City of Philadelphia in which a majority of the electors voting thereon have adopted a community court, there shall be one community court, the divisions, number of judges and jurisdiction of which shall be as provided by law.

(b) The question of whether or not a community court shall be established in any such judicial district shall be placed upon the ballot in a primary election by petition which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed by a number of electors equal to five per cent of the total votes cast for all candidates for the office receiving the highest number of votes in such judicial district at the last preceding general or municipal election. The manner of signing such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to elections. The question shall not be placed upon the ballot in a judicial district at more than one election during any five-year period.

(c) In the City of Philadelphia, in lieu of a community court, there shall be a municipal court and a traffic court. The number of judges and the jurisdiction of both shall be as provided by law.

Section 8. Magisterial Districts; Justices of the Peace.—

(a) In judicial districts, other than the City of Philadelphia, in which a majority of electors voting thereon have not adopted a community court, there shall be one justice of the peace in each magisterial district as provided by law.

(b) The General Assembly shall by general law establish classes of magisterial districts solely on the basis of population and population density and shall fix the salaries to be paid justices of the peace in each class. The number and boundaries of magisterial districts of each class within each judicial district shall be established by the Supreme Court or by the courts of common pleas under the direction of the Supreme Court as required for the efficient administration of justice within each magisterial district.

Section 9. Other Courts.—The General Assembly may, with the advice and consent of the Supreme Court, establish such additional courts, or divisions of existing courts, as may be needed, or, with the advice and consent of the Supreme Court, abolish any court, or division thereof, created by statute.

Section 10. Qualifications of Justices, Judges, and Justices of the Peace.—(a) All justices, judges, and justices of the peace shall be citizens of this Commonwealth. All justices and judges shall be members of the bar of the Supreme Court of Pennsylvania except the judges of the traffic court in Philadelphia. The justices of the Supreme Court, the judges of the Superior Court and the Commonwealth Court, during their continuance in office, shall reside within this Commonwealth, and the other judges and justices of the peace, during their continuance in office, shall reside within the district in which they serve.

(b) Justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their office and pass an examination prior to assuming office. The course of study and examination shall be as provided by law.

Section 11. Method of Selection of Justices, Judges and Justices of the Peace.—(a) Whenever a vacancy occurs for any reason in the office of a justice or judge of any court of Statewide jurisdiction the Governor shall fill the vacancy by appointment from a list of persons qualified for the office submitted to him by the State Judicial Qualifications Com-

mission provided for in section 12(a). Such appointment shall not require the consent of the Senate.

(b) At any municipal or general election in a judicial district in which the matter has been placed on the ballot in the manner hereinafter specified, the qualified electors of any judicial district may, by a majority vote of those voting on the question, elect to have the judges of their district appointed in the manner provided for courts of Statewide jurisdiction, utilizing, however, District Judicial Qualifications Commissions provided for in section 12 (b).

(c) Whenever in any judicial district other than a judicial district which has elected to have the judges in that district appointed as provided in section 11 (b), a vacancy occurs in the office of judge by reason of the expiration of a term of office of an appointed judge or the failure of an elected judge to file the declaration of candidacy specified in section 13 the vacancy shall be filled by election at a municipal election by the electors of the judicial district in which the judge is to serve. Whenever in any such judicial district a judge previously elected files the declaration of candidacy specified in section 13 a retention election respecting said judge shall be held as specified in accordance with the provisions of section 13. Whenever a vacancy occurs for any other reason in the office of judge in such judicial districts, the Governor shall fill the vacancy by appointment with the advice and consent of the Senate.

(d) Where the qualified voters of any judicial district have elected to fill vacancies in the office of judge in the manner provided in section 11 (b), 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 judicial vacancies and return to the elective method.

(e) Any question presented as provided in section 11 (b) or section 11 (d) shall be placed upon the ballot in a judicial district in a primary election by petition which shall be in such form as shall be prescribed by the officer of the Commonwealth having supervision over elections. Any such petition shall be filed with such officer and shall be signed by a number of electors equal to five per cent of the total votes cast for all candidates for the office receiving the highest number of votes in such judicial district at the last preceding general or municipal election. The manner of signing of such petitions, the time of circulating them, the affidavits of the persons circulating them and all other details not contained herein shall be governed by the general laws relating to elections. The question shall not be placed upon the ballot in a judicial district at more than one election during any five-year period.

(f) Justices of the peace shall be elected at municipal elections by the electors of the magisterial district in which they are to serve. Vacancies in the office of justice of the peace shall be filled by appointment by the Governor with the advice and consent of the Senate.

(g) The Chief Justice and President Judges of all courts shall be selected for five-year terms by the members of their respective courts except that the present judge of the traffic court of the City of Philadelphia shall be appointed by the Governor. A Chief Justice or President Judge may resign such position and remain a member of the court. In the event of a tie vote for office of President Judge, the Supreme Court shall appoint as President Judge, one of the judges receiving the highest number of votes.

Section 12. Judicial Qualifications Commissions.—(a) There shall be a State Judicial Qualifications Commission for courts of Statewide jurisdiction composed of four non-lawyer electors appointed by the Governor and three non-judge members of the bar of the Supreme Court appointed by the Supreme Court. The members of the commission shall serve

for terms of seven years, staggered so that one member shall be selected each year, and no more than four of the members of the commission shall be members of the same political party. The commission shall consider all names submitted to it and recommend to the Governor not less than ten or more than twenty of those qualified for each vacancy to be filled.

(b) There shall be a District Judicial Qualifications Commission for each judicial district which has adopted the method of selection provided in section 11 (b), composed of three non-lawyer electors appointed by the Governor and two non-judge members of the bar of the Supreme Court appointed by the Superior Court, all to be residents of such judicial district. The members of the commission shall serve for terms of five years, staggered so that one member shall be selected each year, and no more than three of the members of the commission shall be members of the same political party. The commission shall consider all names submitted to it and recommend to the Governor not less than three nor more than ten of those qualified for each vacancy to be filled.

(c) During the term for which he has been appointed, no member of any commission shall hold any office in a political party or political organization nor shall he hold any public office or appointment for which he receives any compensation.

(d) Vacancies in any Judicial Qualifications Commission shall be filled for the balance of the term by the appointing authority.

Section 13. Tenure of Justices, Judges and Justices of the Peace.—(a) Except as hereinafter provided, the term of office of justices and judges shall be ten years. The tenure of any justice or judge shall not be affected by changes in judicial districts nor by reduction in the number of judges

(b) Each justice or judge appointed by the Governor to a vacancy in any court of Statewide jurisdiction or in any court of a judicial district which has adopted the method of selection of judges provided in section 11 (b), shall hold office for a term ending the first Monday of January following the next municipal election more than twenty-four calendar months following appointment.

(c) Each judge appointed by the Governor to fill a vacancy in any court in any other judicial district shall hold office for a term ending the first Monday of January following the next municipal election more than ten calendar months following appointment.

(d) Any justice or judge who has been appointed to office pursuant to section 11 (a) or 11 (b) or who has been elected may file a declaration of candidacy for retention election with the official in charge of Statewide elections on or before the first Monday of January before the expiration of the term of office to which such justice or judge was appointed or elected. If such a declaration is not filed, the office shall be filled by appointment or election as herein provided. The name of a justice or judge who files a declaration shall be submitted to the electors on separate judicial ballots or in a separate column on voting machines, in either case without party designation, at the municipal election immediately preceding expiration of the term of office of the justice or judge, to determine only the question whether such justice or judge shall be retained in office. If a majority of the votes cast are against retaining the justice or judge, a vacancy shall exist upon the expiration of the term of office of such justice or judge to be filled by appointment as herein provided. If a majority of the votes cast are in favor of retention, such justice or judge shall serve for the full term of office provided herein, unless sooner removed or retired. At the expiration of each term, any justice or judge shall be eligible for retention in office in the manner provided herein, subject only to the retirement provisions hereof.

(e) The term of office for municipal court and traffic court judges in the City of Philadelphia and of justices of the peace shall be six years.

Section 14. Compensation and Retirement of Justices, Judges and Justices of the Peace.—(a) Justices, judges, and justices of the peace shall receive compensation paid by the Commonwealth as provided by law, which shall not be diminished during their terms of office unless by general law applying to all salaried officers of the Commonwealth.

(b) Justices, judges and justices of the peace shall be retired at the age of seventy years. Former justices, judges and justices of the peace shall receive such compensation as shall be provided by law. No compensation shall be paid to any justice, judge or justice of the peace who is removed from office under section 6 of Article VI.

(c) A retired justice or judge may, with his consent, be assigned by the Supreme Court to render such temporary judicial service as may be prescribed by rule of the Supreme Court.

Section 15. Prohibited Activities.—(a) Justices and judges shall devote full time to their judicial duties, shall not engage in the practice of law, hold any office in any political party or political organization, or hold an office or position of profit in the government of the United States or of this Commonwealth or any municipal corporation or political subdivision of this Commonwealth, except in the armed service of the United States or of this Commonwealth.

(b) Justices and judges shall not engage in any activity which shall be prohibited by law nor violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.

(c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary provided by law.

(d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof, or the Superior Court or any of the judges thereof except such as are judicial, nor shall any of the justices thereof exercise any power of appointment except as provided in this Constitution.

Section 16. Removal, Suspension, Discipline, and Compulsory Retirement of Justices, Judges and Justices of the Peace.—(a) There shall be a Judicial Inquiry and Review Board to be composed of three judges of the courts of common pleas from different judicial districts and two judges of the Superior Court, to be selected by the Supreme Court; two non-judge members of the bar of the Supreme Court and two non-lawyer electors, all four of whom shall be selected by the Governor.

The members of the board shall serve for terms of four years, provided that a member shall continue to participate in any hearing in progress at the end of his term. A vacancy on the board shall be filled for the balance of the term by the same appointing power which selected the member whose place has become vacant. A member of the board shall be removed only by the appointing power for cause. No member of the board shall serve for more than four consecutive years, but he may be reappointed after a lapse of one year. The members of the board shall elect one member to serve as chairman for a term of one year. The board shall act only with the concurrence of a majority of its members.

A member of the board shall not hold any office in a political party or political organization. The members other than judges shall be compensated for service on the board as the Supreme Court shall by rule prescribe, and all mem-

bers shall be reimbursed for travel and other expenses necessarily incurred in the discharge of their official duties.

(b) In accordance with the procedure prescribed in subsection (c) of this section, any justice or judge may be suspended, removed from office or otherwise disciplined for violation of section 15 of this article, misconduct in office, neglect of duty, failure to perform his duties, or other conduct which prejudices the proper administration of justice, or brings the judicial office into disrepute; and any justice or judge may be retired for disability seriously interfering with the performance of his duties.

(c) The board shall keep itself as fully informed as may be of facts and circumstances relating to justices or judges in so far as the same may bear upon grounds for suspension, removal, discipline, or compulsory retirement; shall receive complaints or reports, formal or informal, from any source pertaining to such matters; and shall make such preliminary investigations as it may determine.

The board may, after such investigation as it deems necessary, order a hearing to be held before it concerning the suspension, removal, discipline or compulsory retirement of a justice or judge. The board's orders for attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings.

If, after hearing, the board finds good cause therefor, it shall recommend to the Supreme Court the suspension, removal, discipline, or compulsory retirement of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and may permit the introduction of additional evidence and shall order suspension, removal, discipline or compulsory retirement, or wholly reject the recommendation, as it finds just and proper. Upon an order for compulsory retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired under section 14 of this article. Upon an order for suspension or removal, the justice or judge shall be suspended or removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the board, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the board shall be privileged; provided that, upon being filed by the board in the Supreme Court, the record loses its confidential character.

No justice or judge shall participate as a member of the board or of the Supreme Court in any proceeding involving his own suspension, removal, discipline or compulsory retirement.

The Supreme Court shall prescribe rules for procedure under this section.

(d) Procedures for the removal, suspension, discipline, and compulsory retirement of justices of the peace shall be as prescribed by general rule of the Supreme Court.

(e) Any justice, judge, or justice of the peace who shall be convicted of misbehavior in office by a court of competent jurisdiction, who shall be disbarred as a member of the bar of the Supreme Court, or who shall be removed by the Supreme Court, shall automatically forfeit his judicial office and thereafter be ineligible for judicial office.

(f) Any justice or judge who shall become a candidate for nomination or election for any public office other than a judicial office shall automatically forfeit his judicial office.

(g) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in

the Senate shall exercise any of the duties of his office until he has been acquitted.

Section 17. Judicial Administration.—(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace of the Commonwealth, including the authority to make such temporary assignments of judges and justices of the peace from one court or district to another as it shall deem appropriate.

(b) In the exercise of this authority, the Supreme Court shall appoint a court administrator and may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of the courts and justices of the peace.

(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure, and the conduct of the courts and justices of the peace, including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for the admission of persons to practice law, and the administration of all courts and officers of the judicial branch; provided that such rules shall be consistent with this Constitution and shall neither abridge, enlarge nor modify the substantive rights of any litigant, nor alter the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

Section 18. Judicial Districts; Boundaries.—The number and boundaries of judicial districts shall be changed by the General Assembly only with the advice and consent of the Supreme Court.

This article would unify Pennsylvania's judicial system under the supervision and administration of the Supreme Court. The system would include a Supreme Court as the highest court, a Superior Court, a Commonwealth Court, courts of common pleas, community courts, justices of the peace, and municipal and traffic courts in the City of Philadelphia. The Legislature must have prior approval of the Supreme Court to establish, divide or abolish any court, or to remove any jurisdiction or power from the judicial system.

The Legislature has designated the Dauphin County Court as the official Court of the Commonwealth since such a Court is not established by the present Constitution. Under this proposed article, a new Commonwealth Court would be created. The composition of the court would be left to the Legislature.

Section 5 would provide a Constitutional guarantee for the right of appeal in all cases to State appellate courts. This is a departure from established judicial practice throughout the United States since general and unrestricted appeals would be permitted, including cases lacking material consequence, e.g., traffic violations. Clogged appellate court dockets could result from this practice.

Except in Philadelphia, each judicial district would be permitted to decide by referendum between retention of the minor judiciary or their replacement with a community court system. In districts retaining the minor judiciary, magisterial districts would be established by the Supreme Court with one justice of the peace for each such district. This provision will probably result in a reduction in the number of the minor judiciary. Compulsory training, elimination of the fee system, and supervision by the Supreme Court are other provisions affecting the minor judiciary. In Philadelphia, the present Magistrates Courts would be replaced with municipal and traffic courts.

After initial appointment or election, all judges would be retained in office through a merit election system. Judges of State courts would be appointed by the Governor from a list of names submitted by a State Judicial Qualifications Commission. Each judicial district could elect by referendum to utilize a similar selection system. All judges throughout the State, whether appointed or elected to their first terms, would

be elected to subsequent terms on a merit basis. They would not have any opposition or political designation in the elections, with the voters determining only the question of whether or not they should be retained in office. Judicial elections would be held only in municipal election years (odd-numbered years).