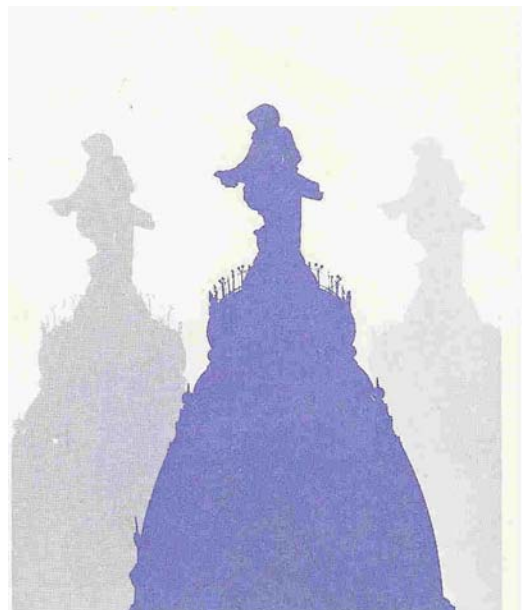


charter revision: a review



CHARTER REVISION: A REVIEW

**CITY GOVERNANCE PROJECT
THE COMMITTEE OF SEVENTY**

Copyright December, 1979 The Committee of Seventy, Philadelphia, PA

Acknowledgment is gratefully made to

The Pew Memorial Trust

and

The Samuel S. Fels Fund

*whose generous support of the Committee of Seventy's Practicum
Program made this research possible.*

*Further acknowledgment is made to the Pennsylvania Economy League
and the City of Philadelphia Archives for their cooperation and
assistance.*

INTRODUCTION

I. The Philadelphia Home Rule Charter is a contract among the people of Philadelphia. It is our constitution, our agreement about how we will set up our government. By the Charter we establish the offices of government, assign the responsibilities, and create the power needed to fulfill those responsibilities. The Committee of Seventy believes that the critical moment for carefully re-assessing our Charter has arrived. It is time for Philadelphians to reconsider their agreement with one another.

In the twentieth century, a wise tradition has developed of re-assessing Philadelphia's Charters roughly every three decades. The tradition began in 1919 when the Pennsylvania General Assembly replaced Philadelphia's thirty-four year old Charter with its first 'modern' Charter. It continued thirty years later when the Philadelphia Charter Commission began designing our first Home Rule Charter, the document by which we are governed today. Once again, thirty years have elapsed. It is time to reconsider how best to distribute the city's power to exercise local self-government, and how best to encourage effective leadership. It is time for Philadelphians to heed their tradition, for it is grounded in the recognition that changes can occur which no written constitution can easily predict. We urge all Philadelphians to press for the empanelment of the second Charter Commission so that the long process of Charter review can begin.

II. Philadelphia's first Home Rule Charter has, in many respects, served its city well. The framers of our Charter displayed great vision and a pioneering spirit in their work which justified Philadelphians' overwhelming approval of the Charter in 1951. The foundation of that document—the "strong Mayor/weak Council" form of government—was a dramatic departure from the preceding form of government and has proved to be a far more workable system for effectively administering Philadelphia.

It was thirty years ago that the framers of the Charter first began their work, however, and that is a long span over which to have to predict the changing needs, conditions, and attitudes in our city. Severe problems in administering the city have arisen under our City Charter. The form of government created by the Charter may be responding poorly to the needs of many citizens.

Many now question whether, under the City Charter, essential municipal services can be furnished in a streamlined and equitable manner. The Charter may be too rigid, for despite what many see as a pressing need for departments of housing, consumer protection, and transportation, it now precludes the Mayor and City Council from creating these agencies. The Charter may also be too trusting: the Mayor's expansive appointment power raises the question of whether there is adequate assurance that competent officials will head our city's administrative and executive departments.

Many also question whether officials are sufficiently accountable for their decisions. One clear problem of accountability involves a loophole which has developed as a result of the enormous increase in federal funding of municipal activities: the Charter currently permits the *appointed* Managing Director to spend these funds without first having to publicly earmark them in the proposed budget and without the participation of City Council. This is power beyond that intended by the authors of the Charter.

It is also uncertain whether the Charter provides adequate methods for bringing citizens' concerns to the attention of city officials. It makes no provision for any type of independent ombudsman, to whom frustrated citizens, as well as dedicated city officials, can turn for assistance and information.

Finally, the tremendous financial and educational difficulties experienced by the Philadelphia School District suggest that the 1965 Educational Supplement to the Charter may have failed to establish a viable system of public education.

Given these serious problems, which have developed since the adoption of the Charter, and given the genuine disenchantment of many Philadelphians with the current quality of their city's government, the moment for taking stock of the City Charter has arrived. It is time to consider whether our Charter falls short of meeting the goals we have set for it, and to assess whether the structure of city government has contributed to the problems troubling our city. Three decades after the first Charter Commission began preparing it, the Charter deserves review.

III. Effective Charter review can come about only if Philadelphians insist on a comprehensive re-assessment of the entire City Charter. Philadelphians should call for the empanelment of our second Charter Commission, so that the same painstaking attention to detail which preceded the creation of our current Charter can be applied to its review. Our Charter was submitted to the voters only after nearly two years of work by the first Charter Commission. Only a similarly thorough approach to reassessing the Charter will assure that its basically sound structure will be preserved and enhanced. And if, after thirty years, the Charter does need substantial revision, we should expect a comprehensive revision; one which, if need be, strikes a new balance of governmental power for our city.

A long-term comprehensive approach is essential because our Charter is an extraordinarily complicated document from which we demand a great deal: we ask that it provide an effective procedure for identifying the needs of Philadelphians and resolving competing claims to the city's limited resources; that it define the administrative structures which will efficiently furnish municipal services; that it ensure the responsiveness of city officials to their constituents; and that it be flexible enough to adapt to foreseeable economic and social changes. We ask all of this despite the fact that over the years undoubtedly there will be variations in the levels of commitment, competence, and integrity of our city's officials and employees. In light of this consideration, designing a Charter which facilitates the efforts of dedicated city workers while preventing the misuse of power is an understandably complicated procedure. Charter review and, if necessary, revision can be no less complicated, no less thorough.

IV. Philadelphians have the power to re-examine and revise their Charter. In 1949, the General Assembly gave Philadelphians not only the power to frame and adopt their own Charter, but the power to revise it as well. The method of undertaking full-scale Charter review and revision which was contemplated by the General Assembly is that which the Committee of Seventy supports: the empanelment of a Charter Commission. The final decision whether to adopt any proposed revisions prepared by such a Commission rests with the voters of Philadelphia.

The procedure for establishing a Charter Commission is set forth in the First Class City Home Rule Act of 1949. There are two alternative paths to creating such a Commission, both of which *require* action by City Council. First, City Council can, by two-thirds vote, adopt an ordinance providing for the appointment of a Charter Commission. Alternatively, if 20,000 registered electors in Philadelphia petition City Council for a Charter Commission, Council can, by simple majority vote, provide for the Commission's appointment.

Within thirty days after the final passage of an ordinance providing for the appointment of a Charter Commission, the President of City Council and the Mayor must appoint a Commission consisting of fifteen registered electors of the city. The President of City Council appoints nine of the fifteen, and the Mayor appoints the remaining six. No more than six of the members appointed by City Council's President and no more than four of the members appointed by the Mayor may be enrolled members of the same political party.

Within thirty days after the appointment of the Charter Commission's members, the Mayor must call the first meeting of the Commission. The Commission must then adopt rules governing its proceedings and begin the task of Charter review. All meetings must be open to the public, except when the Commission desires an executive session.

If the Charter Commission proposes revisions to the existing Charter (or if it proposes an entirely new Charter), it must file these proposals and appropriately framed ballot questions with City Council. The Charter Commission (not City Council) drafts the ballot questions which will be presented to the voters for their "Yes" or "No" votes. If the Commission proposes a new Charter, it may choose to present a single question asking whether voters approve the new Charter in its entirety. Alternatively, the Commission may choose to present a series of ballot questions, so that each part of the new Charter can be voted on separately. In this manner, parts of the current Charter could be replaced while parts were preserved. The Commission may also submit alternative provisions to supersede designated portions of the proposed Charter (if adopted), and it may submit more than one new Charter. There are two final restrictions: First, no ballot question may be more than seventy-five words long; second, whenever a proposal would involve changing the manner in which elected city officers are selected, this proposal must be submitted in a separate ballot question.

City Council thereafter is required to publish the proposals and ballot questions in pamphlet form and in two newspapers. Thereafter, a special election must be held at which voters may enact or reject the Commission's recommendations. The Charter Commission selects the day of the election, which must be more than forty-five days after the proposals have been filed with the City Council. The special election can be held on the day for holding any primary or regular November election, or on a day other than a day for holding any election in the city.

Any new Charter or change of the current Charter which receives the approval of a majority of the qualified electors who vote in the special election will become law in our city at the time specified in the proposals.

There is another method of changing our Charter, that of piecemeal Charter amendment. We believe Philadelphians should spurn this device because it does not provide an adequate forum for evaluating the effect of a proposed Charter change on our system of government. There are two variations of this method, and in neither case is a Charter Commission created. Under the first variation, City Council may, by two-thirds vote, propose an amendment to the Charter which will subsequently be submitted to the voters for their approval or disapproval. Under the second variation, amendments may be proposed in the form of a petition signed by at least 20,000 registered electors in the city. Thereafter, City Council may, by majority vote, resolve to submit these proposals to the electorate. Under both of these procedures, City Council is responsible for framing the ballot question. Each proposed amendment to the Charter must be submitted for voter approval or disapproval in a separate ballot question.

When individual provisions of the Charter are isolated from that document for possible revision, a great risk arises that the revision will jeopardize the balance between promoting effective government and preventing governmental abuse. This was

precisely the risk presented by a 1978 proposal to remove the two-term limit on mayoral power from the City Charter. The Committee vigorously and successfully opposed this proposal because it would have resulted in an excessively powerful Mayor -more powerful than any other major city's Mayor -and would have removed Philadelphians' only assurance of new leadership. This effort at piecemeal Charter reform seriously threatened the balance of power which the draftsmen of the Charter have struggled to create. We said in opposing this amendment, and we affirm now, that ". . .not every change is a reform. Not every charter amendment is an improvement. Any real reform must be a comprehensive reform."

If City Council fails to authorize the appointment of a Charter Commission, there is another method to accomplish Charter *review* only: the Mayor or any other person could assemble a panel to study the Charter and propose revisions. The principal drawback of this procedure, however, is that there is no assurance that Philadelphians would have an opportunity to enact proposals made by such a panel. City Council must give its consent before any proposed revision made other than by a Charter Commission can be placed on the ballot for voter approval. Only a true Charter Commission created by action of City Council -has the power to present its proposed revisions of the Charter to the electorate without first submitting them to City Council for approval. For this reason, the Committee believes that the duly constituted Charter Commission would be the best mechanism for conducting effective Charter review.

V. The ultimate decision of whether to change the Charter rests with the voters of Philadelphia. The Committee hopes that beyond insisting on the establishment of a Charter Commission, Philadelphians will actively participate in the task of Charter review which awaits us. To encourage this participation, and to make public debate as fruitful as possible, the Committee of Seventy has prepared this study of city governance. This strictly non-partisan study represents the culmination of a year of careful research, and has been especially designed to help others independently assess their Charter and the need for reform. In it, the Committee has taken *no* position with respect to the need for Charter reform, nor with respect to the type of reform that may be appropriate.

Charter Revision: A Review is, as its title suggests, a comprehensive investigation of local government in Philadelphia. Extending across the entire range of Philadelphia's government, it covers the Executive and Administrative Branch (including the Mayor's Office and subordinate departments), the Legislative Branch (City Council), the Philadelphia School District, and the Row Offices (City Commissioners, Clerk of Quarter Sessions, Register of Wills, and the Sheriff). A separate chapter deals exclusively with the budgetary process. With respect to each governmental entity examined in our study, we offer three distinct types of information.

First, we describe how each entity is designed to operate under the terms of the City Charter. With this information, Philadelphians will be able to acquire an understanding of the *current* structure of their government, and of the principles underlying their Charter. In the past, there has been no readily accessible, non-partisan source of information to which a Philadelphian could turn in an effort to understand his or her local government. As a result, to many it has been unclear precisely how the city's powerful executive department is constructed; how City Council enacts ordinances; how the city's billion-dollar budget is prepared, reviewed, and adopted; or how the independent School District relates to the rest of city government. *Charter Revision: A Review* furnishes answers to these questions.

Second, *Charter Revision: A Review* sets forth major *problems in city governance* which have been identified by critics of the Charter since its adoption. With this in

formation, Philadelphians can acquire a clear sense of prior opinions concerning the strengths and weaknesses of the current Charter.

Third, our study describes, *without taking any position*, major proposals for solving problems of government which have been suggested during the Charter's lifetime. Past critics of the Charter have espoused a great many reforms, some of which may prove attractive today. We have assembled their opinions and, to present a complete picture, have added theoretical reforms not found in the course of our research. *At this time, the Committee neither supports nor opposes the proposals for reform which are presented.* It is our hope, rather, that Philadelphians will consult our materials while relying on their own judgment of what is best for their city.

In publishing *Charter Revision: A Review*, the Committee of Seventy hopes to bring about a reassessment of the City Charter in which all Philadelphians will participate. While we have sought to provide a solid foundation for the public dialogue which must precede true reform, we have not identified every problem in the city, nor have we described every conceivable Charter revision. Such efforts are appropriate for a Charter Commission. We again urge the citizens of Philadelphia to press for the appointment of a Commission, to express their views to it, and to make their own informed assessment of the need for Charter reform.

The examination of our Charter can be a fair, democratic, and fruitful process which can produce genuine improvements in our system of governance. And when real improvements -real reforms -come before the voters of Philadelphia, the Committee of Seventy will support them.

Summary of Proposals

I. The Executive Branch: Proposals

Appointment Powers

1. a) City Council should approve all mayoral appointees.
b) City Council should approve only Cabinet members.
2. Establish nominating panels for each Cabinet official.
3. Establish a unified nominating panel for all Cabinet officials.
4. Publish nominating panel lists for public inspection.

Reorganization Powers

1. Empower the Mayor to create, abolish, or merge city agencies.
2. Empower the Mayor to create, abolish, or merge only service departments.
3. Limit the Mayor's power to create subordinate mayoral offices.

The Civil Service and the Personnel Director

1. Abolish the Civil Service Commission.
2. Place the Personnel Director on the Cabinet.
3. Eliminate the mandatory appropriation of funds for the Civil Service.
4. Increase the independence of the Civil Service Commission.
5. Elect the Commissioners.
6. City Council should appoint the Commissioners.
7. An elected official should appoint the Commissioners.
8. Limit the Civil Service nominating panel to one list.

The City Planning Commission

1. Make the City Planning Commission a department of the city.
2. Make the CPC Executive Director a Cabinet member.
3. Give the CPC responsibility for service department planning.
4. Require community experts on the CPC staff.

The Supervision of Departments

1. Move the Department of Licenses and Inspections and the Department of Records to the Director of Finance.

The City Representative

1. Remove management duties related to commerce from the Office of the City Representative.
2. Abolish the Mayor's Office of Information and Complaints.
3. Centralize city public relations activities.

Decentralization and Service Districts

1. Create "mini-city halls."
2. Create community boards.
3. Create coterminous service districts.

The Creation of New Departments

1. Create a Department of Consumer Affairs.
2. Create a Department of Housing.
3. Create a Department of Transportation.

The Ombudsman

1. Establish an "Ombudsmanic" office.
2. Establish a Department of Investigation.
3. Create a Councilmanic Ombudsmanic commission.

4. Elect an Ombudsman.
5. Appoint an Ombudsman:
 - a) using a nominating panel.
 - b) using mayoral or councilmanic judgment.

II. The Executive Branch (the Budget): Proposals

Long-range Budgeting ,

1. a) Provide a two-year projection of operating expenditures beyond the current operating budget.
- b) Provide for the preparation of a four-year projection of operating expenditures.
- c) Provide for a six-year operating program.

The Municipal and School Budgets

1. Incorporate all municipal and school services into one long-term program and budget.

Intergovernmental Receipts

1. The annual operating budget should be balanced and include only money which is already available.

The Capital Program

1. a) Amend the Charter to require that a specific percentage of the capital budget should be financed from operating revenue.
- b) Amend the Charter to require that a specific percentage of the capital budget should be spent on the capital program.

State and Federal Funds

1. City Council should establish a comprehensive procedure to review all major federal grant programs in the city.
2. The Director of Finance should be permitted to transfer intergovernmental "unanticipated grants" to city agencies and among objects of expense only if those grants are less than \$100,000.
3. Appropriate all Comprehensive Employment and Training Act (CETA) federal money to city agencies in the operating budget ordinance.
4. Amend the Charter to permit an increase in the level of spending when intergovernmental "unanticipated grants" materialize.

Budget Analysis

1. Amend the Charter to require that a budget research and analysis staff should assist Council budget evaluation.

Revenue Estimates

1. Amend the Charter to allow Council to reduce the Mayor's estimate of revenue.

The Board of Estimates

1. Consideration should be given to the use of a Board of Estimates in either the preparation or review and approval phases of the city budget process.

III. The Legislative Branch (City Council): Proposals

Council Structure and Procedure

1. Increase the size of Council; the number of districts.
2. Establish Councilmanic offices in the various districts.
3. a) Increase Council's staff.
- b) Reclassify the office of Councilmember to be a full-time position
4. Revise the Charter to include a stronger conflict of interest law.

5. a) Eliminate the Councilmembers-at-large.
b) Reduce the number of Councilmembers-at-large and increase the number of District Councilmembers.
c) Increase both the number of District and At-Large Councilmembers.
6. Amend the Charter to make the President of City Council an at-large, elected officer.

Current Functioning of Council

1. Invest in any four Councilmembers-at-large the power to require a bill to be reported out of committee if the proposed bill has not been acted upon by the committee within thirty (30) days from its submission.
2. Create a permanent committee for public hearings consisting of the At-Large Councilmembers.
3. Assign the seven At-Large Council members to the Committee on Education.

The Election Process

1. Amend the Charter to provide that when a Council vacancy occurs, only those voters belonging to the party of the prior Council member should be allowed to elect the successor.
2. The President of Council should appoint a Councilmember-at-large to be responsible for the affairs of a district with a vacancy when that vacancy occurs during the last year of a Councilmember's term.
3. Stagger Councilmanic elections so that half of the Council members are elected on alternate years.
4. Limit the Councilmembers to two four-year terms.

Council's Investigatory Power

1. Define City Council's power of investigation as "Ombudsmanic."

IV. The School Board and School District: Proposals

1. Maintain the present School Board and School District.
2. Modify School Board appointment procedures.
3. Elect the School Board.
4. Create a new city Department of Education.

V. The Row Offices: Proposals

1. Appoint a Single Elections Commissioner.
2. Appoint the Clerk of Quarter Sessions, Sheriff, and Register of Wills.
3. Reorganize the Offices of Clerk of Quarter Sessions, Sheriff, and Register of Wills.

Table of Contents

ACKNOWLEDGMENT.....	i
INTRODUCTION.....	iii
SUMMARY OF PROPOSALS	viii

CHAPTER ONE: THE EXECUTIVE AND ADMINISTRATIVE BRANCH

I. BACKGROUND	1
<i>History</i>	1
A. The Mayor and His Cabinet.....	1
B. City Planning and Civil Service Commissions.....	2
C. Administrative Checks and Balances.....	2
D. The Remaining Hierarchy.....	2
E. Reorganization Powers.....	3
F. Summary of the Mayor's Powers.....	3
II. THE UPPER ECHELON.....	3
A. Mayor's Appointive Power.....	4
Proposal: City Council Confirmation.....	4
Proposal: Nominating Panels for All Cabinet Members.....	4
Proposal: The Unified Nominating Panel.....	4
Proposal: Disclosure of Nominating Panel Lists.....	4
B. The Mayor's Power to Reorganize the Executive Branch.....	5
Proposal: Give the Mayor Broad Reorganization Power.....	5
Proposal: Give the Mayor Limited Reorganization Power.....	6
Proposal: Limit the Mayor's Power to Create Subordinate Offices.....	6
C. The Civil Service Commission and the Personnel Director.....	7
Proposal: Abolish the Civil Service Commission.....	7
Proposal: Make the Personnel Director a Cabinet Member.....	7
Proposal: Eliminate the Mandatory Appropriation.....	7
Proposal: Increase the Independence of the Civil Service Commission.....	8
Proposal: Limit the Nominating Panel to One List.....	8
D. The City Planning Commission.....	9
Proposal: Make the City Planning Commission a Department.....	9
Proposal: Make the Executive Director a Cabinet Member.....	9
Proposal: Give the Planning Commission Responsibility for Service Department Planning.....	9
Proposal: Require Community Experts on the Planning Commission Staff.....	10
E. The Supervision of Departments.....	10
Problem: The Managing Director is Overburdened.....	10
Proposal: Shift Two Departments from the Managing Director to the Director of Finance.....	10
F. The City Representative and the Director of Commerce.....	11
Problem: Responsibilities are Diverse.....	11
Proposal: Remove Management Duties.....	11
Proposal: Abolish the Mayor's Office of Information and Complaints.....	11
Proposal: Centralize City Public Relations.....	12
G. Decentralization and Coterminous Service Districts.....	12
Problem: Public Dissatisfaction with City Services.....	12
Proposal: Mini-City Halls.....	12
Proposal: Community Boards.....	13
Proposal: Coterminous Service Districts.....	13

H. The Creation of New Departments.	13
Proposal: Department of Consumer Protection.....	14
Proposal: Department of Housing.....	14
Proposal: Department of Transportation.	14
III~ THE OMBUDSMAN.	15
A. Introduction.....	15
Proposal: Establish an Ombudsman.....	15
B. Discussion.....	15
C. Alternate Structures for the Ombudsman.....	16
1. Classic Ombudsman.....	16
2. Department of Investigation Form.	17
3. Councilmembers as Ombudsmen,.....	17
4. Department of Consumer Affairs as Ombudsman.	17
D. Alternative Methods of Selection.	18
1. Election.....	18
2. Appointment Without Nominating Panel.....	18
3. Appointment With Nominating Panel.....	18
E. Scope of Investigative Power.....	18
F. Term of Office and Removal.....	18
1. Classic Ombudsman.....	18
2. Commissioner of Investigations.....	18
G. Which Form?	19

CHAPTER TWO: THE EXECUTIVE BRANCH (THE BUDGET)

I. PREPARATION PHASE.....	21
A. Operating Budget	21
1. Long-Range Budgeting.....	22
Problem: The Limited Capacity for Long-Term. Planning in the Operating Program.....	22
Proposal: Provide a Two-Year Projection of Operating Expenditures Beyond the Current Operating Budget.	22
Proposal: Provide for the Preparation of a Four-Year Projection of Op- Operating Expenditures.....	22
Proposal: Provide for a Six-Year Operating Program.	23
Problem: No Co-ordination Between Municipal and School Budgets.....	23
Proposal: Incorporate All Municipal and School Services Into One Long-Term Program and Budget.	23
Problem: Overestimating of Intergovernmental Receipts.....	23
Proposal: The Annual Operating Budget Should be Balanced and- Include Only Money Which is Already Available.	23
B. Capital Program and Budget.....	23
1. Financing of Capital Projects with Operating Revenue.....	23
Problem: Paying for the Capital Program.	23
Proposal: Amend the Charter to Require That a Percentage of the Capital Budget Be Financed From Operating Revenue.	24
Proposal: Amend the Charter to Require That a Percentage of the Operating Budget Be Spent on the Capital Program.	24

C. Federal and State Revenue.....	24
I. Budgeting of State and Federal Funds.....	24
Problem: Managing Federal Grant Programs.	24
Proposal: City Council Should Establish a Comprehensive Procedure to Review All Major Federal Grant Programs in the City.....	24
Problem: Lack of City Council Input on Decisions Concerning Transfer of Money Within Large Federal Grants.....	25
Proposal: The Director of Finance Should Be Permitted to Transfer Intergovernmental "Unanticipated Grants" to City Agencies and Among Objects of Expense Only If Those Grants are Less Than \$100,000.....	25
Problem: Lack of Council Review of CETA Funds.....	25
Proposal: Appropriate All CET A Federal Money to City Agencies in the Operating Budget Ordinance.	25
Problem: Appropriating "Unanticipated Grants"	25
Proposal: Amend the Charter to Permit an Increase in the Level of Spending When Intergovernmental "Unanticipated Grants" Materialize.	25
II. REVIEW AND APPROVAL PHASE	25
A. Councilmanic Budget Research and Analysis Staff.	26
Problem: Ineffective Budget Analysis in Council.	26
Proposal: Amend the Charter to Require That a Budget Research and Analysis Staff Assist Council in Budget Evaluation.	26
B. Council Reduction of Mayor's Estimate of Revenue.	26
Problem: Possible Mayoral Overestimate of Revenue.....	26
Proposal: Amend the Charter to Allow Council to Reduce the Mayor's Estimate of Revenue	26
C. Transfer Ordinance	26
III. ADMINISTRATION PHASE.....	27
A. Pre-audit Function.	27
B. Post-audit Function.....	27
C. Board of Estimates.....	27
Glossary.....	29

CHAPTER THREE: THE LEGISLATIVE BRANCH (THE CITY COUNCIL)

<i>History</i>	31
I. THE STRUCTURE OF CITY COUNCIL.....	31
Problem: The Inability of Council in its Present Size to Represent the Electorate.....	32
Proposal: Increase Council Size.	32
Proposal: Establish District Offices; the Mini-City Variation.	33
Proposal: Increase Council's Staff; Reclassify the Office of Councilmember as a Full-time Position.....	33
Proposal: Revise the Charter to Include a Stronger Conflict of Interest Law	34

Problem: The Ineffectiveness of the Councilmembers At-Large and the Minority Party Representation Requirement.	34
Proposal: Variations on Proposals to Eliminate the Councilmembers-At Large (and the Minority Requirement) and/or Alter the Composition of Council.	34
Problem: The City Council President Can Succeed the Mayor, but Is Not Elected City-wide.	36
Proposal: Amend the Charter to Make the City Council President an At Large Elected Office.....	36
Proposal: The Tate Alternative.	36
II. ORDINANCE CONSIDERATION: THE STRUCTURE AND ORGANIZATION	
OF COUNCIL COMMITTEES.....	37
A. The Current Functioning of Council.	37
1. Enactment of Ordinances.....	37
2. Committee Organization.....	38
3. Problems in Ordinance Consideration and Structure and Organization of Council Committees.....	38
Problem: The Inefficiency in Ordinance Consideration.	38
Proposal: Invest in any Four Councilmembers-At-Large the Power to Require a Bill to be Reported out of Committee if the Proposed Bill Has Not Been Acted upon by the Committee within 30 Days from its Submission.	38
Problem: Inadequate Citizen-Council Communication.	39
Proposal: Create a Permanent Committee for Public Hearings Consisting of the At-Large Council members	39
Problem: The Mixed Membership of the Committee on Education	39
Proposal: Assign the Seven At-Large Council members to the Committee on Education.	39
III. THE ELECTION PROCESS.....	39
Problem: The Inequity in the Filling of Vacancies.	40
Proposal: Amend the Charter to Provide that When a Council Vacancy Occurs, Only Those Voters Belonging to the Party of the Prior Council member Be Allowed to Elect the Successor.....	40
Proposal: President of Council Should Appoint a Councilmember-At-Large to Be Responsible for the Affairs of a District with a Vacancy When That Vacancy Occurs During the Last Year of a Councilmember's Term.....	40
Problem: Unrestricted Councilmanic Terms.	40
Proposal: Stagger Councilmanic Elections SoThat Half the Councilmembers Are Elected on Alternate Years.....	40
Proposal: Limit Council members to Two Terms.	40
IV. CITY COUNCIL'S INVESTIGATORY POWER.	40
Problem: The Undefined Investigatory Authority of Council.	40
Proposal: Define Council's Power of Investigation as Ombudsmanic.....	40

CHAPTER FOUR: THE SCHOOL DISTRICT

<i>History</i>	43
I. THE STRUCTURE AND OPERATION OF THE SCHOOL BOARD AND DISTRICT.	44
A. The School Board Selection Process.	44
B. The Responsibilities of the School Board.	45
C. The Responsibilities of the Superintendent.	45
D. Funding and Budgeting.	45
II. PROBLEMS AND PROPOSALS.....	46
Proposal.: Maintain the Existing Structure.	47
Proposal: Modify School Board Appointment Procedures.	47
Proposal: Elect the School Board	49
Proposal: Create a City Department of Education.	49

CHAPTER FIVE: THE ROW OFFICES

<i>History</i>	53
I. LEGISLATIVE BACKGROUND	53
II. CITY COMMISSIONERS.....	54
A. Duties and Structure of Office	54
B. The Selection Process	54
C. Problems.....	55
D. Proposal: Appoint a Single Elections Commissioner.....	55
III. CLERK OF QUARTER SESSIONS, SHERIFF, AND REGISTER OF WILLS.	57
A. Duties of the Offices	57
1. Clerk of Quarter Sessions	57
2. Sheriff.....	57
3. Register of Wills.	57
B. The Selection Process	57
C. Problems.....	57
D. Proposal: Appoint the Clerk of Quarter Sessions, Sheriff, and Register of Wills.	58
E. Proposal: Reorganize the Offices of Clerk of Quarter Sessions, Sheriff, and Register of Wills	58
SELECTED BIBLIOGRAPHY	60

Chapter One:

The Executive and Administrative Branch

I. BACKGROUND

History

In the 28 years since Philadelphians adopted the Philadelphia Home Rule Charter (PHRC), the city has been governed by a "strong Mayor" with sweeping executive and administrative powers. Recognizing the flaws in the previous 1919 Charter, which permitted corruption by giving City Council, the Mayor, and minor elected officials shared administrative power, the drafters of the 1951 Charter decided to centralize authority and accountability in one elected official. Thus, the Mayor now heads a large 'executive and administrative branch,' which is responsible for the daily operation of city government and which also collects revenue and prepares the city budget.

The strong Mayor form of government is a major improvement upon the system of decentralized power which preceded it. In 28 years, however, changes which the Charter framers did not foresee have occurred. For example, federal funds for the city were non-existent in 1951, but they now comprise over one-third of Philadelphia's huge annual operating budget. To update the Home Rule Charter in order to deal with this and other important developments, adjustments in the Charter have become necessary. Despite the need for Charter revision, however, there is no need to alter the philosophy upon which the 1951 Charter was based. Governance by a strong Mayor accountable to the electorate has proven to be a workable system for meeting the needs of Philadelphians.

A. The Mayor and His Cabinet

Under the 1951 Charter, the Office of the Mayor combines several important powers and duties. The Mayor oversees the preparation of the budget and decides how much revenue the city expects to receive in the coming year. (PHRC: Sec. 401(1)) He submits legislative proposals to City Council and may veto legislation which City Council has approved. (4-102(3)) In addition, the Mayor has broad appointive powers, naming all of his Cabinet officials, except the City Solicitor, without Council approval. He also appoints most of the members of the city's numerous boards and commissions. Finally, the Mayor controls the administration of city government

overseeing the organization of city employment, city services to the public, and the letting of city contracts.

The Mayor's Cabinet unites the heads of the major sections of the executive branch and assists in deciding on a coordinated municipal policy. It meets periodically at the discretion of the Mayor. (4-104) The most important Cabinet member is the Managing Director, who supervises all of the public service departments: the Fire, Police, Streets, and Recreation Departments. He acts as the Mayor's chief administrator, concentrating on the daily business of the city, thus freeing the Mayor to focus on long-term and policy issues. Also working closely with the Mayor is the Director of Finance, who is responsible for accounting, revenue collection, purchasing, and the preparation of the proposed operating budget, which the Mayor submits to City Council. The other members of the Cabinet are the City Solicitor, who heads the Law Department, and the City Representative, who also serves as the Director of Commerce. The City Representative promotes the city and represents the Mayor at ceremonial functions. As Director of Commerce, he supervises the ports and the airports.

The Home Rule Charter stipulates that each of the Cabinet officials must have five years of experience in his particular field. (3-301, -304) Aside from that qualification, the Mayor is unrestricted in his choice of Managing Director and City Representative: City Council has no control over these appointments. City Council, however, must approve the City Solicitor, since the Charter requires City Council to use the Law Department. The Director of Finance is chosen by the Mayor from a list of three names submitted by the *Finance Panel*, which consists of three financial experts from city institutions specifically named in the Charter. If the Mayor refuses any of the candidates suggested by the nominating panel, he may ask the Finance Panel to submit additional lists until he finds an acceptable choice. (3-1003) The Charter does not require the Mayor to reveal the names on the nominating panel lists to the public. Once chosen, the Finance Director is not subject to City Council approval.

An important subcommittee of the Cabinet, the Administrative Board, consists of the Mayor, the Managing Director, and the Director of Finance. In contrast to the Cabinet, which discusses broad policy matters, the Administrative Board regulates the administrative details of

city government. For instance, it must approve the rules and organization of each of the city's many departments, boards, and commissions (4-300(a)(c)), and it makes certain housekeeping decisions, such as the hours when city offices will be open and the expenses for which city officers and employees will be reimbursed. The City Charter also requires the Administrative Board to investigate periodically the various departments, boards, and commissions to see that work is not being duplicated and that efficiency is being promoted. (4-300)

B. City Planning and Civil Service Commissions

Two relatively independent commissions, the City Planning Commission and the Civil Service Commission, carry out the important functions of preparing to meet the city's future needs and overseeing the city's Civil Service personnel. They are considered independent because they remain outside the administrative hierarchy, reporting only to the Mayor.

The City Planning Commission consists of six members appointed by the Mayor, of whom at least five are private citizens, and the Managing Director, the Director of Finance, and the City Representative. They and the Commission staff prepare a *capital program* for the next six years and a corresponding *capital budget* for the year ahead. (4-602) The capital program is a blueprint of the building projects, property acquisition, and other public improvements requiring capital expenditures that the city plans for the next six years. (2-303) The coming year's capital spending is detailed in the capital budget. The City Planning Commission is also responsible for maintaining a master Physical Development Plan for the city, and for submitting and reviewing City Council legislation dealing with zoning, street plans, and real estate.

The Civil Service Commission regulates the city's Civil Service provisions, which are designed to ensure that city employment is based on merit. Like the Director of Finance, the three Civil Service Commissioners are selected by the Mayor from a list(s) submitted by the *Civil Service Panel*. The panel suggests three people for each available position; they must be "in sympathy with the application of merit principles to public employment" and may not be members of any political or other partisan organizations. (3-804) The Mayor may request additional lists if he does not accept any of the three choices. Unlike the Finance Director, who serves at the pleasure of the Mayor, the Civil Service Commissioners serve staggered six-year terms so that the Mayor normally appoints one Commissioner every two years. Through this device, the Charter framers hoped to grant the Civil Service Commission a degree of independence from the Mayor. (3-804)

Specific responsibilities of the Civil Service Commission include advising the Mayor of problems with city employment and hearing appeals from Civil Service workers who have been dismissed, demoted, or suspended. The Commission thus acts as a quasi-judicial body, with the power to approve and disapprove Civil Service regulations, to reinstate employees who have

been wrongly dismissed, and to investigate inefficiencies in city employment. (7-200)

To administer the Civil Service program, the Commission appoints a Personnel Director, who, for example, determines the classification of each Civil Service employee and oversees the preparation and scoring of Civil Service examinations. In short, he does for the city what a personnel director does for a private corporation. His appointment by the Commission further insulates personnel administration from political patronage.

C. Administrative Checks and Balances

One of the distinguishing features of Philadelphia's executive and administrative branch is the careful apportionment of power among the Mayor's subordinates. The Charter framers deliberately separated the four major functions of city management of city services, budgeting, long-range planning, and personnel management, to prevent one official from assuming too much power. This system provides internal checks on city administration, as, for instance, the Finance Director's review of budget requests of the Managing Director's service departments. The Mayor must coordinate the arms of the executive branch, deciding priorities when conflicts between administrators arise. (1957 *PEL Report*.)

Providing a further check upon the administrative branch is the City Controller, who heads the Auditing Department. At least once a year, he is required to audit every officer, department, board, and commission that serves the city. He submits a report of these audits to the Mayor and City Council. Because he must scrutinize administrative expenditures, the Charter framers made the City Controller an independent, elected official.

D. The Remaining Hierarchy

The upper echelon of Cabinet officials and independent commissions rests on the foundation of the executive branch, the city *departments*. Each of the Mayor's subordinate Cabinet members supervises at least one department: the City Representative heads the Commerce Department; the City Solicitor heads the Law Department; the Finance Director oversees the Revenue and Procurement Departments; and the Managing Director oversees ten service departments: Fire, Licenses and Inspections, Police, Public Welfare, Records, Recreation, Streets, Water, Public Property, and Health. The Managing Director and Director of Finance appoint, with the Mayor's approval, *commissioners* to head their subordinate departments. The Auditing Department under the City Controller remains outside this hierarchy because of its review responsibility.

Attached to many of these departments are *departmental boards and commissions*, which are responsible for one specific function in a department. The Air Pollution Control Board in the Department of Public Health, and the Fairmount Park Commission in the Department of Recreation are examples. Other *independent boards and commissions* are not attached to any department because their work is of a more important or specific nature. For

instance, the Board of Pensions and Retirement provides a pension and retirement program for all city employees, and the Commission on Human Relations promotes racial equality through fair employment provisions and educational programs. The Civil Service and City Planning Commissions are also independent commissions.

The smallest administrative units mentioned in the Charter are *bureaus and divisions*. Subject to the approval of the Administrative Board, Cabinet members and heads of departments and boards and commissions may create them to better carry out a specific function. (3-700; 8400) Finally, outside of official city government, but still working with the administration, are *authorities*. Created by federal, state, or local law, they often carry out regional functions, such as coordinating mass transit (Southeastern Pennsylvania Transportation Authority) and housing (Redevelopment Authority of Philadelphia).

E. Reorganization Powers

The City Charter does not grant the Mayor the power to alter the organization of the executive branch. He cannot abolish a department or shift a department now supervised by the Managing Director to the Finance Director. However, Council can abolish obsolete departments. (1102; 2-305) In this way, the Mayor cannot disrupt the system of checks that the drafters built into the Charter. Consequently, however, the Mayor's ability to reorganize the government to respond to changing needs is restricted. To allow the Mayor some organizational flexibility, the Charter enables him and his Cabinet members to establish subordinate offices (bureaus, divisions) that report directly to him or the appropriate Cabinet officer (3-700; 8-403)

Depending on the needs of the times, the four Mayors who have served under the Home Rule Charter have created and abolished numerous mayoral offices. Each Mayor, however, by Charter requirement, has established an Office of Information and Complaints, responsible for providing the public with information about the city and its government. The Charter framers intended it to investigate complaints about city government ranging from dissatisfaction with city services to allegations of corruption among city officials. (4-106) Other offices established by the Mayors include the Office of Housing and Community Development (in 1976), the Mayor's Commission on Services to the Aging, the Mayor's Office for Consumer Services, and the Mayor's Office of Education.

F. Summary of the Mayor's Powers

A summary of the Mayor's powers and duties reveals what is meant by a "strong Mayor" form of government. First, the Mayor has almost *unrestricted appointive power*; only his choice for City Solicitor must be approved by City Council. Otherwise, his appointments are limited only by the nominating panels which suggest candidates for the Director of Finance, the Civil Service Commission, and the Board of Education. The Mayor has complete freedom in selecting the Managing Director, City

Representative, and all appointed members of boards and commissions. He also approves those chosen by the Managing and Finance Directors to head the various city departments. (3-206)

The Mayor's power to remove appointed officers is equally broad. With the exception of the Managing Director and the Civil Service Commissioners, any official appointed by the Mayor may be removed by him without an explanation. Dismissal of the Managing Director must be accompanied by a written explanation of the reasons for his dismissal. The Managing Director may appeal the charges to the Civil Service Commission, but even if the Commission decides in the Managing Director's favor, he is not reinstated. Instead, he receives the pay he would have earned had he finished out his four-year term. In drafting this provision, the Charter framers balanced the Managing Director's need for job security with the Mayor's need for authority over his subordinates. (9-201) To preserve the independence of the Civil Service Commission, the Charter also requires a written explanation for the Mayor's removal of a Commissioner. The Commissioner may request a public hearing before the Mayor, whose decision following the hearing will be final. (9202)

Through the Finance Director, the Mayor is also responsible for preserving the city's financial health. He supervises the preparation of the operating budget and may veto appropriations that City Council may have added. With the aid of his Cabinet, the Mayor makes broad policy decisions and, as chairman of the Administrative Board, decides on administrative details. He may use City Planning Commission recommendations to help formulate long-range projects and to draft legislative proposals for City Council. He seeks the advice of the Civil Service Commission and the Personnel Director to promote efficiency in the use of city employees. The Mayor may create and abolish offices that report directly to him, although he may not tamper with the basic administrative structure described in the Charter.

The sum of these broad powers -liberal appointment and removal privileges, influence over the budget, vast administrative control, initiation of policy, and veto of City Council-approved legislation -is the strong Mayor upon whom responsibility and accountability is focused.

II. THE UPPER ECHELON

Although the strong Mayor form of government has proven to be more responsive and efficient than the previous Council-dominated system, in the almost 30 years that the Home Rule Charter has stood unaltered, various problems with the executive branch have been identified. They fall into three general categories. First, there are Charter provisions that appear to give the Mayor needlessly broad powers. Such provisions permit significant abuses of power, while not contributing to the Mayor's effectiveness in governing. Second, the executive branch has shown inefficiencies in its organization. A redistribution

of responsibilities among departments, boards, and commissions could result in a better use of city resources. Third, the executive branch has failed to meet certain needs of the public. These unmet needs are often the result of changes in the city since 1951 that the Charter framers could not anticipate.

A. Mayor's Appointive Power

Proposal: City Council Confirmation

The broad appointive power granted to the Mayor is a controversial feature of the Home Rule Charter. It is thought that the Charter framers might have gone too far in limiting City Council's role in the appointment process. Under the previous Charter, Council could reject the Mayor's choices to head departments, and Council itself appointed the heads of some departments and boards. It may be that City Council's role in the appointment process should be restored by requiring its approval of all mayoral appointees, or at least all Cabinet members.

To support this argument, it is pointed out first that the federal and most state and city governments require legislative confirmation of most executive appointments. Second, it is thought that Council approval might help promote harmony between the executive and legislative branches. The electorate would benefit from public hearings to confirm the mayoral appointees since an examination of the qualifications and views of the nominee would enhance the Mayor's accountability.⁽¹⁾ Finally, it could be that this would be a mild restriction on the Mayor's power, since legislatures, even the United States Senate, rarely reject executive nominees.

On the other hand, regarding legislative confirmation, it could be that such a reform would be a step toward undermining the strong Mayor form of government. With Council approval, the Mayor would no longer be solely responsible for the ability and performance of his appointees; the Mayor could argue that his choice for a position was affected by the need for Council approval. It is also pointed out that the Charter framers intentionally denied City Council a role in administration; approval of department heads and board and commission members could give Council significant administrative control, leading to diffusion of responsibility. Finally, a Council with confirmation power could demand partisan concessions from the Mayor in exchange for approval of his appointee. Council might be prone to favor a political appointee over a more qualified candidate.⁽²⁾

Proposal: Nominating Panels for All Cabinet Members

Another proposal to control the Mayor's appointive power is to establish by Charter amendment a nominating panel for each Cabinet official, especially for the Managing Director. Those in favor of this reform, including Senator Joseph Clark, the first Mayor to serve under the Home Rule Charter, argue that the panel system "...tends to place a floor beneath which incompetence will not be permitted to fall."⁽³⁾ For Cabinet appointments, especially the Managing Director, it is vital that the ability to do an effective job should be the most

important criterion. Proponents believe that nominating panels remove political pressure, and do not restrict the Mayor's right to choose someone with whom he can work. Senator Clark commented, "I found in my experience ...that the Mayor could almost always get somebody he wanted recommended by the Panel if that person was clearly qualified. But it did screen out a lot of unqualified people whom the Mayor would be under very heavy political pressure to select..."⁽⁴⁾

In response, critics assert that the panel system places no real check on the Mayor's appointive power, since he can request additional lists until he gets whom he wants.. They also contend that the process could significantly delay the formation of the executive branch, especially if the Mayor requests additional lists for the Managing Director. The Managing Director, in turn, must name the commissioners of the ten service departments.

Proposal: The Unified Nominating Panel

Implementing the panel system for all Cabinet positions suggests a further Charter reform: a single, unified nominating panel with a balanced representation of experts and civic leaders. The unified panel could suggest nominees for the Office of Director of Finance, Civil Service Commission, and Board of Education, as well as for any other officers who might be nominated by this system as a result of amendment to the Charter. Such a reform could improve upon the present separate nominating panel setup by funneling community suggestions and concerns about candidates for appointment into one organization.

The unified panel might be structured to have different "mini-panels" of experts review applications for specific positions and then recommend nominees to be approved by the full nominating panel. For example, a Finance mini-panel of three fiscal experts would suggest three qualified nominees for Finance Director, but any of its recommendations could be rejected by the full panel, if its members felt that a nominee failed to represent adequately a wide range of city interests. Focused community input could, at some point conflict with the importance of naming the most qualified individuals to each position.

Proposal: Disclosure of Nominating Panel Lists

The Home Rule Charter does not require the Mayor to reveal the names on the nominating panel lists, but the annotation to the section on nominating panels implies that the Charter framers intended the names to be made public. (3-1003) Explaining the provision which permits the Mayor to request additional lists, the Charter drafters commented: "Of course, the Mayor is responsible to the voters if he rejects names submitted by a panel without a justifying reason."⁽⁵⁾ The voters could effectively judge whether the Mayor is rejecting the nominees for a good reason only if they knew the names of those individuals.

One form of the proposal to require the publication of lists would amend the Charter to read that the Mayor, upon receipt of the nominating panel list, shall immediately

release the names to the public and shall delay selection until the public has had an adequate period (perhaps three days) to learn of the candidates' qualifications and views. This reform would give the public a clear opportunity to judge whether or not the Mayor chose the best candidate for the position. It would also enable the nominating panel to base its choice on the public interest rather than on concerns about finding a candidate acceptable to the Mayor. However, this amendment could limit severely the Mayor's appointment power. Publication of the names might elicit partisan pressures; the nominating panel system is designed to eliminate just such partisan demands.

Finally, one of the qualifications of Cabinet officials should be compatibility with the Mayor; allowing the nominating panel too much freedom in its suggestions might delay the appointment process, or pressure the Mayor into choosing someone with whom he cannot work.

Another form of the nominee disclosure proposal would require the Mayor to reveal the names on the list after either making an appointment or rejecting the list and asking for a new one. This reform would comply with the intent of the Charter drafters to make the Mayor accountable to the electorate, especially when he returns a nominating panel list. Yet, it would allow the Mayor the freedom he needs to make a non-partisan appointment.

The Mayor's appointive power could be designed to ensure that all of the major administrative officers are highly qualified, conscious of the public interest, compatible with the Mayor, and chosen on merit. A unified nominating panel which suggests candidates for all Cabinet positions as well as the Civil Service Commission and the Board of Education might be the most effective way to reconstruct the appointment process. Granting City Council the power to confirm might undermine the strong Mayor form of government. Compulsory disclosure of nominating panel lists *after* the Mayor has acted upon them could provide the accountability to the public the present system lacks, while not restricting the Mayor.

B. The Mayor's Power to Reorganize the Executive Branch

The Charter framers created a permanent structure for the executive branch. Each level of administration, from the Mayor's Office and the other Cabinet offices down through the city departments to the departmental boards and commissions, was carefully designed to use the least amount of city resources, while meeting all of the public's needs. Having created such a structure, the Charter framers wanted to guard against tampering by the Mayor or City Council. Thus, the building blocks of the administration, departments, can be created or merged only by Charter amendment. To meet changing needs, the Charter allows minor adjustments of the executive branch. With the approval of the Administrative Board, department heads may establish bureaus and divisions in their departments; the Mayor may designate advisory

boards and commissions to serve under various departments (3-917); and the Mayor and Cabinet officers may create offices that report directly to them, also subject to the Administrative Board's approval (2-700, 8400). Council can abolish obsolete departments (2-305).

Since 1951, the Mayors have made great use of the power to create mayoral offices. In fact, they have so effectively taken advantage of this power that the Mayor's ability to create a new office with substantial budget allocations appears unlimited. For example, in September 1976, the Mayor created the Office of Housing and Community Development to fill the need for a centralized city agency to coordinate the application for any spending of federal community development funds. It is now as large as many city departments, with a budget of over \$40 million for fiscal year 1980. Another office serving under the Mayor, the Commission on Services to the Aging, has a budget of over \$1 million.

Through the creation of subordinate offices, the Mayor has been able to evade certain Charter provisions. Section 2-305 gives City Council the power to add, by ordinance, powers and duties to existing boards, commissions, and departments. By creating new offices to meet new needs instead of seeking a Council ordinance to increase the power of an existing administrative body, the Mayor has circumvented Section 2-305. For instance, the Mayor could have asked Council to empower the Depart

ment of Public Welfare to deal with programs for the aging instead of creating a new office. In addition to eluding Charter control, the Mayor also increases his patronage power when he creates subordinate offices. He alone is responsible for appointments to these offices, and some of these employees are exempt from Civil Service provisions. Most departmental employees, on the other hand, are Civil Service employees hired on a merit basis. Thus, if the Mayor were restricted to the process described in Section 2-305, he would lose patronage power.

Proposal: Give the Mayor Broad Reorganization Power

The Charter's prohibition against creating new departments may be partly responsible for the proliferation of offices serving directly beneath the Mayor. Some analysts thus support Charter amendments to remove this prohibition. A major proposal was made by the 1973 City Charter Revision Commission. It recommended that the Mayor be permitted to create, abolish, or merge departments, boards, or commissions with the approval of two-thirds of the members of City Council. The proposed amendment limits the number of departments to 21 (there are now 15) and stipulates that new or merged departments be placed under the supervision of the Managing Director or the Director of Finance.

Some experts on city government have charged that this amendment would grant the Mayor more organizational flexibility than he needs. The Pennsylvania Economy League argued that the Mayor could seriously alter the fundamental structure of the executive branch and disrupt the internal checks on administrative power.(6) For

example, the City Planning and Civil Service Commissions and to replace them with city departments under the Managing Director. Consequently, both Commissions would no longer be independent of the Mayor; Civil Service regulations could be dangerously influenced by political considerations. Furthermore, the important separation of the powers in the drafting of the budget, management of city services, personnel management, and long-range planning could be imperiled by such an amendment.

It is possible that City Council would deny the Mayor the two-thirds vote he would need to effect such a drastic restructuring, but such reorganization could also be in Council's interest. For instance, since 1951, there have been several proposed Charter amendments to increase City Council's control over the Civil Service. Council might thus favor a plan to make the Civil Service Commission less independent. In addition, under the strong Mayor system, City Council's control over and knowledge of the administrative details of city government are limited; Council members might defer to the Mayor's expertise on matters of executive branch reorganization, since they lack the staff and know-how to make critical judgments.

Proposal: Give the Mayor Limited Reorganization Power

In criticizing this proposal, the PEL suggested another possible amendment to give the Mayor the organizational flexibility he needs. PEL proposed that the Mayor, with the approval of two-thirds of City Council, be empowered to create, abolish, or merge *only* those departments, boards, or commissions that serve *under the Managing Director*.⁽⁷⁾ This recommendation safeguards the integrity of the independent boards and commissions. It further preserves the separation of the four important administrative functions carefully established in the Charter.

This reform would allow the Mayor all the organizational flexibility he needs. Most changes in government result from changes in the needs of the public and could thus be met by changes in the city's service departments under the Managing Director. For instance, the need for a coordinated use of federal funds to rebuild the city's communities could be met by a new *Department* of Housing and Community Development. It could resemble the present Mayor's *Office* of Housing and Community Development with the important difference that, as a department, its employees would fall under Civil Service provisions. Because of a similar need for better coordinated mass transit, a Department of Transportation might be created.

Under this modified proposal, approval by an extraordinary majority of City Council could provide an important limit on the Mayor's power to create or abolish departments. Again, City Council could not be counted on to screen all inadequate proposals; but, since city services are probably the areas of greatest interest to Council members, they could provide some expertise on

reorganizing service departments to serve the public better.

The major drawback of the PEL proposal is its potential to permit an uncontrolled sprouting of departments under what may be considered an already overburdened Managing Director's Office.⁸ To prevent this problem, it might be necessary to limit the number of departments under the Managing Director to 15. (There are now ten.) This number should allow the Mayor to pare away overgrown departments and encourage the consolidation of others.

Proposal: Limit the Mayor's Power to Create Subordinate Offices

The PEL proposal would have allowed the creation of a Department of Housing and Community Development in 1976, and consequently, such an office directly under the Mayor would have been unnecessary. This proposal would not have prevented the establishment of such a subordinate office, and thus, it would still have allowed the dangers which accompany an office free of Civil Service provisions. To remove the pressures and temptations on the Mayor to create offices for patronage purposes and to safeguard City Council's role in approving executive branch reorganizations, the Mayor's power to create subordinate offices could be restricted. This might best be done by distinguishing between administration and policy-making.

The framers of the Charter created the Office of Managing Director to free the Mayor from supervision of city services, thus enabling the Mayor to concentrate on policy matters. Responsibility for supervising the administration of city programs was left to the Managing Director. To maintain consistency in the Charter, the Mayor should be allowed to establish councils of citizens and experts to help him in the formulation of policy. However, offices which provide services, such as the Mayor's Commission on Services to the Aging and the Mayor's Office for the Handicapped, should be incorporated into a service department, for example, the Department of Public Welfare. Council approval would be unnecessary for these advisory councils since the Mayor should be able to seek advice freely. City Council, however, should receive a full statement of the operating budget for each Mayor's advisory council; at present, the Mayor submits a blanket budget request for the Office of the Mayor, which includes all of his subordinate offices. In addition, these advisory councils should be treated like any other board or commission and, thus, staffed by Civil Service personnel.

Granting the Mayor the power to create, abolish, or merge departments supervised by the Managing Director, and restricting his authority to create offices responsible only to him, gives the Mayor the means to respond to changes in public needs. With these reforms, proponents believe that the executive branch could effectively administer new federal grant programs, such as the anticipated massive federal commitment to mass transit. To coordinate grant spending, the Mayor would not establish

his own Office of Transportation. Instead, he would create a Department of Transportation approved by a two-thirds vote of City Council, following public hearings, and staffed by Civil Service employees, selected on merit principles.

These reforms would also restore Council's control over reorganization granted in Section 2-305. Since the Mayor could no longer create his own offices to meet new needs, a City Council ordinance would be required to add new powers and duties to an existing department. Thus, instead of a Mayor's Office for the Handicapped, there would be a Council-approved Division of the Handicapped in the Department of Public Welfare.

C. The Civil Service Commission and the

Personnel Director

Under the Civil Service provisions of the 1951 Charter, the city has seen improvement in its employment practices. The city's minorities are now adequately represented on the payroll, and the number of patronage jobs -those given by city officials in return for political favors -has been sharply reduced. Despite the system's successes, however, there is room for more improvement.

However, minorities are still under-represented in upper-level administrative posts. Some experts on personnel administration believe that the Civil Service Commission -Personnel Director structure in the 1951 Charter is outdated. They believe that personnel management should be integrated into the central administrative hierarchy, closely tied to the Mayor and his Cabinet. On the other hand, it is argued that a merit program of employment is the city's primary personnel goal and that an independent and vigilant Civil Service Commission and Personnel Department can best meet that goal.

Proposal: Abolish the Civil Service Commission

In recent years, personnel experts around the country have begun to think that Civil Service commissions are no longer useful. The National Civil Service League, presenting its model public personnel structure, recently recommended a centralized personnel department serving under the Mayor supported by a "citizen personnel advisory board" to replace the Civil Service Commission. The recommendations of this advisory board and of a hearing officer to review employee appeals, would ultimately be acted upon by the Mayor.(9)

To support this proposal, some experts contend that the chief administrator should have authority and responsibility for personnel administration. The Mayor should be accountable to the electorate for setting up an effective merit employment program that meets the personnel needs of the various city agencies in a coordinated manner.(10) A Personnel Director who works closely with the Mayor could effectively weigh the employment priorities of the various departments. Those in favor of abolishing

the Civil Service Commission also argue that the personnel policy-making function is inappropriate for such a body. They believe that because of the Commissioners' differing views, their regulations are likely to be inconsistent and often indecisive.(11)

Opponents of such a change, including the Pennsylvania Economy League, assert that the Civil Service Commission still serves an important "watchdog" role.(12) The independent structure is the best form for guarding against patronage abuses. Although a Mayor could certainly oversee a merit program, the public would undoubtedly suspect even the most scrupulous Mayor of some abuses if he had ultimate control over personnel administration. Defenders of the status quo further argue that the three-member Commission is best suited to hearing employee appeals. (13)

Proposal: Make the Personnel Director a Cabinet Member

In conjunction with the previous proposal, public personnel analysts recommend that the Personnel Director should be a member of the Mayor's Cabinet. In 1954, the Government Consulting Service of the University of Pennsylvania suggested to the city that this reform would enable the Personnel Director to better understand the goals and priorities of the administration. (14)

As a Cabinet member, however, the Personnel Director might be under greater pressure to abide by the policy decisions of the Cabinet, thus jeopardizing his independence. The PEL argues that the Personnel Director is now free to confer with the members of the Cabinet to learn of administrative objectives without the pressures to adopt objectives with which he disagrees.(15)

Proposal: Eliminate the Mandatory Appropriation

The Civil Service system established by the previous 1919 Charter failed to control patronage, partially because it received insufficient funding from City Council. To correct this problem, the 1951 Charter stipulated a mandatory operating budget appropriation for the Civil Service Commission and the Personnel Director: at least one-half of one percent (1/2%) of the total amount budgeted for the salaries of Civil Service employees. (2300 (4) (a))

Soon after approval of the Charter, this provision was attacked as an infringement upon City Council's budgetary powers and as poor budgetary practice: the budgeting needs of the Civil Service system and the size of the payroll are not necessarily in direct proportion. (16) It has been said that the mandatory appropriation has not only been a "floor" for personnel funding, but also a "ceiling," since Council has rarely exceeded the mandatory appropriation. (17)

Despite its shortcomings, the Charter formula has allowed the Civil Service system the funding and independence it needs to conduct an effective merit program. Returning the appropriation power to City Council might revive political pressure on that body to control personnel administration. The present formula assures Civil Service funding.

Proposal: Increase the Independence of the Civil Service Commission

Although political patronage has been reduced by the 1951 Charter's Civil Service system, there is evidence that it has turned upward in recent years. In 1960, among city employees subject to the Charter, only 1.2% were exempt from the Civil Service. In 1976, 9.6% had exempt status. (18) This sharp increase in exemptions indicates a growing potential for patronage abuse and increases the political temptations on elected officers to take advantage of that potential.

Civil Service Commission approval of these exemptions was based on Section 7-301(e) of the Charter. It enables the Commission to exempt a job of a temporary and specialized nature, "which because of its expert or unique character could not or should not be performed by persons in the Civil Service." In recent years, the Civil Service Commission has ruled that employees who are paid out of grant funds, such as planning or law enforcement grants, are temporary and specialized employees and thus exempt from the Civil Service under 7-301.

However, a 1976 Pennsylvania Economy League study contended that the Civil Service Commission has interpreted Section 7-301 too loosely in exempting all positions funded by grants. The PEL believes that if Civil Service classifications and tests can be designed for these grant-funded positions, then they should be Civil Service jobs, despite the delays in approving the positions and testing the applicants. (19) The PEL argues:

...it is more important to protect the merit system against even the suspicion of patronage practices than it is to fill jobs quickly. Too often in the past, such arguments for exemptions to the merit system have led throughout the United States to the weakening or destruction of the merit system. (20)

To protect the merit system, the PEL recommends that the Civil Service Commission interpret Section 7-301 (e) more strictly to grant exemptions "only in exceptional cases." (21)

The PEL's recommendation may not be sufficient, however. The Civil Service Commission has not always acted as independently as the Charter framers had planned. In the past, Commissioners have resigned or been removed when new administrations moved in. (22) Recent Civil Service Commission decisions on controversial matters, such as exempting employees of grant programs, have almost all supported the Mayor and his administration. Thus, the problem may be that, despite the efforts of the Charter framers, the Civil Service Commission is not independent enough.

Alternatives for Increasing Independence.

One proposal to increase the independence of the Civil Service Commission is to elect the Commissioners. This would be impractical, since personnel administration is a technical subject about which the voters know little. More importantly, it would politicize the merit program and thus undermine the purpose of the Civil Service system.

Another proposal to increase its independence is to have another elected official or body, such as the City Controller or City Council, appoint the Commissioners. Once again, the drawbacks might outweigh the benefits. If City Council were to choose the Commissioners, no single official would be accountable to the electorate for the appointments. Giving the City Controller appointment power could solve the accountability problem, but otherwise would make little sense. The Controller is a fiscal, not a personnel expert, and such power would make his office far more important than the Charter intended.

Non-elected officials, such as the Civil Service Panel, could make the appointments, but in this case, no one would be accountable to the electorate. Where to vest removal power in this case would also be a difficult question.

Proposal: Limit the Nominating Panel to One List

One option would be to make only a minor adjustment in the present system. Limiting the Mayor to only one nominating panel list could be sufficient to ensure the Civil Service Commission more independence. This change would allow the nominating panel to concern itself only with suggesting qualified Commissioners; naming someone acceptable to the Mayor would no longer be a consideration. The nominating panel, assuming that it acted in good faith, would nominate the three most qualified candidates, from whom the Mayor would have to select one. The intended result of this Charter amendment would be a fair and independent Civil Service Commission with an allegiance only to merit principles of employment and productivity.

In effect, the choice the Mayor now has would be shifted to the nominating panel under this proposal, a shift that some might consider dangerous. Significant power would be vested in panel members, who are not accountable to the electorate; trust in the fairness of the nominating panel would be necessary to accept this proposal. Proponents of this idea argue that there is reason to have faith in the present Civil Service Panel members, or those who would form the proposed unified nomination panel. They are (or would be) people who have reached their positions as civic or labor leaders by showing a concern for the city and its workers.

The Mayor might be unable to work with Commissioners he would select under this revised system. However, as long as both the Mayor and the Commissioners are committed to a merit employment program, that should be a minor problem.

Philadelphia needs an independent Civil Service Commission and Personnel Department to protect its merit employment program. The employment record of city agencies not covered by the Charter merit system is vivid proof of the need for an independent personnel structure. In 1975, the U.S. Department of Housing and Urban Development charged the Philadelphia Housing Authority and Philadelphia Redevelopment Authority, which are not covered by the Charter, with questionable hiring

practices, political activity by employees, mismanaged programs, and waste of federal funds.(23)

Because of the threat of patronage, it is argued, measures to limit the independence of the personnel administration should be strongly opposed. The mandatory appropriation should be retained and the Personnel Director should not be a Cabinet member. Instead of limiting independence, reformers should seek to increase the distance between the Mayor and the Civil Service Commission. The most reasonable way to further separate the two parties would be to limit the Mayor to only one three-name list for each Commissioner. Proponents maintain that such an amendment to the Charter would further the advances that have been made toward eliminating patronage in the city.

D. The City Planning Commission

While it is recognized that improvements in the work of the city's planning agency must be continually sought, it appears that the present independent commission structure meets Philadelphia's needs. As with the Civil Service Commission, there has been a nationwide trend to integrate planning more closely with the other administrative functions; but, in Philadelphia, the push to bring city planning fully into the central administrative hierarchy has been weak. Instead, most proposals have dealt with enhancing the City Planning Commission's role in planning for the city's future needs and with better coordinating its recommendations with overall city policy.

Proposal: Make the City Planning Commission a Department

Only one source, a 1957 PEL study, mentioned a proposal that many other cities have adopted: making the City Planning Commission a Cabinet-level department, paralleling the structure of the Law Department.(24) In contrast to the Civil Service Commissioners, City Planning Commission members are appointed by the Mayor; there is no nominating panel. In addition, three Cabinet members, the Managing Director, Director of Finance, and City Representative have *ex officio* positions on the Commission. Thus, the term "independent" is used to signify only that the City Planning Commission is situated outside the administrative hierarchy. In terms of its relationship with the Mayor and other chief administrators, it appears to be only slightly more independent than a department. For this reason, it is argued that turning the City Planning Commission into a Planning Department would accomplish little. This change could also reduce the opportunity for independent, unpaid citizens, like the six private citizens that now sit on the Commission, to have a voice in city planning. Finally, it is maintained, the nine-member Commission structure is better suited to public hearings than a department headed by a Planning Director.

Proposal: Make the Executive Director a Cabinet Member

There is no formal link between the paid staff of the City Planning Commission and the Mayor and his other

policy-makers. Three Cabinet members do sit on the Commission and their thoughts are bound to be conveyed, either directly or indirectly, to the staff. To ensure coordination of Commission work with Cabinet thinking, the Executive Director of the City Planning Commission could be an *ex officio* member of the Cabinet.

This proposal would have the advantage of giving the Executive Director an opportunity to see that his staff's work is fully considered by the Mayor, who makes the ultimate decisions on whether to accept the recommendations of the Planning Commission. On the other hand, this might strip away what little independence the Commission now has, since Cabinet members, who are not planning experts, could interfere with the staff's work.

Proposal: Give the Planning Commission Responsibility for Service Department Planning

The 1973 Charter Revision Commission decided that the City Planning Commission could play a greater role in providing for the city's future needs. It recommended that the Commission expand its Physical Development Plan, the master plan showing the present and planned physical development of the city, to include planning for human services and economic development.(25) It calls this proposed expanded version a "Comprehensive Development Plan." The Revision Commission further suggested a Charter amendment to give the City Planning Commission, along with the Managing Director, responsibility for coordinating departmental planning.(26)

The Comprehensive Development Plan proposal may not be substantial enough to warrant adoption. The present Physical Development Plan provision (4-600) details the contents of this plan: it "...shall show the general location, character and extent of streets, parks, recreation facilities, sites for public buildings and structures...as will provide for the improvement of the City and its future growth and development. ..." The proposed Comprehensive Development Plan is described only as showing the 'human, economic and physical needs of the City.' '27 Explaining its Plan, the Revision Commission says that it will expand 'the traditional role of the City Planning Commission beyond physical planning into the areas of human services and economic development.'"(28) However, the present Physical Development Plan is based on projected human service needs and is designed to further economic development of the city. In this sense, then, the present provision may already enable the comprehensive planning sought by the Revision Commission.

The Revision Commission's second proposal, coordination of departmental planning by the City Planning Commission, is already encouraged by the Charter through the capital program. The Commission must decide which services are priority needs -among, for instance, new recreation facilities, more extensive mass transit, and new housing programs -and decide on a funding and construction schedule based on these priorities. Thus, the City Planning Commission already coordinates *capital* expenditures by departments.

On the other hand, the Commission does little to coordinate *operating* outlays by departments. While long-range planning of operating expenditures is sound, the City Planning Commission is not equipped to do such planning. For example, the Commission is not qualified to make decisions to plan increased police patrols or to cut the Department of Public Health's payroll. In other cities, such as Baltimore and New York, this planning of operating outlays is done by a *Board of Estimates*, consisting of the city's top elected officials and appointed administrators. Such a Board of Estimates could be required to prepare four-year operating budgets, similar in structure and purpose to the six-year capital programs. In any case, it is argued that the City Planning Commission should not be responsible for operating budget decisions, since these are matters of basic administration that the Director of Finance and the Managing Director, as individuals, or as members of a Board of Estimates, should handle.

Proposal: Require Community Experts on the Planning Commission Staff

In the past, the Executive Director of the City Planning Commission has assigned at least one person on his planning staff to each sector of the city to become expert on the needs and concerns of the people in the assigned area. This practice could be required, stipulating that each community shall be represented by a staff planner who shall hold regular public hearings in the assigned districts to discuss City Planning Commission proposals for that district and to hear residents' concerns.

There should be as many area planners as are necessary to represent all residents, taking into account the diversity of the city's communities. Area planners could be *ex officio* members of all of the proposed community boards in the planning district. (See Community Boards.) Furthermore, planning districts could be aggregates of smaller community districts, which will form the new boundaries for coterminous service districts. (See *Coterminous Service Districts*.) The effect of this proposal could be to make the City Planning Commission more responsive to community needs and concerns.

The work of the City Planning Commission has been satisfactory; the present structure should be retained. Proposals to create a Planning Department or to give the Executive Director Cabinet membership might erase the independence of the City Planning Commission. Enlarging the Commission's role to enable it to oversee basic departmental operations could be an unwise infringement upon the authority of the Managing Director and the Director of Finance. The City Planning Commission has been most criticized for its failure to attend to the needs of the disadvantaged communities. Charter-required area planners might improve communication between the neighborhoods and the Planning Commission.

E. The Supervision of Departments

Problem: The Managing Director is Overburdened

The 1951 Charter placed the city's administrative bur

den on the Managing Director. He supervises ten departments and reports on the functioning of each to the Mayor, while the Finance Director supervises only two. There is some sentiment among observers that the Managing Director cannot effectively supervise that many departments and furthermore that some of these departments are not service departments and thus should not fall under his responsibility. Senator Clark testified in 1973 that the Managing Director has been granted responsibility for "more people than he can really appropriately supervise" and that he considers it "very difficult to really adequately supervise more than six." (29)

Proposal: Shift Two Departments from the Managing Director to the Director of Finance

To ease the Managing Director's burden, Senator Clark recommended that the Department of Licenses and Inspections and the Department of Records be moved from under the Managing Director and should become the responsibility of the Director of Finance. Three issues are involved in this proposal: 1) the roles that the Managing and Finance Directors are meant to play under the Charter which might dictate the type of work they should supervise, 2) the practical issues involved in supervising departments, and 3) the work done by the Department of Records and Department of Licenses and Inspections.

Philadelphia's Managing Director was patterned after the Chief Administrative Officer (CAO) in a widely followed model of big city government. In this model, the CAO assumes the duty of managing the city government and the Mayor is left free to coordinate and recommend policy and to lead the city. The CAO supervises all administrative functions including budgeting, planning, and personnel control. The 1951 Charter differs from this model, however, in distributing the functions of the CAO among the Managing Director, Finance Director, and independent commissions in order to create internal administrative checks.

This distribution is done in an important manner: the Finance Director and the independent commissions are assigned specific responsibilities and the Managing Director retains any undistributed responsibilities. Thus, the Charter gives the Director of Finance the specific role of "chief financial, accounting and budget officer of the City," (6-100) and it is vague about the role of the Managing Director: to "exercise supervision" over his subordinate departments. (5-100)

The Managing Director is required to report to the Mayor, not only about his service departments, but also about affairs of city government in general. (5-101) This view of the Managing Director, as a Chief Administrative Officer with certain specific duties (finance, planning, and personnel) removed, suggests that the Managing Director should continue to supervise the Department of Licenses and Inspections and the Department of Records.

The Department of Licenses and Inspections does not have such financial functions that would justify shifting it

under the Finance Director. The duties of Licenses and Inspections are to ensure compliance with building safety, sanitation standards, sign and zoning ordinances, and also to issue and revoke municipal licenses. It receives substantial revenues in the form of license fees, which it immediately turns over to the Department of Revenue under the Finance Director. Only in this way is the Department involved with money.

The Department of Records, usually called a "housekeeping department," primarily maintains city records for public inspection and use. It has no finance function.

While the theory upon which the 1951 Charter was based argues against this proposal, it may be difficult for the Managing Director to oversee the operation of ten departments. For this reason, there have been as many as eleven Deputy Managing Directors at one time to do the actual supervisory work. This added layer of bureaucracy could be reduced if the Managing Director supervised fewer departments.

Still, it could be that transferring departments to the Finance Director would be unsound: an important budgetary check on those departments could be lost. Since the Director of Finance reviews and may alter the budget requests of the departments, he might make a less critical review of the programs and operations of the departments he supervises. This is a further reason for limiting the Finance Director to supervision of departments that have a finance function only.

The proposal to make the Department of Licenses and Inspections and the Department of Records the responsibility of the Finance Director may be unnecessary. For theoretical and practical reasons, the Managing Director should remain the city's general departmental supervisor. If he has difficulty supervising ten departments, the Managing Director could reorganize his office to make more efficient use of his deputies. Such a reorganization could be especially important in light of other proposals of merit to create new departments under the Managing Director. (See *Section H, The Creation of New Departments*)

F. The City Representative and the Director of Commerce

The creation of the Office of City Representative and Director of Commerce in the 1951 Charter was a unique step in municipal government. Giving a ceremonial, and information and promotional officer a Cabinet-level position began a new trend in city government. In addition, adding the commerce-related duties of managing the city's airport, port, and convention facilities to the position of City Representative had never been tried in any other city. 30 Because of the uniqueness of the office, it is not surprising that it is believed that the experiment was ill-advised.

Problem: Responsibilities are Diverse

The union of promotional and ceremonial responsibilities with management and maintenance duties has drawn

criticism from numerous sources. In the 1973 Charter Revision Commission hearings, Senator Clark called the dual role "a kind of monstrosity." He explained:

You can't be a baby-kisser and a ribbon-cutter, and substitute for the Mayor in his ceremonial duties, and be the head of his public relations setup, and also run the Airport and...the Port. The qualifications needed are entirely different.³¹

Senator Clark believes that the officeholder must combine an engineering talent with a public relations ability, a combination rarely found.

Proposal: Remove Management Duties

There have been proposals to split up the Office of City Representative and Director of Commerce. One recommends the abolition of the Department of Commerce and the distribution of its duties among various existing and proposed departments. Of these functions, the City Representative would retain responsibility for what the Charter lists as the Commerce Department's first duty, "promotion of commerce, industry, and the port of Philadelphia" (4-500(a)), since promotion of the city to industry is at the heart of the City Representative's service to Philadelphia. Responsibility for maintaining the Civic Center could be transferred to the Department of Public Property, and management of the port and airport facilities could be done by the proposed Department of Transportation. (See *Creation of New Departments.*)

If the proposal were adopted, the City Representative's duties would be substantial and unified. He would be the city's chief promotional officer, responsible for information dissemination, public relations, economic development and forecasting, and most importantly, for explaining administration programs and building public acceptance for municipal policy.

Defenders of the present dual role would claim that commerce management can be handled by the person who directs commerce promotion. However, the substantial criticism of this arrangement indicates that many observers feel it has failed. A 1957 PEL study identified it as the most criticized aspect of the Charter. (32)

Proposal: Abolish the Mayor's Office of Information and Complaints

Two agencies are now responsible for public information: the Mayor's Office of Information and Complaints and the Bureau of Public Information in the City Representative's Office. The Office of Information and Complaints is the public's main source of information about the city and its services, while the less accessible Bureau of Public Information provides mostly promotional information. This overlap of functions may be unnecessary; a central and accessible information agency serving under the City Representative could more efficiently meet all of the city's information needs. The receiving and investigating of complaints now done by the Office of Information and Complaints could be adequately done by an in

dependent Department of Investigation, serving as ombudsman. (See *Part III, The Ombudsman*)

Proposal: Centralize City Public Relations

While Philadelphia was one of the first cities to create a centralized public relations agency in the City Representative's office in 1951, several city agencies continue to maintain their own publicity staffs. Among them are the Civic Center, Airport, Fairmount Park Commission, Commission on Human Relations, Free Library, Recreation Department, and the Mayor's Office.⁽³³⁾ Complete elimination of publicity staffs in these agencies and consolidation of these public relations personnel under the City Representative could have several advantages. First, it would be known exactly how much money the city is spending on publicity, making it easier to judge the cost-effectiveness of the public relations program. Now, publicity costs can be "hidden" in the individual agencies' operating budgets.³⁴ Second, a central PR agency might encourage a coordinated city program instead of a hodgepodge of press releases. Finally, a central agency could make more efficient use of materials, thus reducing operating costs.

Administrative and maintenance duties could be divorced from the responsibilities of the City Representative. This would entail abolition of the Department of Commerce and distribution of its management functions among other related departments. The City Representative should retain responsibility for promoting city commerce and attracting new industry to the city. Centralized information and public relations agencies could be established under the City Representative, eliminating the need for the Mayor's Office of Information and Complaints and other publicity offices.

G. Decentralization and Coterminous Service Districts

Problem: Public Dissatisfaction with City Services

Probably the most repeated message of those who testified before the 1973 City Charter Revision Commission was that the citizens are dissatisfied with the services provided by city government. This dissatisfaction, it was argued, stems largely from two problems. First, citizens feel alienated from their representatives, finding it difficult to gain sufficient attention from those who are supposed to serve them.

Intertwined with this feeling of detachment from municipal government is the second problem: public perception that government is too complex. Civic observers complained about the "wild cross-hatching of service districts"⁽³⁵⁾; boundaries of service districts for Fire, Police, Sanitation, Health, Welfare, and other departments form a network which the citizen has difficulty deciphering. For example, a citizen in City Council's third district may live in the Fire Department's ninth district, the Sanitation Department's twelfth district, and other different numbered districts for other departments.

Proposal: Mini-City Halls

To bring city government closer to the people, several observers⁽³⁶⁾ have recommended a variety of versions of the "mini-city hall" concept. Under these proposals, government offices would be established in every City Council district. Manning these offices would be the District Council members (or their representatives) and representatives of each of the city's service departments to help residents resolve problems with city services. Representatives from the School District, the District Attorney's Office, and the Public Defender's Office could also staff the mini-city halls. Advocates of this plan point out that the offices could be housed in existing storefronts.

Arguments For

This proposal could have important benefits. Most significantly, it would make it easier for those who depend on city government most, the disadvantaged, to be heard and helped. Citizens who are intimidated by the complexity of city hall bureaucracy could avoid the maze and turn to their neighborhood city halls. In addition, city officials working in these offices would personally witness the problems and frustrations of city residents. The result of this decentralized administration could be a confidence among citizens that city government is responsible and trustworthy.

Arguments Against

These are intended benefits; however, there is a good chance that the plan could fail, resulting in a waste of city funds. One problem could be that the staffs of these offices might not have the authority or the means to deal with residents' problems. While, for instance, complaints about sewers could be handled, mini-city hall personnel could do little about the most frustrating problems: inadequate housing and unemployment. To make the proposal effective, citizens would have to be instructed about the limits of the authority of mini-city halls. Conversely, there is a danger that citizens might perceive that the staffs can do little. Thus, the mini-city hall concept must be convincing, and the staffs must be effective.

The major drawback to the mini-city hall proposal could be the risk of committing funds to a risky experiment. These costs could be cut by staffing the community offices with employees of the service departments. The rental and maintenance costs for the offices would be substantial. In sum, while the proposal has merit, the city's financial squeeze may advise against it. A poor commitment to the mini-city hall plan would doom it from the outset. Before committing itself to such a venture, the city could carefully study the experience of the several cities that have established neighborhood city halls. It could consider alternatives such as the proposed Department of Investigation and the two following proposals: community boards and coterminous service districts.

Proposal: Community Boards

Another approach to improving community trust and participation in government is the creation of unpaid community boards. According to the New York City Charter, the boards discuss community needs, hold hearings with city officials to air citizen complaints and suggestions, and prepare recommendations on how the city might provide for the public's needs. For this proposal to work, the boards must have substantive powers and responsibilities so that they do not appear as ad hoc special interest groups. Thus, city officials, such as neighborhood planners on the City Planning Commission staff, district managers from the service departments, and District Councilmen, could be members of the community boards. The boards would report to a Deputy Mayor, submitting an annual written report on the board's work and recommendations.

The manner of selection of members on the community boards might be a difficult problem. Electing the members might be undesirable, since it would further clutter the ballot, introduce partisan politics into the board, and allow a small number of voters -perhaps dominated by a special interest -to decide the board's membership. An election would not guarantee a balanced representation on the board. The alternative, then, could be the appointment of the members, and the appointers might be the District Councilmen, since they are most knowledgeable about the communities.

The other question, how many should serve on the boards, can be resolved. As already mentioned, representatives of the service departments, a staff member of the City Planning Commission and a District Councilman could be ex officio members of each neighborhood board. There should be enough non-government citizens on the board to represent community interests.

Arguments For

Like the mini-city halls, community boards have the potential to convince citizens that the public can influence city government. For example, effective community boards could apply pressure for more recreation areas, better police protection, and regular street cleaning. Neighborhood boards could increase the opportunities for grass-roots leadership.

Arguments Against

Critics(37) of the mini-city hall plan and community boards claim that these proposals might divide the city. Thus, neighborhood boards would compete for limited funds and limited services. However, different communities recognize that they have similar problems, and community boards could provide a formal vehicle for cooperation among neighborhoods.

The proposal, is an idea with some problems -how many members, how to select them, and how much power to give them -yet to be worked out. In solving these problems, attention might be given to the boards' intended roles as alternatives to the present political structures. Community boards in other municipalities,

such as New York City, could be studied. Community boards might be an attractive alternative for decentralizing city government.

Proposal: Coterminous Service Districts

While the previous proposals require further study, administrators could now implement a third proposal to improve city services: making service districts coterminous. This might best be done by dividing the current City Council districts into "community districts" of about 150,000 to 200,000 citizens. The boundaries of each service district would coincide with the boundaries of either the individual community districts or of aggregates of the community districts. For instance, there might be a police district for each community district, while the sanitation department might find it more efficient to have each sanitation district serve two community districts. In any case, the result would be that everyone in a community district would be served by the same service district, thus reducing confusion. Service departments could increase their responsiveness to public needs by assigning a manager to supervise each district's operations. These managers might also sit on the proposed community boards.

Opponents to this proposal, such as Managing Director Hillel Levinson, contend that the service districts are presently designed to meet specific problems and needs that differ from community to community. However, the proposal may be flexible enough to allow the service districts to be large or small, depending on what is most efficient for each department.

The Managing Director could begin to design community districts upon which all service districts would be based. Within a certain time period, perhaps three years, the Managing Director would be responsible for making all service districts coterminous. No Charter amendment would be required for this reform, since approval of the Administrative Board would be sufficient.

The other two proposals, mini-city halls and community boards, might require more study before being considered for adoption. Because they would be less costly than mini-city halls, neighborhood boards could be given first consideration. In both cases, detailed Charter provisions describing the purpose and functions of the proposed units of government would be necessary, so that citizens will be convinced that these are institutions designed to bring government closer to them.

H. The Creation of New Departments

In the 28 years since the adoption of the Home Rule Charter, citizens have called on government to provide more services. This demand has been tempered in recent years by an emphasis upon efficiency in meeting public needs. The Charter is inflexible to organizational change: it does not allow the creation or merger of departments. Needs that citizens have called on government to provide have been met inefficiently. For example, since there is no Housing Department in the Charter, a variety of non

Charter agencies, such as the Housing Authority, Redevelopment Authority, and the Housing Development Corporation, share responsibility for providing decent housing. Despite the Mayor's effort in 1976 to coordinate these agencies through the Office of Housing and Community Development, observers agree that housing in Philadelphia is inadequate and that a significant amount of funds is wasted through mismanagement and patronage.

Transportation is another often cited example of how diffusion of responsibility has hindered a coordinated and efficient program. A third example, consumer protection, is a classic case of a service that many citizens believe can best be provided by city government. The following proposals to create city departments that meet these three needs in an efficient, coordinated manner will be examined.

Proposal: Department of Consumer Protection

The 1973 Charter Revision Commission recommended the creation of a Department of Consumer Affairs with broader powers and responsibilities than the present Mayor's Office for Consumer Services. (38) In fact, it suggested a larger role for the department than it could handle, proposing that it also absorb the Office of Information and Complaints. However, the core of the Revision Commission's recommendation appears sound: make the department responsible for consumer protection, consumer education, and for cooperation with other consumer agencies outside of city government.

Specifically, the proposed department would administer and enforce consumer protection laws, alerting the District Attorney's Office of violations. It would also pool its complaint files with those of organizations like the Better Business Bureau to help compile evidence against offenders. For complaints that do not merit legal action, the department would attempt to mediate the dispute by calling in involved parties. Like all other service departments, this one would be responsible to the Managing Director.

Aside from the costs of funding a Department of Consumer Protection, there may be good reason to create a department that can provide such a valuable service. Care should be taken to choose a scrupulous Commissioner of Consumer Protection. To ensure the Commissioner's integrity, a nominating panel could suggest candidates to the Managing Director. It may be necessary to grant the Commissioner further independence by limiting the nominating panel to one list and by permitting his dismissal only for cause.

Proposal: Department of Housing

As already mentioned, responsibility for housing is now spread among at least four agencies that do not fall under the City Charter. In addition to the inefficiency that results from such diffused responsibility, patronage has plagued these housing agencies. (See *Civil Service Commission*) To focus accountability for housing in one agency, a Department of Housing could be created under

the Managing Director.(39) The Housing Department would consolidate the Philadelphia Housing Authority, Philadelphia Redevelopment Authority, Philadelphia Housing Development Corporation, and the Office of Housing and Community Development. By such action, thousands of employees who are now exempt from the Charter's Civil Service provisions would be covered by the Civil Service.

There appear to be no arguments against a Department of Housing. The department would need no more funding than the sum of the present agencies' budgets, and through increased efficiency, it could probably save money. The division of responsibilities among the existing agencies need not be eliminated by a department, although a more efficient distribution of functions may be effected. The only possible problem is the complex procedure that would be required to create a consolidated department.

Proposal: Department of Transportation

The arguments for a Department of Transportation parallel those for a Department of Housing. A variety of city agencies now deal separately with the city's transportation functions, and these could be consolidated into one more efficient department.40 A non-Charter agency involved with city mass transit, the Southeastern Pennsylvania Transit Authority (SEPTA), provides transportation for the entire region and thus could not be consolidated into a city department.

Proponents of a Department of Transportation, including former Mayors Dilworth and Tate, suggest that transportation-related bureaus and divisions in existing departments could be merged into a new department. The most common form of the proposal recommends that the Department of Transportation consolidate the Parking Authority, the transportation divisions of the Department of Public Property, all of the Department of Streets except for the sanitation division, and the port and airport divisions of the Department of Commerce. As a result, there would be a separate Department of Transportation. This reorganization would encourage a coordinated city transportation program. It would also enable abolition of the Department of Commerce. (See: *City Representative*)

Recently, two candidates for Mayor, in the November, 1979 election, proposed that the 'administrative fragmentation' of the City's transportation programs should be ended by concentrating those activities either in an Office of Transportation or in one person responsible for such activities, appointed by the Mayor. This fragmentation is illustrated by the following facts, presented by the candidates:

1. the Department of Commerce oversees the port and the airport;
2. the Finance Department reviews the SEPTA budget;
3. the Department of Public Property monitors the construction of the commuter tunnel;
4. the Streets Department maintains lighting and roads; and,

5. the Parking Authority operates city lots and garages.

"These transportation functions have naturally taken a back seat to the principal operations of the departments to which they belong." (*Philadelphia Inquirer*, 6 Sept., 1979)

While a new department could undoubtedly improve the city's transportation facilities, improvement in SEPTA is crucial.

III. THE OMBUDSMAN

A. Introduction

The drafters of the Home Rule Charter recognized the need for a city agency to receive and investigate citizens' complaints about the services provided by the executive branch. For this reason, they included a provision requiring the Mayor to establish an Office of Information and Complaints (Section 4-106), which reads as follows:

Information and Complaints. The Mayor shall establish an agency in his office for receiving and answering all requests for information about the City or its government. Such agency shall also receive and investigate complaints concerning the operation of the City government.

However, as a 1962 investigating panel commissioned by Mayor Richardson Dilworth found, this Charter provision has not enabled the creation of an independent agency for handling citizens' complaints. The final report of the committee, which was chaired by former University of Pennsylvania Law School Dean Jefferson B. Fordham, contended that the Charter did not allow the Office of Information and Complaints to "act with independence and detachment"(41) by locating it within the administrative branch under the Mayor. Consequently, the Office has been unable to assume "a place of dignity and importance"(42)

Continuing its criticism, the report argued that the Charter provision does not allow the Office "...anything like a full-fledged oversight or watchdog role. It merely provides that the agency shall receive and investigate complaints"(43) Thus, the Charter does not encourage the creation of a non-partisan agency with authority to investigate city government.

These deficiencies in the city's present mechanism exacerbate citizen frustration. (*See Decentralization and Co-terminous Service Districts*) Grievances that go unresolved foster the attitude among residents that government's primary allegiance is to itself. Furthermore, an Office of Information and Complaints, which fails to investigate citizen grievances, leaves citizens to deal with complex agencies.

Proposal: Establish an Ombudsman

To fill the void left by the Office of Information and Complaints, the Fordham Committee concluded that "what is needed is an independent, highly respected office, which is detached from the influence of partisan

politics and is easily accessible to the ordinary citizen."(44) Detailing its recommendations, the Committee called for "a high-ranking official with broad powers of investigation"(45) who would be empowered to investigate citizen complaints of administrative improprieties and also questionable activity discovered on his own. This official would be granted subpoena power and the right to hold hearings. To give the official further authority, the Committee suggested that he have "carry-through weapons of publicity"(46) and power to refer substantiated and unresolved grievances to a prosecuting agency. The Committee patterned its recommendation after the Danish Ombudsman.

Because it was perceived as a threat, the proposal was rejected by City Council and the Democratic City Committee, and the Philadelphia press dubbed it "an unwarranted expense," surmising that the Commissioner of Public Affairs would be "just another politician."(47) If it were carefully designed, however, an Ombudsman's office need not appear threatening. Instead, it could be a powerful tool for restoring public trust in government.

(*Note: The terms "ombudsman" and "ombudsman concept" refer to any individual or institution which receives and investigates complaints by the public against municipal government. The "classic ombudsman" and "department of investigation" are specific types of ombudsmanic structures, which are discussed later.)

B. Discussion

The Ombudsman concept is one of Scandinavia's most important exports. Sweden's legislature established the first formal Ombudsman, called the *Justitieombudsman* (J.O.), in 1809. However, an Ombudsman-like official, the Chancellor of Justice (J.K.) appointed by the executive, had served long before the J.O. In the nineteenth century, the J.O. evolved into the more powerful official, broadening his investigative jurisdiction to administrative actions and court decisions. Early in the twentieth century, Finland followed Sweden in establishing an Ombudsman. (48)

The Ombudsmen in both countries share important similarities which have formed the following classic model for Ombudsman-like institutions around the world. First, the classic Ombudsman is appointed by the legislature, to which the Ombudsman submits all findings and an annual report. Second, the Ombudsman is impartial and politically independent of the legislature. All the major political parties generally agree on his appointment. He serves a four-year term and is often reappointed. Third, the Ombudsman does not have the authority to reverse administrative decisions. His influence stems from his full investigative power and his freedom to make his findings public. He is respected for his objectivity and thoroughness, and his recommendations are frequently adopted. High government officials, especially elected officers, are usually exempt from his investigations. Fourth, the classic Ombudsman may conduct investigations based on his own suspicions; a citizen

complaint is not necessary. Finally, the classic Ombudsman acts in a direct manner. A letter from a citizen can begin an investigation. If the Ombudsman decides the citizen's grievance is justified, he takes action immediately. (49)

Variations on this model have been adopted on various governmental levels in the United States. The most prominent examples are the City of Detroit and the State of Hawaii. Detroit's Ombudsman is appointed by a two-thirds majority of its City Council for a ten-year term. He may be removed for cause by a two-thirds vote of the City Council. He has full investigative powers, but may not investigate the actions of elected officials.(50) Hawaii's Ombudsman provision is similar, also exempting elected officials from investigation, although specifying a shorter six-year term.

Arguments For

Hawaii's first Ombudsman, Herman Doi, presented a cogent illustration of what the Ombudsman can accomplish, when he listed the objectives of his office at a 1971 Ombudsman Workshop:

1. Redress . . . individual grievances,
2. Prevent recurrence of similar complaints,
3. Increase responsiveness of administrators,
4. Protect government administrators from unfounded criticism,
5. Identify and correct patterns of undesirable administrative practices or procedures,
6. [Educate] the public about governmental operations and functions, and
7. Relieve legislators of the complaint-handling burden. (51)

Thus, the Ombudsman could help assuage citizens' feelings of estrangement from government in several ways. The Ombudsman gives individual citizens some leverage in government. (52) He can penetrate bureaucratic obstacles, remedying the citizens' sense of impotence before the complex network of administrative agencies. At the same time, he can educate citizens about how agencies function.

The Ombudsman is not a "people's advocate," however. To ensure that administrators will respect his recommendations and cooperate with his investigations, the Ombudsman's first duty would be to determine whether or not a citizen's complaint is justified. Most Ombudsmen screen out more than half and up to three-quarters of all complaints at this preliminary stage. If so, the Ombudsman would conduct a more thorough investigation into questionable administrative acts to determine the specific cause of the problem. Importantly, before making a public report of his findings, the Ombudsman would discuss the grievance and his recommendations with the appropriate administrator. In most cases that do not involve illegal acts, the problem is resolved when the administrator accepts the Ombudsman's recommendation. This procedure allows public servants to feel assured that the Ombudsman, as Doi's fourth objective

shows, protects their rights as well as the rights of private citizens.

In addition to the seven functions listed by Doi, the Ombudsman, as an expert on proper administration, can serve an important advisory function for the legislature or the Mayor. He can testify before City Council on bills dealing with administrative matters or recommend his own legislation, such as a bill to erect a needed street light, for submission to City Council.(53) The Ombudsman can also chart the progress of the administration toward the goal of serving the citizens effectively. The number of justified grievances can become a yardstick for measuring the improvement in a service department's performance. (54)

Arguments Against

The most important argument against the Ombudsman concept is that a variety of agencies and elected officials, especially City Council, to some extent perform the Ombudsman's duties. Receiving the complaints of constituents is an important part of Councilmembers' work. The District Attorney's Office operates a Community Ombudsman Program throughout the city to hear complaints and inquiries from citizens.

In fact, however, an Ombudsman who is willing to hear complaints from all residents would serve a heretofore unfilled role, while not replacing the contact between Council members and constituents. Present institutions have failed to provide swift and efficient resolutions to citizen problems in an impartial and simple manner. Although Section 2-400 of the Charter allows City Council to investigate administrative improprieties, it has used this power sparingly.

Practically, each investigation requires a new appropriation and an increased staff to do the investigating. This cumbersome mechanism can be sensibly used only for cases of widespread corruption, not improper acts by individual administrators. While an Ombudsman might limit City Council's role in investigating complaints, Councilmembers would have more time to devote to broad issues.

Another objection to the Ombudsman concept is the difficulty of guaranteeing that the Ombudsman will possess the necessary characteristics. An Ombudsman who failed to gain the respect of either citizens or public servants would, in one case, worsen public frustration with government and, in the other, alienate public officials. Impartiality may be the most important quality an Ombudsman can possess. Other necessary qualities are an expertise in administration and a devotion to the job for its own sake, not as a stepping-stone to higher political office.

C. Alternate Structures for the Ombudsman

1. Classic Ombudsman

The classic structure of the office of Ombudsman described above is the model that some state and city governments in the United States have adopted. Its most important characteristic is its independence from the

goods and services.”(56) The logic behind this proposal was that it would be more efficient to have one department receiving complaints of all kinds. The Revision Commission felt that this change would be adequate to deal with citizen grievances; it believed that the present Office of Information and Complaints has enough power to handle complaints and that granting a non-elected official any further powers would “subvert the process of representative democracy.”(57)

While it may be efficient to grant responsibility for handling complaints to a Department of Consumer Affairs, it may do little to improve municipal service to the public. It would not fill the need identified by the 1962 Fordham Committee for an independent and impartial investigator of grievances. Furthermore, the Revision Commission could have been mistaken in claiming that such a non-elected official would undermine representative democracy. The Ombudsman's duty is to unearth facts and to make recommendations; he does not legislate or decide policy, since these are functions which are reserved for elected officials.

D. Alternative Methods of Selection

1. Election

Electing the Ombudsman appears to be one method of establishing a truly independent office for investigating citizen complaints about all aspects of city government, including the conduct of other elected officials. Further consideration reveals, however, that there is a drawback. As explained earlier (See: *Arguments Against Ombudsman*), an Ombudsman must be impartial in order to gain the respect of citizens and public officials.

2. Appointment Without Nominating Panel

Appointment by either City Councilor the Mayor, depending on whether the Department of Investigation or classic Ombudsman form is adopted, is an alternative to election. City Councilor the Mayor could select an impartial Ombudsman, since they would seek someone who would be fair to public officials. If the voters disliked the appointment, the individual(s) responsible could be voted out of office.

On the other hand, the Mayor and City Council might risk the threat of voter disapproval, and appoint a partisan Ombudsman. Appointment by City Councilor the Mayor could leave open the possibility that the chosen Ombudsman might be excessively loyal to his political supporters and the appointing power.

3. Appointment With Nominating Panel

As discussed earlier (See: *Nominating Panels*), nominating panels could limit the role of partisan politics in appointments and assure that candidates have the minimum necessary qualifications. Because the Ombudsman should be independent of the appointing power, the restrictive nominating panel mechanism (limiting the panel to only one list) could be used. In this manner, much of the appointive responsibility would shift to the panel of

non-partisan citizens, although the ultimate responsibility for choosing among the three nominees would still rest with the appointing power.

On the other hand, the drawback to this appointment mechanism is its heavy reliance on the nominating panel. A partisan panel might bow to pressure to suggest unacceptable candidates for Ombudsman. Assuming that a fair and balanced nominating panel could be found, this mechanism best promises to ensure that impartial individuals would be appointed.

E. Scope of Investigative Power

In general, the jurisdiction of the classic Ombudsman has not extended to elected officials. The rationale for this restriction is that the voters can turn out elected officials who are guilty of misconduct.

A “watchdog” with jurisdiction over elected officials could effectively focus on abuses of elected officers. With his full investigative powers, the Ombudsman could thoroughly determine the facts of a case, presenting citizens with a comprehensive view of the facts.

However, jurisdiction over elected officials could make the Ombudsman too powerful. It can be argued that an allegation of misconduct made by an Ombudsman could ruin a political career, even if the charges eventually proved to be wrong. While instances of false allegations would undoubtedly be rare, the possibility illustrates the power that an Ombudsman could wield.

F. Term of Office and Removal

1. Classic Ombudsman

The term of office of the classic Ombudsman is usually six years, for two reasons. First, the Ombudsman should be committed to the position as a means to provide more responsive government and not as a means to further political ambitions. Thus, accepting the position of Ombudsman requires an extended commitment. Second, to insulate the Ombudsman from politics as much as possible, his appointment should not become an electoral issue every four years. An extended term for the Ombudsman might enhance his independence by freeing him, for at least part of his term, from the control of the Councilmembers who appointed him.

The appointing body could have the power to remove the Ombudsman but, to ensure the independence of the office, only for reasons of incompetence or misconduct. In the case of the classic Ombudsman, a majority of two-thirds of Councilmembers could remove the Ombudsman, but only for cause.

2. Commissioner of Investigation

The question of the Commissioner of Investigation's term of office raises the fundamental issue of the purpose of the Department of Investigation. As it is designed in New York City, to be the “eyes” of the Mayor, the Commissioner of Investigation serves the Mayor directly,

and the public, indirectly. The Department of Investigation is the Mayor's tool for seeing that his administration functions well and improves service to the public. For this reason, the Commissioner of Investigation works closely with the Mayor and serves a concurrent four-year term.

It can be argued that a Department of Investigation need not be a tool of the Mayor, however. It could be granted a more independent status and parallel the classic Ombudsman in its design. In this case, the Commissioner of Investigation, just like the classic Ombudsman, would directly serve the public and intercede on behalf of citizens to recommend improvements in municipal services. Such a quasi-independent Commissioner of Investigation would serve a longer (six-year) term for the reasons explained in the previous section.

Whether the Department of Investigation is designed to improve municipal service or to be a quasi-independent agency directly serving the public, the Mayor should be permitted to remove the Commissioner of Investigation only for cause. Otherwise, the Commissioner would be severely restricted in his investigations of the administration.

The Ombudsman's greatest value is as a means to improve municipal service to the public. Citizens whose complaints go unresolved because they have no influence to move municipal bureaucrats would welcome a city official who represented their interests. The Ombudsman could be a significant force to help restore public confidence in government. This office could operate inexpensively, with a small staff, making it a more cost-effective proposal than either mini-city halls or community boards.

While cases of official misconduct should be investigated, the Ombudsman can be only an assistant to prosecuting agencies; he should have no authority to make public allegations against an elected official, unless they are supported by a criminal indictment. Thus, the Ombudsman is somewhat limited in the service he can provide to the public. He can remind public servants of their duty to the public and recommend new structures and procedures to improve municipal service. He cannot monitor the integrity of government officials, however. That responsibility lies with elected officers and ultimately with the voters.

G. Which Form?

The Ombudsman can make a contribution to improving city government, but, at this stage, the important question is in which structure an Ombudsman could be most effective in Philadelphia. The two competing issues which might decide the question are 1) the Ombudsman's need for independence and 2) consistency with the strong Mayor form of government.

In Philadelphia, the second consideration has been paramount under the Home Rule Charter, and to maximize government accountability, it should also receive priority in this issue. An Ombudsman appointed by City Council might not receive the cooperation of administrators if the Mayor does not approve of City Council's appointment. More importantly, the seventeen members of City Council would be less accountable for the appointment than would the Mayor.

Thus, it can be argued, the Department of Investigation form may be best suited to Philadelphia's government. Yet, a Philadelphia Commissioner of Investigation need not sacrifice his independence to the degree of New York City's Investigation Commissioner. Rather than act as the tool of the Mayor, the Department of Investigation in Philadelphia, could primarily respond to citizen grievances and only secondarily perform for the Mayor. The Investigation Commissioner's independence could be maximized, while preserving the Mayor's accountability for his appointment. This may be done by using the restrictive nominating panel mechanism of allowing the Mayor to make his selection from only one list. Because mayoral accountability for appointments is so important in Philadelphia's system of government, the Commissioner of Investigation could serve a concurrent four-year term.

The Charter could be amended to create a quasi-independent Department of Investigation to receive and investigate citizen complaints about municipal services. The department could be headed by a Commissioner of Investigation appointed by the Mayor from one three name list of candidates submitted by a nominating panel. The Commissioner could have complete investigative powers, with jurisdiction over all city agencies, but not elected officers. He could serve a concurrent four-year term with the Mayor; the Mayor could remove him for cause.

NOTES

1. Lennox Moak, Bureau of Municipal Research *Report on Charter Revision*, 1957, pp. 33-4.
2. Ibid.
3. Senator Joseph Clark, *Transcripts of 1973 City Commission on Charter Revision Testimony*, p. 27.
4. Ibid., p. 29.
5. Annotation to Section 3-1003, *Philadelphia Home Rule Charter*, 1951.
6. Pennsylvania Economy League, *Citizen's Business* #2413, September 27, 1973.
7. Ibid.
8. Senator Clark, *1973 CCRC Transcripts*, p. 88.
9. Pennsylvania Economy League, *Personnel Administration in the City of Philadelphia*, July 1976, p. 16.
10. Ibid., p. 15.
11. Ibid.
12. Ibid., p. 17. 13. Ibid., p. 15. 14. Ibid., p. 33. 15. Ibid.
16. Bureau of Municipal Research and Pennsylvania Economy League, *1957 Report on Charter Experience*, p. 28.
17. PEL, *Personnel Administration*, p. 7.
18. Ibid., p. 21.
19. Ibid., p. 28.
20. Ibid., p. 24. 21. Ibid., p. 28. 22. Ibid., p. 15. 23. Ibid., p. 17.
24. PEL, *1957 Report*, p. 44.
25. *Report of the City Charter Revision Commission*, 1973, p. 14.
26. Ibid., p. 53.
27. Ibid., p. 49.
28. Ibid.
29. Senator Joseph Clark, *Transcripts of 1973 City Revision Commission Hearings*, pp. 88-9.
30. Bureau of Municipal Research, *Philadelphia's City Representative Director of Commerce: A Study of Organization and Functions*, August, 1954, p. 5.
31. Clark, *CCRC Transcripts*, p. 84.
32. PEL, *1957 Report*, p. 46.
33. WCAU-FM, *Editorial*, April 5, 1977.
34. BMR, *Philadelphia's City Representative*, p. 46.
35. John Guinther, *CCRC Transcripts*, p. 533.
36. The principal advocates of this proposal at the 1973 CCRC hearings were Charles Bowser, Thomas Foglietta, and John Guinther.
37. The CCRC, for instance.
38. *Report of CCRC*, pp. 67-70.
39. Among those advocating this proposal in 1973 were Richardson Dilworth, James H. J. Tate, and Thomas Gola.
40. Proponents in 1973 included Richardson Dilworth, Thomas Gola, Thomas Foglietta, and Hillel Levinson.
41. Mayor's Ad Hoc Commission on Improvement in Municipal Standards and Practices, *Final Report*, March 15, 1962, Jefferson B. Fordham, Chairman, p. 43.
42. Ibid., p. 44.
43. Ibid.
44. Ibid., p. 43.
45. Ibid., p. 44.
46. Ibid.
47. William H. Angus and Milton Kaplan, "The Ombudsman and Local Government" in *Ombudsman for American Government?* Stanley V. Anderson, ed. (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1968), p. 103.
48. Donald C. Rowat, "The Spread of the Ombudsman Idea" in *Ombudsman for American Government?*, pp. 8-9.
49. Ibid., pp. 9-10.
50. Detroit, *Charter of the City of Detroit*, Effective July 1, 1974, Chapter 3, pp. 23-25.
51. *Establishing Ombudsman Offices: Recent Experiences in the United States*. Stanley V. Anderson and John E. Moore, eds. (Berkeley: Institute of Governmental Studies, University of California, 1972), p. 64.
52. State of Massachusetts Office of Planning and Program Coordination, *An Ombudsman for Massachusetts*, 1971, p. 41.
53. *Establishing Ombudsman Offices*, p. 252.
54. Ibid., p. 259.
55. New York City, *New York City Charter*, Amended to June 1, 1977, Chapter 34, pp. 132-33.
56. *Report of CCRC*, p. 15.
57. Ibid., p. 17.

Chapter Two

The Executive Branch (The Budget)

One of the most important aspects of a modern city's life is the ability to manage economic and financial responsibilities. The Philadelphia Home Rule Charter grants major powers in this vital area to the chief elected officer, the Mayor. The Mayor controls the city's financial affairs and plays a dominant role in determining how city funds are raised and spent. The Mayor is obligated by the Charter to see to it that the economic health of the city is preserved.

The following section describes the major features of the preparation, review, and administration of Philadelphia's financial planning, both short and long-term. In addition, a discussion is made of various proposals related to important budgetary and administrative questions. The purpose is to show a clear picture of how the financial system operates, to explain some key terminology, and to present some existing ideas for improving the system.

I. PREPARATION PHASE

A. Operating Budget

The annual operating budget ordinance consists of all operating expenses for the City of Philadelphia for one fiscal year. It contains appropriations to City Council, the Mayor, and all offices, departments, boards and commissions which are part of the executive and administrative branch of city government. The operating budget ordinance includes the repair of any property, the regrading or repairing of any streets, and the acquisition of any property or any work or project which is not expected to last at least five years. It also includes all other items which are to be spent out of the city revenue. (2-300 (2))

According to the Charter, each annual operating budget must be balanced, that is, the level of income must equal the level of expenditure. (2-302) Council must levy the appropriate taxes to generate sufficient income to balance the annual operating budget. In determining the amount of income which will be available for the next fiscal year, City Council must rely upon the Mayor's estimate of the level of receipts to be generated by existing tax measures. In addition, the Mayor determines annually how much income will result from each new source of revenue and from each increased rate in existing sources of revenue.

Every operating budget must provide for the discharge of any debt or the expenditure of any surplus which resulted from the previous fiscal year. The Mayor's estimate of deficit or surplus is binding upon City Council. (2-300 (3))

The annual operating budget ordinance consists of appropriations from ten funds: General Fund, Water Fund, Sewer Fund, County Liquid Fuels Tax Fund, Special Gasoline Tax Fund, Employment and Training Fund, Parking Facilities Fund, Grants Revenue Fund, Aviation Fund, Community Development Fund. Money can be allocated to each office, department, board and commission from more than one fund.

The preparation of the annual operating budget ordinance must be completed 90 days before the end of the fiscal year, which runs from July 1 to June 30. (4-101, (b))

The responsibility for preparing the operating budget lies with the Mayor and the Finance Department. The head of the Finance Department is the Finance Director, who is appointed by the Mayor from a list of three candidates submitted by the Finance Nominating Panel.

In order to prepare the operating budget for the next fiscal year, the Finance Department obtains operating budget requests from every office, department, board and commission. Under the direction of the Mayor, the Finance Director then makes inquiries and investigations as to the financial needs, expenditures, estimates, or revenues of any officer, department, board or commission requesting appropriations from the city. The Finance Department and the Mayor then complete the proposed annual operating budget.

The Mayor's budgetary discretion is, however, limited to a degree. The Home Rule Charter stipulates that, (1) .5% of all money appropriated to civil service employees must be appropriated to the Personnel Director and Civil Service Commission; (2) the operating budget ordinance must contain an "adequate" appropriation to the Auditing Department; and (3) the budget must contain an appropriation to the Auditing Department to pay for the consulting services of an outside firm of CPA's, which will audit the expenditures of the Auditing Department. (2-300 (4)) If the City Controller, who heads the Auditing Department, feels that the sum appropriated to his department is inadequate, he may petition any Court of Common Pleas of Philadelphia for a mandamus to City

Council to force Council to appropriate an adequate amount.

Lump Sum Budgeting

Allocations to an office, department, board or commission are made in the form of *lump sums*. This means that the total amount of money to be allocated to any office, department, board or commission from a given fund is broken down into objects of expense. These are: (1) personal services, (2) purchase of services, and (3) materials, supplies and equipment. The Mayor may include any additional objects of expense which he deems necessary. (2-300 (2))

If an office, department, board, or commission receives an allocation from more than one of the ten funds, its allocation from *each fund* is broken down into objects of expense separately, in different sections of the budget ordinance. For example, Section 2 of the 1980 Proposed Operating Budget Ordinance consists of allocations from the General Fund. Section 2.5 reads as follows:

2.5, to the Managing Director:

Personal Services.....	2,947,435
Purchase of Services.....	1,584,112
Materials, Supplies and Equipment	<u>111,290</u>
	4,642,837

Section 8 of the same ordinance consists of allocations from the Grants Revenue Fund. Section 8.4 reads as follows:

8.4, to the Managing Director:

Personal Service.....	327,147
Purchase of Services.....	16,373
Materials, Supplies and Equipment	11,910
Employer's Share of Fringe Benefits	<u>30,994</u>
	386,424

The Mayor, with the help of the Finance Director and the department heads, decides how money is to be spend within each object of expense.

Supporting Detail

In addition to preparing the proposed operating budget ordinance, the Mayor, with the Finance Department's assistance, prepares *supporting detail*. This is the line item budget which indicates how the Mayor intends to distribute money within each object of expense in the operating budget. Supporting detail, however, is *not binding*. The Mayor may change any line item throughout the fiscal year. He forwards the supporting detail to City Council after he sends the proposed operating budget ordinance.

Responsibility for the preparation of the capital program and budget lies with the executive branch. The Finance Department receives requests from individual departments for projects which the departments feel should be initiated. The Director of Finance refers these requests to the City Planning Commission. Specialists on the staff of the City Planning Commission meet with members of each department. Later, the department heads meet with the Planning Commission. The Commission then adopts a Recommended Capital Program.

This is presented to the Mayor, who submits it to City Council with any changes which he recommends. (6-105 (d))

1. Long-Range Budgeting

Presently, the operating budget consists of allocations for only one year. At various times since the adoption of the Home Rule Charter in 1951, this annual budgeting of operating expenses has been criticized. In addition, a wide range of alternatives have been suggested.

Problem: The Limited Capacity for Long-Term Planning in the Operating Budget

While testifying at the 1973 City Charter Revision Commission public hearings, Donald W. Kramer, Chairman of the Task Force on Governance and Accountability of the Citizen's Council on Charter Revision, noted that the annual approach to budgeting affords the city administration only a limited capacity to plan long-term operating programs. During the same hearings, Tom Gola, former City Controller, informed the members of the Revision Commission that, whereas most projects in the six-year capital program have an effect upon the operating budget, no corresponding long-term operating budget exists. Indeed, for every project in the six-year capital program, the increase in annual operating expense is estimated and the projected source of finding is given. However, no long-range operating program exists which clearly states administrative priorities. In particular, there is no indication of which, if any, programs will be eliminated to make room for new ones; nor is there any indication of how much revenue will be spent in the future on services which require no physical improvements.

Proposal: Provide a Two-Year Projection of Operating Expenditures Beyond the Current Operating Budget

Three approaches to the long-term budgeting of operating expenses have been suggested. At the public hearings mentioned above, Mr. Kramer proposed that the Mayor provide at least a two-year projection of operating expenditures beyond the current operating budget. Thus, the public would have a better idea of how much money will be available in the future and what services will be provided.

Proposal: Provide for the Preparation of a Four-Year Projection of Operating Expenditures

A second approach, discussed as a possible Charter revision by the Pennsylvania Economy League and Bureau of Municipal Research in 1957, is the use of a quadrennial operating budget. This requires the preparation of a four-year operating plan for each term in office. The report by the PEL/BMR notes that this would allow the administration to accumulate budget surpluses during the first three years for use during the fourth. It is not intended to permit a deficit early in the quadrennium to be paid during later years. The four-year approach requires the Mayor to set forth detailed fiscal plans for the entire

four-year period. Thus, both City Council and the public will be equipped to judge the administration's performance throughout the quadrennium.

Proposal: Provide For a Six-Year Operating Program

A third possibility is the use of six-year operating program, the first of which is the operating budget. This alternative was proposed in 1970 by Clifford Brenner, Graham S. Finney and Donald Rappaport, who co-authored *Survival and The Pursuit of Happiness*. The authors believed that this plan, in addition to providing criteria against which citizens could judge candidates for office, would lead to "pointed discussion of the hard decisions that must be made among precious resources in the years ahead". Furthermore, it would provide maximum co-ordination between capital development and the ensuing operating expenses. The adoption of a six-year operating program was also suggested by Tom Gola when the former City Controller testified before the City Charter Revision Commission in 1973. Mr. Gola advocated the use of an independent planning commission similar to the City Planning Commission, which prepares the capital program, for the preparation of the long-range operating program. In judging such a change, one must consider that it constitutes a shift away from the strong Mayor form of government, which deliberately places responsibility for the operating budget in the hands of the Mayor only.

Problem: No Co-ordination Between Municipal and School Budgets

Another aspect of long range budgeting which is discussed in *Survival and The Pursuit of Happiness* is the present lack of co-ordination between the budget responsibilities of the City of Philadelphia and those of the School District of Philadelphia. The authors contend that this lack of co-ordination gives rise to the following problems: (1) Where the School District is concerned, those who spend the money, the School Board, are not the same ones who must raise it: City Council. As a result, Council is accountable for education in Philadelphia, whereas the authority to provide that education lies elsewhere: with the School Board. (2) There is no united local front seeking state and federal funding for education in Philadelphia. In addition to this structural problem, the School District of Philadelphia's financial crises have diminished the attention given to long-term financial planning.

Proposal: Incorporate All Municipal and School Services Into One Long-Term Program and Budget

The authors of *Survival and The Pursuit of Happiness* suggest that all municipal and educational services be incorporated into one long-range program and budget. This *Financial Plan and Development Program* would include the following: the six-year capital program for the City of Philadelphia, including the one-year capital budget; the corresponding capital program and budget for the School District of Philadelphia; a six-year operating program for

both the City and School District of Philadelphia, including a one-year operating budget for each. Such a document would provide the electorate with a clear and coherent statement of present and future municipal and educational priorities.

Problem: Overestimating of Intergovernmental Receipts

Proposal: The Annual Operating Budget Should be Balanced and Include Only Money Which is Already Available

Consideration should be given to a recommendation which was voiced by Thomas Foglietta at the public hearings held in 1973 by the City Charter Revision Commission. The former City Councilman suggested that the annual operating budget be balanced including only the money which is already available. Unanticipated funds would then be included in an addendum to the budget.

Each of the above proposals could prevent the spending of funds which might never materialize and would allow both City Council and the public to scrutinize the administration's priorities more closely than is presently possible.

B. Capital Program and Budget

The capital program contains all expenditures which are to be made during a six year period in order to finance any physical public improvements, along with the related preliminary surveys and studies, which are expected to last longer than five years. It also includes the purchase, over the same six year period, of property of a permanent nature and equipment for any public improvement when first erected or acquired. (2-303)

Specifically, the capital program consists of the following: each project to be undertaken; the subsequent change in annual operating cost and annual debt service; the amount already spent on each project; the expected total six-year cost of the project, along with both the expected cost in each of the six years and the method of financing each project each year; and the anticipated cost of completing the project after the six year period.

The capital budget is the first year of the six-year program. It is the authorization to spend the funds allocated for that year. Both the capital program and capital budget must be adopted before the operating budget may be adopted.

1. Financing of Capital Projects With Operating Revenue

Problem: Paying for the Capital Program

As early as 1957, the Pennsylvania Economy League and Bureau of Municipal Research noted that the Home Rule Charter contains no provision concerning the use of operating revenues to finance capital programs. However, varying amounts of operating revenue are transferred to the capital budget each year. The PEL/BMR report indicates that it has been suggested that the Charter contain a clause which establishes a firm municipal policy concerning the spending of operating monies on capital projects.

Proposal: Amend the Charter to Require That a Percentage of the Capital Budget Be Financed From Operating Revenue

Proposal: Amend the Charter to Require That a Percentage of the Operating Budget Be Spent on the Capital Program

The PEL/BMR lists two possible approaches: (1) Mandate by Charter that a certain minimum percentage of the capital budget be financed by operating revenue; or (2) require that a specified minimum percentage of the operating budget be spent on capital improvement. Each of these alternatives would guarantee that at least some portion of the capital budget would be paid for immediately. On the other hand, it can be argued that the financing of capital improvements is a matter of policy which should be decided yearly in light of current revenue and expenditure patterns.

C. Federal and State Revenue

The extent to which budgeting is done by objects of expense varies according to the source of revenue. All *municipal* revenues are budgeted strictly according to objects of expense within the offices, departments, boards and commissions to which the money is allocated. Some *intergovernmental* funds, however, are budgeted differently.

Intergovernmental revenue is money that comes from the federal and state governments. It can be broken into two classifications: *general* revenue sharing grants and *special* revenue sharing grants, or block grants. General revenue sharing grants can be used by the recipient government to finance any programs; special revenue sharing grants can be used according to the recipient government's priorities within broad functional areas.

In Philadelphia, general revenue sharing money is kept in the General Fund and in the Grants Revenue Fund. All appropriations from the General Fund are broken down according to objects of expense within the offices, department, boards and commissions to which funds are allocated. The same is true for the Grants Revenue Fund, with the exception of two appropriations.

The two exceptions are the Law Enforcement Assistance Agency, or LEAA, grant and the provision for "unanticipated" grants. Unanticipated grants cover all general revenue money which is unexpectedly granted to the city during the fiscal year. LEAA and unanticipated grants are allocated to the Finance Director. This money is not broken down according to the officers, boards, departments and commissions to which it will be allocated, nor is it broken down into objects of expense. Distribution of this money to municipal offices, departments, boards, and commissions, as well as distribution into objects of expense, is the responsibility of the Finance Director, whose only guidelines are those imposed by the specific federal or state law which grants the money to the city.

Just as all general revenue sharing grants are not allocated uniformly, special revenue sharing grants also

vary. The two block grants which are allocated to Philadelphia are the Community Development, or CD, grant, and the Comprehensive Employment and Training Act, or CET A, grant. Each consists of two parts: the segment which has already been allocated by the federal or state governments, and the *contingency* portion, which is expected to be allocated during the upcoming fiscal year.

Community Development funds are allocated the same way that municipal funds are. The money is appropriated to offices, departments, boards and commissions. It is also broken down into objects of expense. Although all contingency CD funds are appropriated to the Finance Director in the annual operating budget ordinance, they are allocated in the same manner as other CD funds. This is made possible by the stipulation that CD contingency funds be spent only after City Council adopts a separate ordinance which authorizes their expenditure. In this ordinance, the money is appropriated according to the offices, departments, boards and commissions which will receive it, as well as according to objects of expenses.

Comprehensive Employment and Training Act funds are allocated solely to the Office of the Managing Director. The Managing Director then determines how to distribute this money among offices, departments, boards and commissions and among objects of expense within each. The same is true for contingency CETA revenue.

1. Budgeting of State and Federal Funds

Problem: Managing Federal Grant Programs

In recent years, federal and state funds have comprised an increasingly large portion of Philadelphia's operating budget. For example, intergovernmental revenue accounted for approximately one-third of this budget in fiscal 1978. Sixty percent of this intergovernmental revenue was provided by the federal government. However, much of this money is budgeted differently than is municipal tax revenue. Various proposals have been made to improve the methods presently used to budget federal funds.

Proposal: City Council Should Establish A Comprehensive Procedure To Review All Major Federal Grant Programs in the City

In April of 1979, the Pennsylvania Economy League addressed this issue in *Philadelphia City Council's Role in Setting Policy For Spending Federal Grants*. The PEL recommends that City Council establish a procedure for reviewing major federal grant programs. This review should occur before the Mayor submits his proposed operating budget ordinance. This would allow City Council to participate in the decision of whether or not to apply for individual federal grants. The PEL notes that such a decision is a policy-making issue and is therefore one in which the legislative body should participate. Furthermore, PEL indicates that one possible procedure would be the holding of public hearings by City Council, during which the administration would be required to discuss the accomplishments of individual programs and the public would have a chance to voice their opinions concerning

the same projects. The PEL also suggests that City Council require the Administration to submit annually to Council a report indicating in detail how intergovernmental funds were spent.

Problem: Lack of City Council Input on Decisions Concerning Transfer of Money Within Large Federal Grants

Proposal: The Director of Finance Should Be Permitted To Transfer Intergovernmental "Unanticipated Grants" to City Agencies and Among Objects of Expense Only If Those Grants Are Less Than \$100,000

In the PEL report, it is noted that the Director of Finance is presently permitted to transfer "unanticipated grants" to other city agencies and among objects of expense. The PEL recommends that this policy be altered so that the Director of Finance's authorization to transfer this federal money to other city agencies be limited to amounts less than \$100,000. Transfers exceeding \$100,000 should be accomplished by a separate ordinance. The division is made at \$100,000 because these grants account for most of the federal unanticipated funds. For example, in 1978 grants of \$100,000 or more comprised only twenty percent (20%) of the whole number, but more than eighty percent of the unanticipated grants money. The PEL favors retention of the present practice of shifting funds within a given grant among objects of expense in order to retain sufficient administrative flexibility. Furthermore, the PEL notes that the delay involved in preparing a transfer ordinance before spending large federal grants would be minimized if the executive branch were to forward this transfer ordinance to City Council when applying for each grant.

In addition to the above proposal, the adoption of a similar approach to the budgeting of Law Enforcement Assistance Agency, or LEAA, funds warrants consideration.

Problem: Lack of Council Review of CETA Funds

Proposal: Appropriate All Comprehensive Employment Training Act (CETA) Federal Money to City Agencies in the Operating Budget Ordinance

Besides its recommendations concerning unanticipated grants, the PEL also suggests a revision of the current method of budgeting Comprehensive Employment Training Act, or CETA, funds. Presently, all CETA funds, including contingency money, are appropriated to the Managing Director, who distributes them among departments and objects of expense. In their document, the PEL proposes that this federal money be appropriated to city departments instead of to the Managing Director in the operating budget ordinance. Such a change would allow City Council to participate in all major policy decisions regarding both the level of spending on payroll and the distribution of payroll among city departments.

An alternative to the PEL's suggestion would be the stipulation that CET A funds which are available when the operating budget is passed be appropriated to individual

departments and the contingency funds be appropriated to the Managing Director, with the requirement that contingency funds not be spent until a transfer ordinance is approved by Council. This would subject CET A funds to the same Councilmanic review that CD funds presently undergo.

Problem: Appropriating "Unanticipated Grants"

Proposal: Amend the Charter to Permit an Increase in the Level of Spending When Intergovernmental "Unanticipated Grants" Materialize

The PEL also suggests another approach to the budgeting of funds which are not yet available when the operating budget is passed. Presently, these funds are appropriated as unanticipated or contingency funds because the Home Rule Charter stipulates that the level of municipal spending not be increased during the fiscal year, except in case of an emergency. The PEL recommends that the Charter be amended to permit an increase in the level of spending when unanticipated grants materialize. This would eliminate the present need for the appropriation of funds which the city does not yet possess. In fact, there have been only three fiscal years since 1967 during which as much unanticipated grants money materialized as was appropriated in the operating budget ordinance.

In addition to the PEL's recommendation, consideration should be given to a budgeting process whereby the level of spending could be increased when contingency CD or CETA funds materialize. Again, this would eliminate the need for appropriating funds before they have been granted to Philadelphia by the federal government.

II. REVIEW AND APPROVAL PHASE

Upon receipt of the *proposed operating budget* City Council has sixty (60) days to review it and approve an operating budget ordinance. At the same time, Council must furnish the needed tax measures to balance the budget. (2-300, 2-302)

The "Committee of the Whole" of City Council holds hearings with department heads before the budget ordinance is passed. It is here that the individual department heads must justify their budget requests. In addition, public hearings are held at which anyone may give his opinion upon the proposed allocation of funds which Council is reviewing.

City Council's ability to alter the budget is restricted to objects of expense. It may alter the amount appropriated to any object of expense in the proposed budget. (2-300 (3)). The result of reviewing supporting detail and holding hearings is to give Council more detailed knowledge of the administration's priorities than that received by simply reviewing individual objects of expense.

After reviewing the Mayor's proposed annual operating budget, supporting detail, and testimony given by department heads and citizens, City Council adopts the annual operating budget ordinance.

the same projects. The PEL also suggests that City Council require the Administration to submit annually to Council a report indicating in detail how intergovernmental funds were spent.

Problem: Lack of City Council Input on Decisions Concerning Transfer of Money Within Large Federal Grants

Proposal: The Director of Finance Should Be Permitted To Transfer Intergovernmental "Unanticipated Grants" to City Agencies and Among Objects of Expense Only If Those Grants Are Less Than \$100,000

In the PEL report, it is noted that the Director of Finance is presently permitted to transfer "unanticipated grants" to other city agencies and among objects of expense. The PEL recommends that this policy be altered so that the Director of Finance's authorization to transfer this federal money to other city agencies be limited to amounts less than \$100,000. Transfers exceeding \$100,000 should be accomplished by a separate ordinance. The division is made at \$100,000 because these grants account for most of the federal unanticipated funds. For example, in 1978 grants of \$100,000 or more comprised only twenty percent (20%) of the whole number, but more than eighty percent of the unanticipated grants money. The PEL favors retention of the present practice of shifting funds within a given grant among objects of expense in order to retain sufficient administrative flexibility. Furthermore, the PEL notes that the delay involved in preparing a transfer ordinance before spending large federal grants would be minimized if the executive branch were to forward this transfer ordinance to City Council when applying for each grant.

In addition to the above proposal, the adoption of a similar approach to the budgeting of Law Enforcement Assistance Agency, or LEAA, funds warrants consideration.

Problem: Lack of Council Review of CETA Funds

Proposal: Appropriate All Comprehensive Employment Training Act (CETA) Federal Money to City Agencies in the Operating Budget Ordinance

Besides its recommendations concerning unanticipated grants, the PEL also suggests a revision of the current method of budgeting Comprehensive Employment Training Act, or CETA, funds. Presently, all CETA funds, including contingency money, are appropriated to the Managing Director, who distributes them among departments and objects of expense. In their document, the PEL proposes that this federal money be appropriated to city departments instead of to the Managing Director in the operating budget ordinance. Such a change would allow City Council to participate in all major policy decisions regarding both the level of spending on payroll and the distribution of payroll among city departments.

An alternative to the PEL's suggestion would be the stipulation that CET A funds which are available when the operating budget is passed be appropriated to individual

departments and the contingency funds be appropriated to the Managing Director, with the requirement that contingency funds not be spent until a transfer ordinance is approved by Council. This would subject CET A funds to the same Councilmanic review that CD funds presently undergo.

Problem: Appropriating "Unanticipated Grants"

Proposal: Amend the Charter to Permit an Increase in the Level of Spending When Intergovernmental "Unanticipated Grants" Materialize

The PEL also suggests another approach to the budgeting of funds which are not yet available when the operating budget is passed. Presently, these funds are appropriated as unanticipated or contingency funds because the Home Rule Charter stipulates that the level of municipal spending not be increased during the fiscal year, except in case of an emergency. The PEL recommends that the Charter be amended to permit an increase in the level of spending when unanticipated grants materialize. This would eliminate the present need for the appropriation of funds which the city does not yet possess. In fact, there have been only three fiscal years since 1967 during which as much unanticipated grants money materialized as was appropriated in the operating budget ordinance.

In addition to the PEL's recommendation, consideration should be given to a budgeting process whereby the level of spending could be increased when contingency CD or CETA funds materialize. Again, this would eliminate the need for appropriating funds before they have been granted to Philadelphia by the federal government.

II. REVIEW AND APPROVAL PHASE

Upon receipt of the *proposed operating budget* City Council has sixty (60) days to review it and approve an operating budget ordinance. At the same time, Council must furnish the needed tax measures to balance the budget. (2-300, 2-302)

The "Committee of the Whole" of City Council holds hearings with department heads before the budget ordinance is passed. It is here that the individual department heads must justify their budget requests. In addition, public hearings are held at which anyone may give his opinion upon the proposed allocation of funds which Council is reviewing.

City Council's ability to alter the budget is restricted to objects of expense. It may alter the amount appropriated to any object of expense in the proposed budget. (2-300 (3)). The result of reviewing supporting detail and holding hearings is to give Council more detailed knowledge of the administration's priorities than that received by simply reviewing individual objects of expense.

After reviewing the Mayor's proposed annual operating budget, supporting detail, and testimony given by department heads and citizens, City Council adopts the annual operating budget ordinance.

A. Councilmanic Budget Research and Analysis Staff

Problem: Ineffective Budget Analysis in Council

Pursuant to the Home Rule Charter, City Council is required to review the proposed operating budget ordinance and, within sixty (60) days of receiving this proposed legislation, to adopt an operating budget ordinance. For the fiscal year 1980, the level of municipal spending will exceed 1.5 billion dollars. Because Council must review the expenditure of such a large sum of money in a relatively short period of time, consideration should be given to the adoption of a Charter requirement stipulating that Council be assisted by a Budget Research and Analysis Staff.

Proposal: Amend the Charter to Require That a Budget Research and Analysis Staff Assist Council in Budget Evaluation

Such a staff would be required to assist the Councilmen in evaluating the proposed operating and capital budgets, as well as the capital program. Specifically, the staff should have two functions: (1) evaluate *already existing* municipal programs and make recommendations to Council as to the advisability of continuing individual projects; and (2) evaluate proposed *new* municipal programs and make recommendations to Council concerning the usefulness of each project in light of its cost.

Incorporated into this analysis should be an evaluation of the administration's utilization of federal and state funds. This would facilitate the implementation of the previous recommendations that Council review all intergovernmental grants and approve, via transfer ordinance, the spending of those grants which are appropriated to Philadelphia after the operating budget is adopted. Furthermore, consideration should be given to the requirement that City Council, in conjunction with this staff, publish periodically its analysis of the accomplishments of each department in light of that department's original objectives. Such a requirement would enable the public to judge the administration's ability to achieve its goals. In addition, it would afford the public an opportunity to examine the amount of analysis done by City Council in evaluating the proposed budget before adoption.

It is important to note that this proposal calls for a budgetary staff whose purpose is to make recommendations to City Council *as a whole*. It is less desirable to provide individual councilmen with staffs due to the possibility that such staffs would become tax-supported reelection committees.

B. Council Reduction of Mayor's Estimate of Revenue

Problem: Possible Mayoral Overestimate of Revenue

For each fiscal year, the Mayor estimates the revenue which will be generated by the existing taxes and by any new taxes or increase in the current tax rates. The purpose for requiring Council to accept these estimates is, according to the annotation to Section 2-302 of the Home Rule Charter, "to prevent over-optimistic estimates by the body which must impose taxes as to the amount of

revenue which will be yielded". However, it has been noted that the Mayor is also capable of over-estimating both the revenue to be generated from existing tax sources and that which will result from state or federal legislation. This observation was made by the Pennsylvania Economy League in its 1976 report, *How Philadelphia Can Avoid Following In The Steps of New York City*. The report gives a year-by-year comparison of the total amount of revenue budgeted to the total amount actually received. This reveals a deficit during every fiscal year from 1970 to 1976, ranging from \$2 million to \$85 million.

Proposal: Amend the Charter to Allow Council to Reduce the Mayor's Estimate of Revenue

In order to avoid annual deficits City Council would need to reduce appropriations or increase tax rates when it feels that the Mayor's revenue forecasts are unrealistically high. The PEL notes that (1) such action is considered by some to be illegal, since it would lead, on paper, to a budgeted surplus, which the Charter specifically forbids; and (2) others contend that the proper interpretation of the Charter's intent is to avoid deficits, in which case Council has the right to either raise taxes or reduce appropriations when it feels that the Mayor's revenue estimates are too high. (It is important to note that this interpretation extends only to the raising of taxes and reduction of appropriations, not to the lowering of taxes or increasing of appropriations.) The PEL suggests that this matter be included on the next Charter-revision agenda since it involves a fundamental Charter issue.

C. Transfer Ordinance

Once the operating budget is adopted, it can be amended via the adoption by City Council of a *transfer ordinance*. To do so, either the Mayor or a member of Council must introduce a transfer bill in Council. (Usually a member of the executive branch does so.) The president of City Council refers the proposed legislation to the Committee on Appropriations. This committee is responsible for holding public hearings concerning the bill. The committee then amends the bill as it sees fit and refers it favorably out of committee. At this point, it must be printed as reported, advertised, and made available to the public. Two sessions of Council must elapse before all members of City Council vote upon the proposed transfer ordinance, unless Council votes to suspend its rules, in which case only one session need elapse.

If Council approves the bill (a majority of nine out of seventeen members is needed), the ordinance is sent to the Mayor. If the Mayor signs the bill, it becomes law. However, he may alter any portion of it. (The transfer ordinance contains object of expense, not line-item, appropriations. It is in this form because it is intended to amend the annual operating budget ordinance which contains appropriations to objects of expense.) If the Mayor does not act within ten (10) days or before the next meeting of Council (whichever comes last), the bill becomes law.

If the Mayor alters one or more of the objects of expense amounts, Council can override his veto by a two-thirds vote (twelve of seventeen members). This vote must occur within seven day days of the Mayor's veto. If Council does so, the bill becomes law upon the vote by two-thirds of Council. If the Mayor alters some part of the ordinance and Council accepts this change, a majority vote of Council is needed to pass the ordinance in its altered form. It is then sent back to the Mayor, who signs it, and it becomes law. (2-202) It is important to note that transfer ordinances can be enacted during the last four months of the fiscal year *only upon recommendation of the Mayor*. (2-300 (6)) The Mayor's ability to alter transfer ordinances is limited by Section 2-202 of the Home Rule Charter, which stipulates that he may not reduce the amounts appropriated to the Auditing Department for compensation of auditors regularly employed by that department or to the Personnel Director and Civil Service Commission.

Councilmanic review and approval of the proposed capital program and budget is similar to that of the operating budget. Upon receipt of this proposed legislation, City Council holds hearings with department heads and their staffs. It also conducts public hearings. Council can add or delete programs from the Recommended Capital Program. To delete a program, however, Council must first request a recommendation from the City Planning Commission. (Council is *not* bound by the Planning Commission's recommendations.) Council then adopts a capital program and capital budget. (2-303 (2))

Once the capital program and budget are passed, they can be amended by a majority vote of Council. The amendment process begins with a department head, whose request is sent to the Managing Director's office and to the Finance Director's office. The City Planning Commission is then asked to make a recommendation concerning the amendment request. If the recommendation is favorable, the request is sent to the Mayor, who forwards it to Council. Council then votes upon it. The Mayor's power to veto an amendment to the capital programs and budget is the same as his power to veto an ordinance transferring funds in the operating budget ordinance. It is important to note that Council can only amend the capital budget to such an extent as the amendment conforms to the capital program. (2-303 (3))

III. ADMINISTRATION PHASE

After the operating budget is adopted, municipal funds must be allocated on a line-item basis within the adopted objects of expense. Responsibility for doing so lies with the Mayor, Finance Director, and the heads of each department, board, office, and commission. The Mayor is particularly influential in this area because he appoints the heads of these governmental units.

A. Pre-audit Function

When any officer, department, board or commission wishes to spend money within an object of expense, a *disbursement requisition* is submitted through the Finance

Department to the Auditing Department, which is headed by the elected City Controller. The Auditing Department then approves the requisition if: (1) that expenditure is within the operating budget ordinance or a transfer ordinance and (2) the fund from which that expenditure is to be made contains unencumbered funds to finance the expenditure. Otherwise, the Auditing Department disapproves the disbursement requisition. This process is referred to as a *pre-audit*. If the requisition is approved, the auditing department issues a warranty to the City Treasurer authorizing him to issue a check for the approved expenditure. (6-400 (a))

B. Post-audit Function

The City Controller is also responsible for a *post-audit*. That is, the auditing department audits annually the receipts (from the City Treasurer) and disbursements of every office, department, board and commission in the City. In addition, the Controller determines which city agencies to audit. Police and firemen's pension funds receiving state revenue must also be audited annually. A special audit of any office, department, board or commission is made whenever the Controller deems it necessary, and whenever the Mayor calls upon the Controller to conduct such an audit. The auditing department must send an audit report to City Council and to the Mayor after every audit it conducts. (6-400 (c))

The administration of the capital budget is similar to that of the operating budget. Disbursement requests are sent to the auditing department. The Controller pre-audits, issues disbursement warranties, and post-audits.

C. Board of Estimates

In addition to changes in the present budgetary process, consideration should be given to the adoption of a method using a budgetary control unit, namely, one which utilizes the Board of Estimates. Presently, the Board of Estimates is used in many large cities, including Baltimore and New York. In each city, the Board is given different powers and duties.

In Baltimore, the Board of Estimates consists of the Mayor, President of City Council, Comptroller, City Solicitor, and Director of Public Works. Each is elected, except the City Solicitor and the Director of Public Works, both of whom are appointed by the Mayor. Each member's vote is weighed equally.

The Director of Finance, a mayoral appointee, prepares the preliminary operating budget under procedures established by the Board of Estimates. This budget contains: (1) estimates submitted by all municipal agencies for the ensuing fiscal year; (2) the Finance Director's recommendations concerning these estimates; (3) all other estimates for appropriations to be made in the next fiscal year other than those to be used for capital improvements; and (4) any other material which the Board requests. The Board establishes the procedures according to which all municipal agencies must co-operate with the Director of Finance. The Planning Commission submits a Recommended Capital Budget and a Recommended Capital Improvement

Plan to the Board of Estimates. These are then forwarded to the Director of Finance and the Commissioners of Finance, who return them to the Board with their report and recommendation.

The Board of Estimates must publish the preliminary operating budget and the recommended capital budget and program. The Board also holds public hearings concerning the estimates in each.

After public hearings are held, the Board of Estimates adopts a proposed ordinance of estimates. This consists of the operating and capital budgets which the Board adopts after hearing testimony at the public hearings. The capital budget section consists of the first year of the long-range capital improvement plan. The operating budget portion of the proposed ordinance of estimates consists of an amount to each municipal agency. The total for each agency is broken down into a proposed amount for each program, purpose, activity or project to be undertaken by the agency.

In addition to the proposed ordinance of estimates, the Board also prepares the following: (1) a breakdown of the amount appropriated to each agency into expenditures for: personal service; materials, supplies and equipment; debt service; and any other objects of expense which the Board deems necessary; (2) a comparison of the appropriations contained in the proposed ordinance with the following: the amount requested by the municipal agency; the amount appropriated for the current fiscal year; and the amount spent during the prior fiscal year; (3) detailed information regarding the source of funds which are to be used to meet the appropriations; (4) the long-range capital improvement program; (5) a statement containing the following: the revenues which the city can reasonably expect to receive during the next fiscal year; the difference between the total of these revenues and the total amount appropriated; the estimated taxable basis for the next fiscal year for the levy of full rate property taxes; the rate for the levy of full rate property taxes which will be necessary to raise sufficient revenue to cover total anticipated expenditures; new sources of revenue and new rates on the existing sources of revenue which the Board feels should be adopted; (6) a message from the Mayor explaining the major emphases and objectives of the city's budget for the next fiscal year; (7) any other information which the Board deems necessary.

The Board of Estimates then submits the proposed ordinance of estimates to City Council. The Board, however, also plays a significant role in the administration of the ordinance of estimates which the Council adopts. That is, the Board of Estimates is responsible for soliciting bids for contracts for materials, supplies, equipment, services, or work for any purpose, unless otherwise specified in the charter. The Board is also responsible for awarding all city contracts to the lowest responsible bidder.

Another city which uses a Board of Estimates is New York City. Its Board consists of the Mayor, Comptroller, President of Council, and the Presidents of each of New York's five boroughs. Each member is an elected official.

The Mayor, Comptroller, and President of Council cast four votes each, whereas the other five members cast only two votes each. However, the Mayor may not participate in any action or vote of the Board of Estimate on the *budget*.

The Director of the Office of Management and Budget prepares the executive budget. This consists of an estimate from every municipal department. A copy is sent to the Board of Estimates, Council, and each community board and borough board. Each community board then holds public hearings concerning the departmental estimates, after which it sends a statement of its priorities and recommendations to the Mayor, Board of Estimates, Council, Director of Management and Budget, and the pertinent borough board. Each of the five borough boards then sends a similar statement to the Mayor, Board, Council, and Director of Management and Budget. The Comptroller and Commissioner of Finance send a statement to the same officials.

After the statements are received by the officials mentioned above, a joint Board of Estimate-Council committee holds preliminary hearings, at which department representatives are required to testify, if called upon to do so. Also, any citizen may testify concerning the departmental estimates. After the preliminary hearings are held, the Mayor draws up a preliminary budget, which he submits to the Board of Estimates and to the Council.

The preliminary budget consists of amounts appropriated to each agency for personal service and those not appropriated for personal service. The former are broken down according to the particular program, purpose, activity or institution to which each is allocated, whereas the latter are broken down according to agency only. The preliminary budget is, however, accompanied by a separate line-by-line breakdown of each unit of appropriation.

The preliminary budget is accompanied by a budget message, which consists of the following: (1) an explanation of the major programs, emphases, and objectives of the budget; (2) estimates for all revenue receipts and recommendations for any changes in the revenue and fiscal sources and operations for the city; and (3) for each existing program, forecasts of expenses for the succeeding three fiscal years at existing levels of service; forecasts of revenue by source from existing sources of revenue for the three ensuing years; and for each new or expanding program, a three year forecast of annual recurring costs after such program is fully implemented.

After the Mayor submits his preliminary budget to the Board of Estimates and to city council, public hearings are held. They may be joint or separate.

The Board of Estimates and Council may then increase, decrease, or omit any unit of appropriation in the budget. By separate, concurrent vote of each body, they must adopt a single budget, which is returned to the Mayor, who may veto any appropriation. The Mayor's veto may be overridden by a two-thirds vote of either the Board or Council, accompanied by a majority vote of the other.

Glossary

Annual Operating Budget Ordinance --contains the appropriations which finance the operating expenses for the city of Philadelphia.

appropriation --the authorization to spend money. *Auditing Department* --headed by the elected City Controller. Its functions are to pre-audit and post-audit the city's books, as well as conduct investigations when necessary.

Board of Estimates -(Baltimore) -responsible for preparation of Baltimore's budget.

Board of Estimates -(New York) -takes part in the review and approval phase of the budgetary process in New York.

Capital Budget -contains all appropriations for capital improvements during one fiscal year.

Capital Program -six-year extension of the capital budget.

City Controller -elected official who heads the auditing department.

City Council -legislative branch of Philadelphia's government.

City Planning Commission -independent commission which prepares the capital program and budget.

Committee of the Whole -contains all members of Philadelphia's City Council.

Community Development Grant -federal grant allotted to Philadelphia.

Comprehensive Employment and Training Act Grant --federal grant allocated to Philadelphia,

contingency fund -fund which receives money from the federal government. Money is appropriated from this fund before it is allocated to Philadelphia from the federal government.

disbursement requisition -sent by departments to the City Controller to request the spending of money. *federal revenue* -money which the federal government allocates to the City of Philadelphia.

Finance Department -municipal department which prepares the operating budget in Philadelphia.

Finance Director -appointed by the mayor to head the Finance Department.

general revenue sharing -process by which the federal government allocates money to Philadelphia. There are no restrictions on this money.

HRC --the Home Rule Charter (1951).

Law Enforcement Assistance Administration Grant --federal grant which allocates money to Philadelphia for use in fighting crime.

lump sum -objects of expense into which the allocations in the operating budget are broken down. They are: personal services; purchase of services; and materials, supplies and equipment.

Managing Director -manages the city's ten service departments. He is appointed by the Mayor.

Mayor -chief administrative and executive officer of the City of Philadelphia. He is elected every four years and may not serve more than two consecutive terms.

pre-audit -process by which both the Finance Department and City Controller check each disbursement requisition to see that it (1) pertain to an ordinance; and (2) spends money which is in a fund that contains more than the amount requested.

post-audit -process by which the City Controller checks that each expenditure made during the fiscal year was made legally.

Special Revenue Sharing -federal grant to Philadelphia which must be used within a broad functional area.

state revenue -money which the Commonwealth allocates to Philadelphia.

supporting detail --line item budget which the mayor submits to city council along with the proposed operating budget. Supporting detail is NOT binding.

transfer ordinance -method by which the operating and capital budgets are amended during the fiscal year.

unanticipated grant -grant containing appropriations which are budgeted, but the source of which is unknown at the beginning of the fiscal year.

Chapter Three

The Legislative Branch (The City Council)

History

Since 1951 there have been two major Charter reviews: the 1957 Pennsylvania Economy League Report and the study commissioned in 1973 by Mayor Frank L. Rizzo. This chapter reviews and summarizes the structure and function of the City Council under the present Charter, identifies specific problem areas with respect to the Council, and describes and critically analyzes proposed solutions to those problems.

Article II of the Philadelphia Home Rule Charter deals exclusively with the legislative branch of municipal government. The identified problems fall into four basic categories and will be dealt with as follows: A. The structure of City Council; B. The Structure and Organization of Committees; C. The Election Process; and, D. Council's Investigatory Power.

The City of Philadelphia adopted the Home Rule Charter in 1951. Under home rule, the General Assembly granted Philadelphia autonomy; many matters requiring action in Harrisburg could now be handled locally. In general, Philadelphia is provided with the authority to exercise all powers of local government and complete powers of legislation and administration in relation to its municipal functions. This includes any additional powers which the General Assembly may grant in the future.

The Charter established the strong Mayor/weak Council" form of government: the Office of the Mayor was significantly strengthened. Powers previously defined as legislative were redefined by the 1951 Charter as administrative, and were subsequently invested in the Mayor and his appointed subordinates. City Council, prior to the Charter, was in a position to: (1) determine line by line the form and content of budget appropriations; (2) approve all major contracts and establish salaries for city employees; (3) approve all administrative appointments; (4) substantially control the Civil Service Commission; and (5) control the internal administrative organization of the City's agencies. All of these prerogatives were abolished in 1951.

Presently, the Mayor, as chief executive, determines the total level of municipal spending. The Mayor proposes a lump sum budget, broken down agency by agency, and submits this to Council. Council's role is restricted to adjusting lump sum appropriations among city agencies; it cannot, however, alter the total monetary

sum proposed by the Mayor. The only major appointive position which requires Council approval is the City Solicitor; Council has this authority because the Solicitor acts in a legal capacity to the Council as well as to the Mayor. There is an independent Civil Service Commission, and Council is prohibited from soliciting or recommending the appointment of any person to a position in the Civil Service. (10-100)

The Charter made City Council the legislative branch of the government and altered its scope of authority. The Council's functions influence a wide range of public affairs in Philadelphia. Council is vested with the power to enact a variety of ordinances. Many of these deal with revising city zoning, purchasing and selling real estate, and regulating commerce. For the first eight months of the fiscal year, Council has the power to transfer funds among city agencies, but in the remaining four months such action must be initiated by the Mayor. All ordinances are subject to approval by the Mayor; City Council may override the Mayor's veto by a two-thirds vote.

I. THE STRUCTURE OF CITY COUNCIL

The 1951 Home Rule Charter provides that there shall be seventeen members of Council. The City of Philadelphia is divided into ten council districts of approximately equal populations. Ten Councilmembers are elected by district (each elector has the right to vote for one District Councilmember) and seven from the city at-large. Each is selected for a term of four years with no limitation as to the number of terms which may be served. A voter may vote for no more than five Councilmembers-at-large, or for two fewer than the total number in Council. The primary election system assures that no more than five Councilmembers-at-large will be from anyone party and that there will be minority party representation in Council of at least two members.

The Charter requires that the Council redistrict the city every ten years, within six months after the official U.S. Census Report is published. Councilmembers' salaries must be withheld until Council is in compliance with this stipulation. A Councilmember must be a U.S. citizen, a city resident for at least one year prior to election, and at least twenty-five years of age when elected to office. District Council members must be residents of the districts from which they are elected.

The first meeting following the election of Council, a President is selected from among its members; in addition, a Chief Clerk, who is not a member, is selected. The annual salary for Council through 1979 is as follows: Councilmember, \$25,000; President of Council, \$45,000; Majority Leader, \$27,000; and Minority Leader, \$26,000.(1)

Problem: The Inability of Council in its Present Size to Represent the Electorate

A question much discussed in the 1973 Charter Revision Commission (CRC) hearings concerns whether or not Philadelphia's City Council adequately represents the community. The inadequacy of the size of Council was identified as a problem by such persons as Senator Joseph Clark,(2) a former Mayor; Donald Kramer,(3) Chairman of the Task Force on Governance and Accountability of the Citizens' Council on Charter Revision; Charles Bowser,(4) executive head of the Philadelphia Urban Coalition; and Common Pleas Judge Raymond Pace Alexander. For the most part, the witnesses relied on their experience and knowledge of the city and government of Philadelphia. Representative of this testimony were Charles Bowser's thoughts on the subject:

My experience convinces me that all intracity districts should be uniform and much smaller than they are. Councilmanic districts average 190,000 persons. That makes them larger than 88 of the nation's largest 153 cities. ...If it is necessary for these cities of less than 190,000 to govern municipal departments, how can a single District Councilman adequately represent 190,000 residents? (*Charter Revision Commission 1973 Testimony*, p. 92)

This idea is summed up in a statement by Senator Joseph Clark: "I sensed a growing feeling that neighborhoods are underrepresented."

Proposal: Increase Council Size

The general theme of the suggestion involves 'significantly increasing' the size of Council. Most proposed retaining the seven Councilmembers-at-large and splitting the present Council districts in half (or smaller), thus providing for an increase of anywhere from ten to twenty additional District Councilmembers. Senator Clark made a specific suggestion to "increase the number of District Councilmen from ten to twenty, without touching the seven Councilmembers-at-large". (*1973 Testimony*, p. 9) Judge Alexander felt an even greater Council size increase was necessary; he proposed that the Councilmembers-at-large be increased to ten and the total Council be increased to thirty. (*1973 Testimony*, p. 1113)

There has been both a local and a national trend toward smaller councils.⁶ In the City of Philadelphia, the 1885 Charter provided for a Common Council of 97 members and a Select Council of 48; the 1919 Charter decreased this number to 22; and the present Charter further reduced this figure to 17. The size of council depends upon

the size of the municipality and the number of divergent elements which require representation. Within these limits it was held that a council should be as small as possible.(7) In the opinion of some citizens, inadequate representation is an important problem with a small council, as stated in the CRC testimony.

The U. S. Census Bureau records give Philadelphia's population for the last thirty years:

1940: 1,931,334

1950: 2,071,605

1960: 2,002,512

1970: 1,948,609

Given these statistics, it is invalid to cite 'increasing' population as a sufficient condition for increasing council size since the city's population has remained essentially unchanged since 1940. To justify changing Council's size, one must conclude that the framers of the 1951 Charter erred in their original recommendation or that the city's composition has changed since 1940 and that this "change" is reason to alter Council size.

In the 1957 Report written by the Pennsylvania Economy League (Eastern Division) entitled, "A Discussion of Some Proposed Revision of the Home Rule Charter: The 1951-1956 Experience", Council size was not mentioned as an issue. The issue emerged only recently.

In contrast to Joseph Clark and Charles Bowser, former Mayor Richardson Dilworth and former Councilman Thacher Longstreth believed that the Council should be kept small. A portion of their 1973 testimony follows:

Dilworth:

I feel very strongly that there should be no change in City Council. I think history has shown that a large City Council inevitably leads to a good deal of corruption. So the responsibility of its members is diluted, and the hanky-panky is much easier to conceal in a large City Council.

"There is no reason either, why Councilmen cannot represent constituencies of 200,000 people. After all, our Congressmen represent constituencies of 400,000, and they have to be more than certainly one-half of their time in Washington, D.C. (*1973 Testimony*, p. 150)

Longstreth:

I don't believe that the District Councilmen should be increased in number. I think that the present number is a sufficient one and I think it has been demonstrated all over the country that reducing the number of constituents for an elected official does not necessarily improve either his performance or his service to the people. I think that is a matter of record. (*1973 Testimony*, pp. 431-2)

In general, there were two points of view expressed in the 1973 Charter Revision Commission testimony. Those who want to see a larger Council felt this change would provide for better representation in Council. On the other hand, the proposed change was viewed as a regressive

step, placing Philadelphia back in the pre-1951 era when Council was large and unwieldy.

It can be argued that better quality leadership would bring better representation: the quantity of Councilmembers may not be the pivotal factor regarding an increase in quality. It appears to be the experience of most cities that a smaller council has better served the electorate. Indeed, important aspects of the 1951 Charter was the rejection of the large and unwieldy Council structure. Thus, to increase size might further disperse the authority and responsibility of a Council already substantially limited by the 1951 Home Rule Charter.

Proposal: Establish District Offices; the Mini-City Variation

In order to make Council more responsive to the people of Philadelphia, several persons have suggested establishing a district office for each Councilmember in his respective district. This suggestion stems from the testimony of the 1973 Charter Revision Commission hearings of Richardson Dilworth, (8) David Cohen, (9) James Tate, (10) and Thomas Foglietta. (11)

In keeping with the idea of establishing district offices, Charles Bowser introduced the 'mini-city' concept. Although he did not equate this broader concept with the establishment of district offices, the proposed result, of providing better service, was identical. According to Mr. Bowser, the 'mini-city' is a self-sufficient unit existing within the city. He defined it as being "similar to the present Councilmanic District in its relationship to the total city in most areas of this operation, but that it be assigned the management of its own sanitation, health, and police functions". (1973 *Testimony*, p. 369)

District Offices

According to advocates of this idea, the purpose of establishing district offices is to promote a closer rapport with the voters, providing them with a more accessible place to bring problems, complaints and suggestions. In this way, government would be brought closer to the people who would be fully represented.

Though the idea of establishing district offices was generally accepted throughout the 1973 *Testimony*, there appear to be two major obstacles to this proposal:

1. *Financial Cost.* To set up and maintain effective district offices would cause a substantial city expense. Stated James Tate, "...I think they (district offices) have great value. They will be expensive. And whoever proposes them should at the same time suggest some means of supporting them financially". (1973 *Testimony*, p. 112) Establishing district offices would probably necessitate an increase in Council's staff.

As an alternative to additional staff, Councilman Foglietta suggested a reshuffling of present employees. Given the problem of already understaffed offices of Councilmembers, this is an idea that may be pointless. (Note: The problem of an understaffed Council will be dealt with in the text proposal.)

2. *Time Element for the District Councilmember.* This consideration was brought up by Council member Harry

P. Jannotti who stated that it would be virtually impossible to maintain two offices and run both well. He offered an example of a typical day of a member of Council as follows, "...Most Councilmen come in here like myself at 8:30 or 9:00 o'clock, and leave here by 5:00 o'clock, strictly in their office, strictly to do the duties that we have, that are growing and mounting. In addition to that, a lot of us are out at community meetings all night". (1973 *Testimony*, p. 94)

Mini-City Concept

Charles Bowser recommended that the mini-city units be half the size of present Council districts. Each unit would have one City Council representative and a non-paid advisory council. (Paraphrase of Bowser's proposal, 1973 *Testimony*, p. 378) He felt that these self-sufficient units would foster neighborhood solidarity and thus serve to unite the city. However, given the desired degree of self-sufficiency proposed by Mr. Bowser for each unit, the idea, if effected, could deter any attempt to unify the city. Since there already is a tendency toward sectionalism in Philadelphia, implementing this proposal could serve to further divide the city.

Establishing district offices may be a sound idea, however, the two impediments discussed above remain. The time problem, inadequate staffing, and the part-time job classification of a Councilmember, are at the root of the problem. These will be dealt with below.

The intended results of the mini-city proposal were better service, a community spirit, and in general, a unified city. These developments are, of course, desirable; yet, given the tendency toward sectionalism, the establishment of independent, self-sufficient units with the City might serve to hamper efforts toward unification.

Proposal: Increase Council's Staff; Reclassify the Office of Councilmember as a Full-time Position

The need to equip Council with an adequate and competent staff has been a persistent problem for the past thirty years. It was first identified in the 1957 Charter Revision Report by the PEL and the Bureau of Municipal Research which stated:

The Council is not adequately staffed. Until mid-1956, the Council did not see fit to provide itself with any effective expert assistance in developing city policy. Then, it created a small staff of budget analysts to assist in its review of the budget (both revenues and expenditures), and the over-all municipal policies which it represents. These analysts were to implement Council's budgetary investigations with the techniques necessary for Council to "audit" city expenditures for performance - checking accomplishment by city agencies against their original work programs. They certainly helped to make Council's budgetary review in the fall of 1956 more meaningful and their success (sic) would suggest that Council has made a notable beginning, but no more than that, in equipping itself with staff

to meet the full challenge of policymaking. ("A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience", Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division), November, 1957, p. 37)

Although Council has the power (2-403) to equip itself with additional administrative/advisory assistance, it has not consistently utilized this power. Arguably, Council has not felt a great need to increase its staff, or has been apprehensive about increasing the size of its staff for fear it may be subjected to criticism generated by public fears of waste in municipal spending.

In the 1973 Charter Revision Testimony, Councilmember Iannotti is quoted as saying that he already considered his own position a full-time one. (See testimony already cited.) Richardson Dilworth added to this by saying:

I know when I first came to the city, forty-six years ago, I don't think a Councilman spent a half a day a week on his job. Today, any Councilman at all has to spend more than one-half his time, and some. ... spend virtually all their time. ...the people are going to demand more and more that a Councilmanic job be pretty nearly a full-time job. (1973 *Testimony*, p.127)

The argument for making the position of Council member a full-time one is even stronger in the context of the proposals made to specify new responsibilities for Council. Thus, adding more staff; putting Council closer in touch with its district constituents through district offices; enhancing Council's role as a kind of "ombudsman" (discussed later in this section); and, increasing the duties of At-Large Councilmembers (discussed later), all point to much more time-consuming duties for council, in addition to their present activities.

If some or all of these suggestions were instituted, then it is probable that Councilmembers would be compelled to concentrate full attention on Council duties. A Charter amendment to fix a full work-week may be necessitated. The probable result could be a better informed, more effective and more representative council.

Proposal: Revise the Charter to Include a Stronger Conflict of Interest Law

The 1973 Charter Revision Commission considered testimony concerning a conflict of interest amendment. Mayor Dilworth stated his concern that a Councilmember having a direct financial interest in a proposed ordinance could affect that ordinance. (1973 *Testimony*, p. 119) Attorney David Cohen testified at the same hearings that the conflict of interest amendment should deal with disclosure requirements. (1973 *Testimony*, p. 715)

Any extra-legislative business activity on the part of Councilmembers could present an opportunity for some to profit from their office. Such abuses of power prompted the State Legislature in 1978 to enact Act 170, the new ethics law which replaced the 1968 Code of Ethics.

Act 170, which prohibits the use of local and state public office for personal financial gain, covers restricted activities, financial disclosure requirements, and the creation of an Ethics Commission. The restricted activities section concerns gifts, the use of confidential information, contracts with Commonwealth agencies and post-government employment.

While restrictions on activity may be onerous, the disclosure of information germane to the public increases accountability without circumscribing the officer's actions. Act 170 requires that all public officials disclose all sources of income, gifts, honoraria, major creditors and real estate sold or leased to the Commonwealth. Dollar amounts, however, do not have to be disclosed. The members of Council must file annual disclosure statements with the City of Philadelphia.

The new ethics law also establishes a Commonwealth Ethics Commission which conducts investigations, interprets the ethics law and provides penalties of up to \$10,000 and/or five years imprisonment for any public official who uses his or her office for personal gain and penalties of up to \$1,000 and/or one year imprisonment for violation of the financial disclosure or restricted activities provisions. Additionally, failure to file the financial interest disclosure statements will result in forfeiture of salary. Likewise, a candidate for office may neither file a candidacy petition nor be sworn into office without first having filed.

The rationale for a conflict of interest amendment considered by the Charter Commission may no longer be relevant. Act 170 prescribes certain activities, requires full financial disclosure, and provides sanctions for failure to comply. A conflict of interest amendment would duplicate the Commonwealth's requirement. Act 170 should be given a chance to function; if, subsequently, it is necessary, the Charter could be amended to include a strong ethics rule.

Problem: The Ineffectiveness of the Councilmembers-at-large and the Minority Party Representation Requirement

The effectiveness of the Councilmembers-at-large and of the minority requirement are problems which surfaced in the 1957 PEL Report and during the 1973 Charter Revision hearings. The minority requirement of the Charter safeguards the principle that representation must exist in government for other political parties in the city.

Proposal: Variations on Proposals to Eliminate the Councilmembers-at-large (and the Minority Requirement) and/or Alter the Composition of Council

There were numerous proposals concerning the Councilmembers-at-large and the minority requirement, most of which center on eliminating at-large members. Listed below are a few examples of actual proposals:

1. Abolish the At-Large Council seats (1973 *Testimony*, Tate -p. 206f)

2. Abolish the Councilmembers-at-large and increase by seven the number of District Councilmembers. (1973 *Testimony*, Cohen -p. 804)

3. Retain the At-Large members, but reduce their number and replace with district seats. (1973 condensed *Report*, p. 5)

4. Increase the Councilmembers-at-large to ten, and the District Councilmembers to twenty. (1973 *Testimony*, Alexander -pp. 1129-30, 1149)

It was the view of the 1949 Charter Revision Commission that a Council composed of both At-Large and District Councilmembers would provide the best assurance for obtaining the most representative legislative body. In this way, both district and city-wide representation would be preserved: the former through the provision for District Councilmembers, the latter through the Councilmembers-at-large.

There was a strong suggestion that the office of Councilmember-at-large could be abolished for the following reasons:

1. The Councilmembers-at-large have failed to do the job set forth in the 1951 Charter: they do not represent city-wide interests. According to James Tate, "the original idea of the Councilmen-at-large was that they should be experts, or at least given the responsibility of handling particular fields on a broad scale on a city-wide basis. ...This has not been done. ..." (1973 *Testimony*, p. 280; also, see pp. 206-10)

2. The people holding this office are essentially "powerless." (1973 *Testimony*, Kramer -p. 6130)

3. The Councilmembers-at-large have no clear grasp of their duties and responsibilities; this is because, in part, the Charter prescribes no specific duties. (1973 *Testimony*, Cohen -p. 7550 (2-100, annot.))

Those opposed to the abolition of At-Large Councilmembers could argue that the Councilmembers-at-large indeed are on protection against 'logrolling' among districts.* Even if all 'logrolling' were not eliminated, the mere presence of the At-Large members might prevent any such large-scale activity. (1973 *Testimony*, Foglietta -p. 990-2, Dilworth -p. 112) Further, Councilmembers-at-large could insure that citywide interests would be pursued. (1973 *Testimony*, Bowser -p. 391)

Those advocating elimination of the Councilmembers-at-large contend that, though theoretically the composition of Council is ideal, the implementation of this theory has failed miserably. Practical examples of at-large accomplishments have been cited, and it has been asserted that the at-large members serve a function vital to the needs of the city. (An example was given by Thomas Foglietta in the 1973 *Testimony*, pp. 990-2: A group of people from a particular district requested that a playground be built. Because of a political disagreement between the group and the District Councilman, the play

ground was never built. A Councilmember-at-large intervened and solved the dispute.) Those advocating eliminating at-large seats question whether this example (and those like it) can be considered a "city-wide problem".

It is clear that one function of the Councilmembers-at-large is to insure minority party representation in Council. It is maintained that the minority requirement serves a vital function, for it provides a safeguard for minority political rights. This safeguard has the intended purpose of keeping the majority party alerted to its responsibilities to the people.

Opponents may argue that if the voters choose Council members of one party, then it is the voters' democratic right to be allowed that Council make-up. (1973 *Testimony*, p. 613) A more serious objection was brought up in the 1957 Pennsylvania Economy League Charter Revision Report, which questioned whether the minority requirement does in fact guarantee expression for the minority. The Report raised two substantive points:

1. One key political leader has stated the view that it is a relatively simple technique for certain nominees of the minority to make 'arrangements' with leaders in the majority party for the throwing of a few votes in each of several divisions to the minority candidate or candidates. This 'adoption' of candidates by the majority assures their receipt of a larger number of votes than other minority candidates and thereby frustrates the guaranteed representation of the minority party.

2. Because of the operation of the majority caucus, most Councilmanic decisions are in fact made outside the Council chamber; and while the minority representatives have a legal right to introduce and vote upon pending legislation, their voice is unimportant and is not brought to bear at the point at which decisions are in fact being made.

Thus, the presence of a minority in the Council has not to date constituted an effective representation of a contrary view to that of the dominant party. ("A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience", Bureau of Municipal Research and Pennsylvania Economy League, November, 1957, pp. 23-4)

It is clear from the 1973 Charter Revision *Testimony* that a major proposal concerning the Councilmembers-at-large is to eliminate or reduce their numbers. However, the proposal to abolish all at-large seats and replace them with seven additional district seats might increase sectionalism in the city. The proposal to decrease the number of Councilmembers-at-large and to increase district seats by the same amount could serve to lessen any authority the Councilmembers-at-large already possess and, consequently, might make the remaining At-Large members even less important.

Arguably, the rationale of having At-Large members of Council is sound. They can serve as an important

* "logrolling": "the trading of votes by legislators to secure favorable action on projects of mutual interest."

check on the District Councilmembers and insure that city-wide interests are adequately represented, This would depend on the quality of the individual Councilmember-at-large. Second, they can serve to ensure minority representation in Council.

It may be that the At-Large office cannot be retained without change. Specific duties and responsibilities could be assigned and delineated in the Charter. The 1973 condensed *Report* gives two major proposals concerning the responsibilities of the At-Large members. These include: assigning them to the current Committee on Education in which they would serve as the focal point of educational responsibility of the Council, and creating a Committee for Public Hearings consisting of all At-Large Councilmembers. The idea is that they would serve as a kind of "legislative ombudsman", providing an outlet for the public to offer suggestions before a committee of Council. These proposals will be discussed under Section 11, ORDINANCE CONSIDERATION: STRUCTURE AND ORGANIZATION OF COUNCIL COMMITTEES.

Problem: The City Council President Can Succeed the Mayor, but Is Not Elected City-wide

The city-wide election of the President of City Council was identified as an issue in the 1973 *Charter Revision Commission Testimony*. Representative of this discussion were the testimonies of James Tate(12) and Thomas Foglietta.(13)

Proposal: Amend the Charter to Make the City Council President an At-Large Elected Office

Though several different proposals had been suggested, the major discussion centered on the proposal to make the President of City Council an At-Large elected office. Presently, the President is elected by the members at the first meeting of the new term. One alternative to this was suggested by James Tate: that the Mayor should preside over Council meetings. (1973 *Testimony*, p. 200)

In properly viewing this issue, one must note the exact functions and responsibilities the President of City Council assumes in addition to his duties as a District or At-Large member. In the event of the death, resignation or incapacitation of the mayoral incumbent, the President of City Council assumes the responsibilities of the Mayor's Office. The President appoints the heads and all members of the fifteen council committees and is a member of all committees. The President determines the committee to which a bill will be sent, once it is given a first reading in the weekly meeting of Council. The President is instrumental in influencing the passage of legislation that affects both the operating and capital budgets of the city and, in general, all areas affecting city life. (1973 *Testimony*, Foglietta -p. 750) The President is the only Council member that has a staff of more than one administrative assistant. There is a substantial salary difference between the President and all other Councilmembers: as of 1979, the President receives \$45,000; a member receives \$25,000. Since Council determines its own salaries (2-100), this salary difference is indicative of the

opinion of Council that the President is important. The President can exercise tremendous influence in all areas of Council functioning even though specific additional powers are not defined in the Charter.

Arguments For

There were two major reasons cited for making City Council President an elected office. First, since City Council President is successor to the Mayor in the event of death, resignation or incapacitation, it was thought that the position should be elected. Thomas Foglietta stated, "... (election of City Council President) would mean that the person next in line to succeed the Mayor would have been chosen by all of the people of the city, rather than elected, as is the present practice, by a majority of the caucus of whichever political party happened to dominate in Council." (1973 *Testimony*, pp. 736-7)

In general, the electorate could have a greater voice in determining the successor to the Mayor. In this way, the successor would represent the majority of voting Philadelphians, not just the voters in one Council District. (N.B. Since the Home Rule Charter has been in effect, the President of City Council has always been a district councilmember.) Also supporting this view is that some of the most populated cities in the United States with a Mayor-Council form of government have an elected City Council President. Second, Thomas Foglietta stated that, "the City-wide election of a President of City Council would tend to upgrade the role of Council, both as an independent arm of government and as an on-going legislative body". (1973 *Testimony*, p. 736)

Arguments Against

There are several reasons why it was believed that the City Council President should not be a publicly elected office. Making City Council President an elected office would necessitate creating an additional place on an already crowded election ballot. Thus, to amend the Charter, it must be absolutely clear that an additional elected position is warranted.

Foremost among the reasons for opposition to this change was Council member Harry P. Jannotti's contention that it is important that Council have as its President someone who can work well with its members, since the Councilmembers must work closely with the President, who: is instrumental in insuring that a good working relationship exists.

Given present election practice (the Mayor and City Council are elected at the same time), it is also possible that the position of City Council President may be viewed as merely a "vice-Mayor" position rather than as head of the legislative body. In any event, this proposal may deserve study. A review of the practice in other large cities which elect the Council President, such as New York and Baltimore, could be helpful.

Proposal: The Tate Alternative

Arguments For

An alternative to election of the President of City Council was former Mayor James Tate's suggestion that

the Mayor preside over City Council. He reasoned that this would be an improvement because it would help to promote a unity of thought and program. He stated, "And I do think it would get us away from this constant bickering, etc. .." (1973 *Testimony*, p. 201) He also stated, in support of his proposal, "I do not think that the so-called separation of powers or the checks and balances system, as we learned in the seventh and eight grades. ..apply to city government". (1973 *Testimony*, p. 200)

Arguments Against

It is clear that the Mayor's office and City Council represent two distinct branches of government, namely, the executive and the legislative branches. If government were functioning properly, one branch would serve as a check upon the other; the two should never be combined. The appropriateness of Mr. Tate's solution is in doubt because the Mayor's office and City Council perform different functions. There are and should be open avenues for exchange of information, ideas, and opinions; but, to allow the Mayor to preside over Council meetings may not be the way this exchange should be facilitated. This could weaken the structure of government and undermine the system of checks and balances. Given the strong Mayor/weak Council form of government in Philadelphia, more mayoral influence in Council may be undesirable. With respect to election of City Council President, it has been recommended that Council members continue to elect the President, subject to the stipulation described below.

A workable suggestion was given by Mr. Momjian. (1973 *Testimony*, p. 744) This proposal would require City Council President to be selected by Council from At-Large members. This would limit Council to choosing from among only seven of its members. This proposal could satisfy both contentions, namely, City Council President would theoretically be elected by the city At-large, should the President become Mayor; and Council would retain the option of choosing its own President.

Another idea was to retain the current method of electing a City Council President. In the event that the Mayor's office was vacated, the President of City Council would assume all responsibilities, but only until a special city-wide election for Mayor could be arranged. This would involve amendment the election code and dealing with some financial issues concerning the special election for Mayor.

II. ORDINANCE CONSIDERATION: THE STRUCTURE AND ORGANIZATION OF COUNCIL COMMITTEES

A. The Current Functioning of Council

1. Enactment of Ordinances

Under the Rules of Council, regular, public sessions of Council are held weekly, usually on Thursday morning at 10:00 a.m. Every proposed ordinance is in the

form of a bill introduced by a Council member who indicates whether the ordinance is introduced 'by request' of the voters in a particular district, by a Councilmember, or "jointly" with other members of Council. A first reading of a bill is given by the Chief Clerk in the regular weekly Council session. Before a bill can be considered by the Council as a whole, it must be referred by the President or other presiding officer to an appropriate committee, considered at a public hearing and public meeting, be reported by the committee, printed as reported, distributed to the members of Council, and be made available to the public..

Notice of the public hearing must be advertised at least five (5) days in advance of the hearing in three daily newspapers having the largest paid circulation in the city. (Note: Bills authorizing zoning changes are an exception; they must be advertised at least fifteen (15) days prior to the public hearing.) A meeting follows the hearing; it is at this time that the bill(s) is discussed only among committee members. Public meetings are required. ("Sunshine Law" -Act No. 175, approved July 19, 1974)

When a bill is reported favorably out of committee, either as originally introduced or amended, the transcripts of the hearings and meetings are delivered to the office of Chief Clerk of Council where they are kept available to the public for inspection, reading or copying, but not removal from the Clerk's office. All committee records are filed with the Chief Clerk at the end of each calendar year and are kept for a period of two (2) years. Notice of the bill(s) reported from a committee must be advertised by title not less than five (5) days before the bill comes up for final consideration. It should be noted that at least two meetings of City Council must occur before a final vote is taken. This may be reduced to one meeting if Council votes to suspend its Rules. This is frequently done. Bills amended by Council must, prior to final action, be printed again, as amended.

Passage of a bill requires the favorable vote of majority of all members of Council (9), except that a bill authorizing the incurrence of indebtedness requires a two-thirds favorable vote of all members or a total of twelve. It becomes law upon the approval of the Mayor. If the Mayor does not act within ten (10) days after he receives it, the bill becomes law. Council may override a mayoral veto by a two-thirds vote of all its members. The Mayor also may disapprove or reduce any item or items of any ordinance-making appropriations, except the items in the annual operating budget ordinance-making appropriations.

Before enacting any Bill which authorizes the acquisition or sale of real estate; or which affects the city's Physical Development Plan, the capital program zoning ordinances, street plans, or land sub-division plans, Council is required by the Charter to apply to the City Planning Commission for its recommendations. If the Commission makes no recommendations to the Council within a specified period (45 days on some bills and 30 days on others), its approval is presumed. Council is not bound by these recommendations. (2-303(2); 2-307)

2. Committee Organization

Council has established fifteen standing committees. The President of Council appoints the chairpersons, vice-chairpersons and members of all standing committees and is a member of every committee. The President may fill all vacancies that may occur from time to time. Of the fifteen standing committees, twelve are assigned to general functional areas of municipal government and activities. These include: (1) Commerce, Navigation and Airport Facilities, (2) Control of Narcotics and Drugs, (3) Labor and Civil Service, (4) Law and Government, (5) Licenses and Inspection, (6) Public Health and Welfare, (7) Public Property and Public Works, (8) Public Safety, (9) Recreation, (10) Streets and Service, (11) Transportation and Public Utilities, and (12) Education.

Three committees are major policy committees and overlap the others. They are:

Committee on Finance — revenues, taxes, Sinking Fund, indebtedness and amendments to the Capital Program and Capital Budget.

Committee on Appropriations — appropriations and transfers of funds, and all matters affecting the receipt, disbursement, transfer or other use of city money, and amendments to the operating budget.

Committee on Rules — recommendations designed to improve and expedite the business and procedure of Council and its committees; and proposals to Council concerning any amendments to the Rules deemed necessary. It is concerned with the organization of Council, including the rules of parliamentary procedure. It may consider any matters of a general nature, for example, all matters relating to municipal development and zoning, the City Planning Commission, Housing and Redevelopment Authorities, and the Art Commission. The President of Council is head of this committee.

The city's annual financial program (Capital Program, Capital Budget and the Operating Budget) are considered by the Committee of the Whole. Amendments to these programs are considered by the Committee on Finance or the Committee on Appropriations. The Committee on Appropriations is primarily concerned with proposed transfers of funds in the operating budget; the Committee on Finance with amendments to the Capital Budget and the Capital Program.

3. Problems in Ordinance Consideration and Structure and Organization of Council Committees

Although the manner of ordinance consideration and the structure and organization of council committees are generally regarded as acceptable, a few suggestions were made in the 1973 Charter Revision Commission Report which the Commission believed would help to improve the present functioning of Council. The 1973 *Report* identified three areas of concern: (1) the manner of ordinance consideration, specifically, what happens if a bill is pigeon-holed in a committee, (2) the public hearings of the committees and their accessibility to the public, and (3)

restructuring the composition of the membership of the Committee on Education.

Problem: The Inefficiency in Ordinance Consideration

This issue was discussed in the 1973 Charter Revision Commission Report, with a focus on how a bill is reported out of committee. It was alleged that a bill can easily be pigeon-holed by a particular committee member and thus delay positive action.

Proposal: Invest in any Four Councilmembers- at-large the Power to Require a Bill to be Reported out of Committee if the Proposed Bill Has Not Been Acted upon by the Committee within 30 Days from its Submission

(Source: 1973 Charter Revision Report, p. 7)

Presently, the Rules of Council specify that if a committee unduly delays reporting any bill or resolution, the committee may be discharged from further consideration by a majority vote of members of the Council. Subsequently, the Council by its vote, must refer the bill to another committee (or to the Committee of the Whole), or have it printed and placed on the calendar for action. (Rules of Council, p. 13)

Even though there already is a procedure for forcing consideration of a bill in a committee, this method is rarely used. The following is taken from the 1973 Charter Revision Commission testimony:

Chair: "Is there a method in the present rules of the Council whereby if a committee does not present a bill for action by the Council that another Councilman can get up and say I want to know why that committee did that? And what the vote on it was and who voted for what? Can they say that?"

Cohen: "There have been efforts under the present rules to achieve that. They usually don't prove very fruitful. It's an extraordinarily difficult thing to do under the present rules of City Council." (1973 *Testimony*, pp. 770-771)

It has been found that if a particular committee member desires that a certain bill not be considered, that member can effectively block the legislative process. Proponents of this proposal argue that by giving any four Councilmembers-at-large (four being a majority of seven) the power to force consideration of a bill, the present legislative process would be expedited. It would provide for immediate results, and could prevent a bill from dying in committee. It is also thought that this power should be invested specifically in the Councilmembers-at-large, since by focusing on a bill delayed in committee, these members would provide a service to the city.

On the other hand, it is believed that the present method of requiring a majority of Council to force consideration of a bill should remain as is. It can be argued that if a bill were important, the Council as a whole would see to it that the bill would be acted on. (This proposal

does not do away with the present Rule of Council; it would add an option.)

Advocates of this proposal believe that investing the Councilmembers-at-large with this power might improve the legislative process and add a specific function to Council.

Problem: Inadequate Citizen-Council Communication

This issue was identified by the 1973 Charter Revision Commission Report. Currently, citizens may express their personal views only at public hearings of committee meetings and/or may contact their individual District Councilmember or a Councilmember-at-large.

Proposal: Create a Permanent Committee for Public Hearings Consisting of the At-Large Councilmembers
(Source: 1973 Charter Revision Commission Report, p. 5)

The meetings of this Committee would be general in nature; any concerns could be presented. Because of the wide range of issues this Committee would deal with, the best persons to handle the job could be the Councilmembers-at-large, who are responsible for dealing with city-wide issues. The results of the meetings would give the At-Large Council members tangible evidence which could be reported and acted upon. In this way also, the Councilmembers-at-large would be helping individual District Councilmembers define issues in their districts, and they would deal with city problems.

Proponents of this proposal argue that because virtually all public hearings of committee meetings are held during the working hours of the day, it is difficult for a working citizen to attend. This limits potential citizen contribution which Council might consider in legislative matters before them. It is important that an avenue for citizen-Council communication exists and that citizens have means to express opinions and criticisms. Proponents of this proposal believe that the creation of a Committee for Public Hearings would provide this means. A wider range of citizen concerns would be brought to the attention of the entire Council. In this way, the voters would have an opportunity to participate in the affairs of the city.

On the other hand, it is believed that this responsibility would burden the Councilmembers-at-large and that there are already a sufficient number of avenues for citizen participation. Creation of a new committee would add to the already large number of Council committees.

In sum, this proposal is advanced for two reasons. First, there is dissatisfaction among Philadelphia citizens: there is a feeling that citizens are inadequately represented. (See discussions in the first section of this paper.) Creation of a Committee for Public Hearings would provide a defined, consistent way this could be accomplished. Second, since it is generally held that Councilmember-at-large responsibilities are general, assigning them to a Committee for Public Hearings would give Councilmembers-at-large a specific power: to introduce pressing issues in Council.

Problem: The Mixed Membership of the Committee on Education

Proposal: Assign the Seven at-large Councilmembers to the Committee on Education
(Source: 1973 Charter Revision Report, p. 5)

The Committee on Education presently consists of both At-Large and District Councilmembers. Proponents of this proposal believe that the seven Councilmembers-at-large should be assigned to this committee. They reason that because the concerns of the At-Large members are those of the entire city and education is a city-wide responsibility, the Councilmembers-at-large should be assigned the responsibility for education. In this way, the large members could serve as the focal point of educational responsibility in Council.

On the other hand, it can be argued that the determination of where educational responsibility in Council should rest is a relative matter. It is not clear that public education is a city-wide responsibility; schools are, after all, located in neighborhoods. Generally, there are three possibilities; educational responsibility could be granted to only the Councilmembers-at-large, to the District Councilmembers, or to both.

Though this proposal may be sound, the arguments for assigning *only* Councilmembers-at-large to the Committee on Education may be insufficient. Educational responsibilities *may* be viewed as a city-wide interest; and thus, assigning only Councilmembers-at-large is an arbitrary action. It is questionable to assume that the Councilmembers-at-large (as opposed to either a mixture of both At-Large and District Councilmembers) would perform better.

This may not be a major matter of concern, nor would implementing this proposal cause a decisive change in the present effectiveness of the committee. Presently, a District Councilmember is head of this committee. Important matters regarding the school system, such as appropriation of money, are automatically referred to the Committee of the Whole, so the major portion of Council's education responsibility is not even dealt with by the Committee on Education.

The issue must be viewed in light of what role Council presently has with respect to its responsibility toward the school system. It must be shown that the job Council currently performs is inadequate; that Council ought to assume a greater responsibility toward the Philadelphia school system; that the performance of the Council as a whole and, specifically, the Committee on Education, is unsatisfactory; and that the city would be better served only if the Councilmembers-at-large were assigned full education responsibility for the Council. These arguments have not been demonstrated by this proposal.

III. THE ELECTION PROCESS

Every four years the voters of Philadelphia elect the seven Councilmen-at-large, while each of the ten Councilmanic Districts elect one Councilmember. (2-100)

The election of City Councilmembers occurs concomitantly with that of the Mayor.

Problem: The Inequity in the Filling of Vacancies

If a vacancy occurs, the President of Council must issue a "writ of elections" to the Board of Elections for the unexpired term. Although the election must be held on the day specified in the writ, the President of Council may exercise his discretion to set the special election date as the next primary, municipal, or general election after the vacancy occurs. (2-100) However, there is no need to issue a writ of election where the expiration of the Councilmember's term would coincide with the date the President of Council properly selects for the election (*Butcher v. Tate*, 4 D. & C. 2d 660 (1955)). Since regular elections occur annually, a Councilmanic seat theoretically could remain vacant for a period of up to a year.

Proposal: Amend the Charter to Provide that When a Council Vacancy Occurs, Only Those Voters Belonging to the Party of the Prior Councilmember be Allowed to Elect the Successor.

The annotation to Section 2-101 of the Charter states that where a vacancy occurs in the office of a minority representative, it is not required that the vacancy be filled from the minority party as such a requirement would prove impracticable. (2-101, annot.) Moreover, in 1954, the City Solicitor ruled that the Charter did not restrict the election of a successor to the original party. (1957 *PEL Report*)

If the minority requirement is to be retained, proponents hold that this proposal should be incorporated into the Charter, as it is consistent with the guarantee of minority representation.

Proposal: President of Council Should Appoint Councilmember-at-large to Be Responsible for the Affairs of a District with a Vacancy When That Vacancy Occurs During the Last Year of a Councilmember's Term
(1973 *Charter Revision Commission Report*, p. 6)

As indicated above, it is possible for a District Councilmanic seat to remain vacant for a period of up to one year before it is filled. This proposal may be sound, because it would ensure that the citizens of a district would not be left without representation because of the occurrence of a vacancy after the date when a special election would have been possible.

Problem: Unrestricted Councilmanic Terms

Proposal: Stagger Councilmanic Elections so That Half the Councilmembers Are Elected on Alternate Years
(1973 *Testimony* -Kramer, p. 622)

At present, the members of Council are elected concurrently with the Mayor to serve a four-year term. During the 1973 Charter Revision Commission hearings, Attorney Donald Kramer stated that he thought that the staggering of councilmanic elections would provide another opportunity for public consideration of city governmental

policy. Moreover, since not all Councilmembers would have to run in the same election as the Mayor, there would be less reluctance within the majority party to criticize the administration. (1973 *Testimony* Kramer, p. 622)

Proponents also maintain that the staggering of councilmanic elections may be a good idea since the costs of carrying out complex elections would certainly be outweighed by the benefit of having an additional point of contact whereby public policies could be debated.

Proposal: Limit Councilmembers to Two Terms

At present, Councilmembers may continue to serve for an indefinite number of four-year terms. During the 1978 Charter debate concerning the mayoral two-term limit, it was suggested that Councilmembers should also be forbidden from serving more than two consecutive terms in office. The two-term limit is imposed on the Mayor as a check on his otherwise unrestrained power. It may be that the public desire for regular mayoral changes, as shown by the November, 1978 election, also applies to the legislative branch. It is important to note, however, that the Mayor's veto power, the other Councilmembers, and the Councilman-at-large provide checks on City Council. Similar restraints are not imposed upon the Mayor. (1973 *Testimony* -Foglietta, p. 990)

Since the executive and legislative powers are fundamentally different and because there are already checks on Council, it can be argued that it would be unnecessary to impose a two-term limit upon the office of City Councilmember.

IV. CITY COUNCIL'S INVESTIGATORY POWER

Problem: The Undefined Investigatory Authority of Council

The Charter authorized Council to use its investigatory power to aid it in carrying out its legislative powers and functions. The question concerns the extent to which Council should use that power to fulfill its role as a kind of "Ombudsman" for the city. Since the Charter does not specifically characterize Council's role as Ombudsmanic, the important issue concerns the definition of Council's function in this area.

Proposal: Define Council's Power of Investigation as Ombudsmanic

The Charter should be revised to define specifically one of the roles of Council as a kind of Ombudsman and to charge Council to use its investigatory power to this end.

Council has the power, either as a whole or through its committees, to conduct investigations concerning the conduct of the various agencies of city government. Such investigations are authorized by resolution and are conducted in order to aid Council in its consideration of legislation. (2-400)

For the purpose of conducting an investigation, Council has the power of subpoena to compel the attendance of witnesses and the production of documents. (2-401)

Furthermore, Council may authorize expenditures to employ experts or other personnel. Although Council may also utilize the services of city employees, it must first obtain the consent of the agency head. (2-403)

The subpoena power of Council was tested in 1954 when the Court of Common Pleas of Philadelphia County ruled that the subpoena power under the Charter is broad enough to cover any legitimate Council inquiry. (*in re Investigation of Water Department by City Council (No.2)*, 1 D. & D. 2d 431 (1954)).

Because Council's appointive power is limited to electing two members of the Philadelphia Gas Commission and confirming the Mayor's appointment of the City Solicitor and the city's representative to SEPTA, Council's investigatory power is its principal means of checking on the Administration. The following investigation resolutions passed by City Council between the years 1975 and 1977 illustrate how Council has recently used its investigatory power:

(1.) Jan. 9, 1975, resolution to investigate and determine the condition of the Frankford Elevated Railroad, (Journal of the City Council /JCC/, 1975, Vol. 1, p. 36);

(2.) Jan. 16, 1975, resolution to investigate violations of the Philadelphia Home Rule Charter on the part of various city agencies and departments with respect to employment practices, (JCC, 1975, Vol. 1, p. 64);

(3.) Nov. 17, 1977, resolution to investigate the degree of cooperation between the City of Philadelphia and the Board of Education, (JCC, 1977, Vol. 1, p. 1080).

During the same period, resolutions to conduct investigations of SEPTA, the financial condition of Philadelphia, the Philadelphia Gas Commission, and the Get Set Program were never reported out of committee. (JCC, 1975-1977)

History illustrates that although the Charter does not specifically define Council's investigatory power in terms of its role as an Ombudsman, Council has conducted investigations to uncover administrative mismanagement or wrongdoing.

The Charter states that Council has the power to conduct investigations' 'in aid of its legislative powers and functions'. The ambiguity lies not in the definition of the investigatory power, *per se*, but in the definition of the "powers and functions" of Council.

The 1973 Charter Revision Commission considered testimony concerning the redefinition of Council's role to include that of a type of Ombudsman. During those hearings former Councilman Longstreth testified:

I think, for example, the concept of an ombudsman is a very good one. And I would like to see this implemented. I don't think that would require a change in the Charter in order to implement it if the Mayor so desired. (*1973 Testimony* -Longstreth, p. 444)

During the same hearings, however, Mayor Tate stated that he thought that Council's role with respect to evaluating the performance and efficiency of the Administration should be put into the Charter in order to insure that it would be done. (*1973 Testimony* -Tate, p. 335)

In sum, although there is no need to redefine the power of investigation, proponents assert that the Charter should be revised to specify one of the roles of City Council as Ombudsmanic. The present Charter authorizes Council to utilize its investigatory power to carry out "its powers and functions". The redefinition of the "function of Council" to include that of Ombudsman could assist in charging City Council to continue to use its power of investigation to evaluate the performance of the Administration.

Notes

1. League of Women Voters of Philadelphia, "You and Your City," 1976, p. 16.

2. 1973 Charter Revision Commission Hearing Testimony, pp. 92-95

3. *Ibid.*, p. 607f.

4. *Ibid.*, pp. 368-369.

5. *Ibid.*, p. 1113.

6. Governmental Research Institute of St. Louis, "How Many Aldermen? How Shall They Be Elected: The Opinion of Specialists", June 24, 1949, pp. I-II. (This is an abridgement of a study prepared for the Philadelphia Charter Commission on December 6, 1949.)

7. *Ibid.*, pp. I-II.

8. 1973 *Testimony*, p. 112.

9. *Ibid.*, p. 798.

10. *Ibid.*, pp. 277-279.

11. *Ibid.*, pp. 985-986.

12. *Ibid.*, pp. 200-201.

13. *Ibid.*, pp. 736-783, 1025.

14. Information for this section is taken from the Rules of the Council of the City of Philadelphia, 1976-1980 (as adopted, January 5, 1976) and "The Council of the City of Philadelphia, 1972-1976", City Council.

Chapter Four

The School District

History

The responsibility for providing a system of free, public education for Philadelphia's children lies initially with the Commonwealth of Pennsylvania. The Pennsylvania Constitution of 1790 stated explicitly that the Commonwealth shall provide an efficient system of public education (Art. III, Section 14). Over the years, Pennsylvania, like most other states, has delegated this responsibility to local administrative units, that is, school districts, presided over by school boards. These school boards, comprised of registered voters selected from the local community, have been empowered by the General Assembly to supervise the school districts' operation and to levy property taxes in order to finance their operation. Every school district in Pennsylvania elects its school board except one, Philadelphia. The School District of Philadelphia is run by a School Board whose members are appointed by the Mayor. This is only one of a number of distinctions that sets the School District of Philadelphia apart from the 500 other school districts in Pennsylvania. These distinctions, and their implications for the citizens of Philadelphia, must be understood before intelligent choices can be made concerning the future of our city's schools.

From its earliest days, public education in Philadelphia has developed differently from school districts in other parts of the Commonwealth. As Pennsylvania's oldest and largest city, it was the first to begin a systematic approach to providing free public education. The School Act of 1834 established in the City and County of Philadelphia a school division. Within this division, each ward, township, and borough formed its own school district. Each district was responsible for financing its schools through property taxation. By 1838, a city-wide board of Controllers was appointed by the Board of Directors in each division to oversee public education. The Consolidation Act of 1854 unified city and county for educational purposes, bringing the districts closer together and requiring that they request their funds from City Council.

In the late 19th century, the Commonwealth began to take a stronger hand in controlling public education. The Constitution of 1873 gave public education a strong fiscal

foundation and mandated compulsory education for all children between the ages of 8 and 13.

In 1905, the Reform Bill was passed, and a single Board of Public Education was established in Philadelphia. By 1931, the ward Board of Directors had disappeared and their powers were assumed by the citywide school board.

The School Code of 1911 had brought all of the school laws of Pennsylvania into one legislative packet. The School Board in Philadelphia was reduced to 15 members appointed by the local judiciary for terms of six years. The city School Board prepared its own budget and collected its own taxes. The General Assembly set the tax rate until 1929 when the 1911 School Code was revised, permitting the School Board to levy taxes sufficient to meet its own costs.

The School Board's taxing authority ended abruptly in 1937 when the case of *Wilson v. The Board of Public Education* was litigated. The Pennsylvania Supreme Court ruled that because Philadelphia's School Boards was appointed, rather than elected, the delegation of independent taxing power was unconstitutional. From 1937 to 1963, the tax rate was set by the General Assembly.

In 1949, the General Assembly passed enabling legislation for the consolidation of the city and county of Philadelphia and for the establishment of a Home Rule Charter allowing Philadelphia self-government. This reform also prompted a number of citizens to re-examine the state of public education in the city. Groups like the Citizens Committee on Public Education in Philadelphia (CCPEP) began to investigate what was perceived to be a decline in the quality of the city's schools. The CCPEP eventually joined with the Greater Philadelphia Movement to push for Educational Home Rule. In 1962, the Educational Home Rule Assembly was formed to review problems in the School District and to promote the passage of educational reform legislation.

1963 was a year of turmoil for the School District of Philadelphia. The General Assembly, weary of running the largest school district in the Commonwealth, passed enabling legislation providing for the establishment of an Educational Home Rule Commission to study the process of School Board selections and taxing authority in Philadelphia. In the interim period, Philadelphia's City Council was given the responsibility to authorize school taxes. Neither the Mayor, the City Council, nor the presiding

board were pleased with this turn of events, but they had no choice but to appoint the Commission and proceed with the business of educational reform.

The Home Rule Commission labored for two years on a new system of school governance that would be acceptable to the Commonwealth, the city government, and the educational reform groups. One of the central issues was deciding how the School Board was to be selected. Reformers were hoping to implement a method of selection that would allow the public, rather than the judiciary, to decide who was to run Philadelphia's schools, preferably through an election. The method of selection was not important merely because some wished to see Philadelphia's school system democratized. *Wilson* made it clear that unless the School Board was *elected* the power to authorize tax rates for public education would have to remain with City Council or revert to the General Assembly.

The selection issue remained a controversy for some time. It was further complicated when a legal opinion was rendered which stated that a School Board in Philadelphia could not be elected without extensive revision of the State Election Code. By now, it was 1964 and the education reform groups felt that any further deadlock would result in a loss of public support for any Home Rule measures. A compromise selection method was eventually agreed upon. School Board members would be appointed by the Mayor from a list of candidates selected by a citizens' Nominating Panel. The completed Educational Supplement to the Philadelphia Home Rule Charter was submitted to the public and was ratified by the electorate on May 18, 1965.

The School District of Philadelphia has been operated under the provisions of the Educational Supplement for more than 14 years. Its effectiveness in substantially improving the quality of public education in Philadelphia has been a topic of debate for as many years. Like most other large urban school districts in America, Philadelphia has had its share of financial insecurity and social unrest. This has caused many citizens to appear regularly at School Board meetings to air their dissatisfaction with how the schools are run. Many become frustrated with their inability to effect change. The aim of this report is to describe how the present system of school governance works and to explore a number of proposals designed to effect change.

It has been argued that the present Educational Supplement provides adequate guidelines for governing Philadelphia's public schools. On the other hand, it is held that change is needed, and that if change were to be carried out, there would have to be some degree of structural and procedural revision within the School District. Various aspects of these positions will be examined and the operation of Philadelphia's School District will be described.

I. THE STRUCTURE AND OPERATION OF THE SCHOOL BOARD AND DISTRICT

To the casual observer, the School District of

Philadelphia might look like just another extension of city government. One often reads in the newspapers that City Council is holding hearings on School budget matters, or that the Mayor's office has intervened in settling labor disputes between the School Board and teachers union. The concerns and activities of the School District and city government are, in fact, closely intertwined. It is important to understand that despite their close workings, they are separate and distinct governmental activities.

School governance is primarily a *state* function. Section 12-500 of the Educational Supplement states:

The School District [of Philadelphia] is and shall continue to be a part of the system of public education of the Commonwealth of Pennsylvania, and it shall be subject to all laws relating to school matters which are of statewide application, and to all rules and regulations promulgated by the Commonwealth's Department of Public Instruction under authority of such laws.

The authority for that section comes from Article III, Section 14 of the Pennsylvania Constitution, which makes the Commonwealth ultimately responsible for providing an efficient system of public education. The School District of Philadelphia is created by and for the Commonwealth, not the city. This is why characterizing the School District as a branch of city government is wrong.

Confusion concerning the status of the School District is understandable. The amount of taxes the School District can collect from year to year is set by the City Council, yet City Council has no control over how the money is spent. The Mayor appoints the members of the School Board, but he does not appoint the School Superintendent. These examples show that Philadelphia's government does exert a great deal of influence over the School District. Its powers, however, are limited by law to certain narrowly defined areas. The need for a close and harmonious relationship between the School District and city government is apparent. Yet, the confusion of roles and purposes is often hard for the city government and the School Board (let alone the public) to discern. This confusion often causes strained relations between the two, sometimes with unfortunate results.

This section will examine how the Educational Supplement defines the relationship between the school and city governments, how the School District is run, and how it is funded.

A. The School Board Selection Process

Under the Educational Supplement, provisions were made for the creation of a Nominating Panel. The primary duty of the Nominating Panel is to compile a list of qualified candidates for the Board of Education. The Mayor appoints the 13 members of the Nominating Panel. Nine members, however, must be from among the highest ranking officials of city-wide civic organizations or institutions, and the remaining four from the citizenry at large. All members of the Nominating Panel must be registered city voters, and serve for two years. The

Mayor must appoint and convene the Panel no later than May 25. Within 40 days of its first meeting, the Panel must submit to the Mayor a list of names of qualified persons, 3 names for every vacancy on the Board of Education. If the Mayor wishes, he may request an additional list of names with 3 names for each vacancy, but he must do so within 20 days of receiving the original list. The panel is then given 30 days in which to supply the second list. Only one additional list is provided for in the Supplement. The Mayor may then make his appointments from both lists. His appointees become the Board of Education.

B. The Responsibilities of the School Board

The Board of Education is responsible for the planning of the school budget and for determining educational policy. It holds its first annual meeting on the first Monday in December, and elects a President and Vice-President by majority vote. After the initial meeting, the Board must hold public meetings at least once every two months. All Board meetings are public, except for when the President, or two-thirds of the Board members, decide upon an executive session.

The Board adopts a date for the beginning of each fiscal year as well as a calendar consistent with that year. Any change to that fiscal year can only be made after public notice and a public hearing on the proposed change.

The Board is also responsible for establishing a table of organization which lists the roster of positions for each principal administrative unit of the District. Any change in the table is to be reported to the Board by the Superintendent of Schools. The Board must adopt regulations, based on merit principles and scientific methods, governing all aspects of employment.

These regulations apply to all employees of the District, except those directly responsible to the Superintendent or those employed by contract for special duties for which other employees are not qualified.

The regulations must provide for the preparation, maintenance, and revision of a position classification plan and of a pay plan and for all employees. The regulations must also provide for policies and procedures for recruitment, examinations, and promotions. In the regulations, the Board shall preserve and safeguard all rights of the District's employees. The Board must elect and fix the compensation of the Superintendent of Schools. The financial responsibilities of the School Board will be more fully discussed in the section on funding below.

C. The Responsibilities of the Superintendent

The Superintendent's main responsibilities are to execute the policies of the Board and to administer the school system. The Superintendent acts as Secretary and Treasurer of the Board and his term lasts six years, renewable at the Board's discretion. He is the chief administrative officer, as well as the chief instructional officer. The Superintendent is responsible for executing the Board's decisions, for administering and operating the

public school system in accordance with the Board's policies, and for supervising all instructional matters in all schools under the Board's direction.

The Superintendent must attend all Board meetings, and may attend any of the Board's committee meetings, except those concerned with his salary, benefits, and tenure. Though he may advise the Board on any matter, he has no vote.

D. Funding and Budgeting

To the layman, and indeed to many professionals, the financing of public education is mystifying. In a large, urban school district, such as Philadelphia's, gathering and disbursing funds is especially complex. Educational finance is perhaps the most sensitive social and political issue affecting relations between the School District, city, and public at large.

Despite the fact that the School District of Philadelphia is essentially a Commonwealth agency, it draws its funding from three separate sources; the City, the Commonwealth, and the Federal government. Revenues from these sources are in the form of tax revenues, grants, subsidies and loans. With these revenues the School Board must maintain a general operating budget, a capital program and budget (i.e. building and repairs, school buildings, and facilities) and a number of smaller, specialized operating budgets. Funding school operations is a complex matter. Some of the revenues can be used only for restricted purposes, while others can be put directly into the general operating budget. Thus, funding becomes a matter of delicately balancing all available funds into a workable budget. It is a difficult process and often causes political turmoil among all parties involved.

The following is a brief description of the major funds which the School District maintains and their particular uses:

1. *General Fund*: The General Fund is the main operating fund of the School District. All state subsidies, Intermediate Unit* Revenue, local taxes, incidental federal revenue, and revenue not specifically earmarked for another fund are recorded in the General Fund. All operating expenses of the District's educational, supportive and administrative programs, most debt service costs, and all other costs not specifically financed from other funds are recorded in the General Fund. (1)

2. *Categorical Funds*: The School District of Philadelphia ...receives specific purpose grants from other governmental and private sources, which it administers as an agency of the grantor, in accordance with the restrictive stipulations of the grantors. [E.g. Federal money allocated by Congress to be used for educating handicapped children.] The

*The Intermediate Unit is a Commonwealth agency which finances and administers various programs such as Special and Vocational Education. Philadelphia's Intermediate Unit is operated under the direction of the School Board.

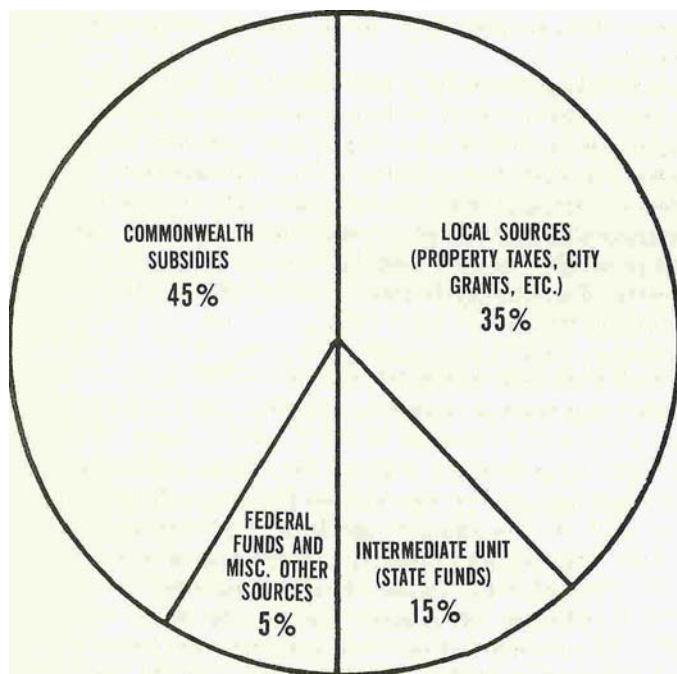
sources, amount and use of such funds are recorded in separate sets of accounts which have come to be known as categorical funds.(2)

3. *The Bond Fund:* The Bond Fund accounts for the proceeds of [municipal] bond sales and grants used to finance the School District's Capital Program or to supplement Operating Budget revenues.(3)

4. *Procurement Fund:* The Procurement Fund accounts for the purchase and distribution of materials, supplies, equipment, and printing services provided by the Distribution Center and Print Shop.(4)

5. *Food Service Fund:* This fund accounts for operating expenses in running the District's food service programs.

The chart below depicts the School District's 1979 major funding sources and the approximate percentage each source contributes to its annual operating expenses:



This is a brief and general overview of the main funds and revenues of the School District. It should be noted that although the School Board bears the ultimate responsibility for balancing its budget, it has no control over the amount of money it will receive, other than its ability to persuade the City Council, the General Assembly and the Federal government to allocate more funds.

II. PROBLEMS AND PROPOSALS

Thus far, we have seen how public education in Philadelphia has developed and how the City acquired its current system of school governance. Next, we briefly considered how the School District is operated and funded.

Four proposals for change in Philadelphia's system of school governance will be examined. The purpose is to present an objective evaluation of suggested alternatives to the current system of school governance. These proposals basically involve modification of the School District's organizational structure, in the hope that such modifications will improve the quality of public education in Philadelphia.

Before the proposals for change can be evaluated, it is necessary to ask first: "What is it that makes a system of school governance a good one?". Maurice Fagan, of the Philadelphia Fellowship Commission, broached this subject in 1973 when testifying before a Charter Revision Committee. Mr. Fagan suggests a number of vital elements to be considered. He formulated these elements into a number of penetrating questions. These questions will be used as guidelines in evaluating each proposal.

1. Any model of school governance must be evaluated in terms of the handling of educational policy and fiscal matters; the efficient use of existing funds; public accountability for spending; and the ability to attract greater funding. It is critical to determine how a school district will interact with local, state and federal entities since the school district relies so heavily on each for funding. The first question to be asked in evaluating each proposal is: "Will it fix financial and educational responsibility?"

2. One of the strongest notions Americans hold concerning public education is that schools and politics should be separated. Realistically, however, this is not the case. Education is, and always has been, an intensely political issue. Public education is a function of government, and we look to our political leaders to provide the means of maintaining a healthy system of schools. Unfortunately, schools, like any other public institution, occasionally become a target. In reviewing these proposals, we will try to evaluate how well each individual alternative can make use of the political process without being affected by its least desirable aspects. The second question is: "Will it insure political independence and effectiveness?"

3. In 1978, Daniel McGinley, president of the local school administrators association, reminded City Council that: "Good schools are found in those communities where there is a high level of community interest and expectation and where the people insist on getting a good education for their children". The importance of community interest cannot be stressed enough. Any system of school governance that can stimulate and maintain the concern and attention of the community has achieved a major step towards healthy public schools. This factor is one other to be taken into consideration. The third question is then: "Will it promote public interest?"

4. Finally, and perhaps most importantly, a system of school governance must be evaluated in terms of

how good a job it does in educating its students. Can the system promote order and discipline, while at the same time stimulating the pupils' desire to learn? Are standardized test scores up to national norms? Are the schools leading the way in solving societal problems? These are vital considerations that need to be taken into account. The fourth and final question to be used in evaluating each proposal is: "Will it help assure quality education?"

The four most frequently cited proposals for change of the Philadelphia School District are:

1. To leave the existing structure intact, i.e., no change.
2. To modify the procedures for appointing the School Board.
3. To elect the School Board.
4. To create a City Department of Education.

Proposal: Maintain the Existing Structure

1. Will it fix financial and educational responsibility?

Proponents of this position would argue that the present system of school governance is sound, and that whatever problems the School District has stem from weak or ineffective leadership. The system can work if responsible leadership were exercised in city government. It is up to the Mayor to make the most judicious use of his appointing power in selecting qualified individuals to the School Board. If the School Board is unqualified, and problems arise, it is the Mayor who must bear ultimate responsibility and must answer to the electorate. Thus, in the view of the no change advocates, accountability for educational quality and fiscal management to any greater degree than already exists is unnecessary.

Critics of the present system feel that although the Mayor may well be responsible for much of the Board's conduct, the current structure has provided opportunities for the Mayor to dodge the responsibility. This argument refers primarily to the present method of School Board selection, which allows the Mayor to appoint its members, albeit indirectly. This problem will be more fully explored in the discussion of the second alternative.

2. Will it assure political independence and effectiveness?

Advocates of no change feel that the separation of city and school governments is an advantage. They defend the semi-autonomous political existence of the School Board as a necessary means to shield the School District from constant meddling by city government. Although the School District cannot be fiscally independent from the city, it must retain as much control as possible over educational policy-making.

Opponents of the present system, particularly those in city government, feel that the present system of divided educational authority is confusing to the public and results in inefficient operation of the schools. Fiscal planners are especially frustrated with the status quo. It is pointed out that although the Educational Supplement authorizes

the city and School District to cooperate in order to have cost efficient operations (E.S. Sections 12-402, 12-309), the city cannot compel the School District to cooperate, and vice versa. This often results in duplicated services and fiscal waste. For example, the city and School District both operate extensive health services. Instead of combining both into our larger service, the taxpayers continue to finance *two* programs with the same operational objectives.

Critics also feel that the present system lacks the proper checks and balances to protect public education from political abuse. The danger inherent in bad leadership is a recurring problem of government; any system of governance should accordingly be safeguarded against arbitrary abuse from anyone man or party.

3. Will it promote public interest?

It is difficult to assess whether the current system of school governance promotes public interest in Philadelphia's schools. Opponents of the current system might assert that it promotes more public animosity than interest.

It should perhaps be noted that several factors peculiar to Philadelphia would make promotion of interest in public education difficult for any of the proposed models of school governance. Statistically, Philadelphia has a lower number of school age children per household than "many other cities. Also, a significant number of children attend private or parochial schools. Thus, for many Philadelphia residents, public education does not have a high priority.

4. Will it help assure quality education?

Parent groups, as a matter of policy, tend to be wary of any proposals of change in the current system. The reason for this is that they support the movement toward full state funding for all educational expenses. Some groups feel that if the city assumed more responsibility for School District spending, the General Assembly would make the city responsible for financing more of the expenses, and cut the District back to the minimum subsidy. At this point, they feel that any major cutback of funding would have disastrous effects on the quality of public education.

Opponents of the present system might counter this argument by asserting that a change allowing for stronger control of the District by the city would give the school system an added edge in Harrisburg. Philadelphia has one of the strongest lobbies in Harrisburg. If the School Districts were under city control, it would be just one more municipal concern that the city would effectively deal with.

Proposal: Modify School Board Appointment Procedures

Some feel that the Philadelphia system of school governance could be improved by modification of the School Board appointment procedures. Such a revision would change the methods used by the Nominating Panel to provide the Mayor with a list of qualified persons to

serve on the Board. The proposal would include three major revisions:

- a. The Nominating Panel would be required to submit only *one* list of nominees, with three names for each vacancy on the Board.
- b. It would be specifically stated that there will be as many distinct sets of three names as there are vacancies, and the Mayor will select one name from each set.
- c. The names of the nominees would be submitted for publication to at least two newspapers of general circulation, printed in the city simultaneously with their submission to the Mayor, and at least two weeks prior to the Mayor's announcement of the appointments.

1. Will it fix financial and educational responsibility?

One complaint with the present Nomination Panel has been that the Mayor has used it as a shield to deflect responsibility for the condition of public education in the city; he can claim that since he does not have *direct* control of Board appointments, he cannot guarantee that the Board will implement his policies for city and school governance. (This is perhaps evidenced by the fact that public anger over educational affairs is rarely, if ever, directed toward City Hall.) Although this may be technically correct, many feel that, since the Educational Supplement was adopted in 1965, no School Board has ever asserted any great degree of independence from current mayoral policy. Some individuals believe this lack of accountability is a serious flaw in our present system of School governance. An open nominating process and public inspection of all candidates might possibly help remedy this lack of accountability.

2. Will it assure political independence and effectiveness?

Another major complaint concerning the current method of School Board appointment is that the Mayor plays too strong a role in the appointment procedure. Since he selects the Nominating Panel, and has the power to demand additional lists of nominees, it is more likely that the School Board will reflect only his political views. The School Board is considered by some to be less diverse and less responsive than, for example, an elected board would be.

The option of an elected School Board will be fully explored in the next section, but it should be noted that at least one study has asserted that there is little qualitative difference between elected and appointed School Boards. 5 If this is true, some feel that the political and legal struggles necessary to establish an elected School Board would probably not be worth the effort. It should be remembered also that School Board appointments are six years long and overlap. It is rare for any incoming Mayor to have a Board totally sympathetic to his policies. Requiring that the choice of candidates be limited to one list cannot entirely eliminate the possibility of School

Board appointments being made on a political basis. Some express the view that it might at least halt the practice of the Mayor repeatedly 'casting' for a more acceptable list. Furthermore, publication of the nominee list might also encourage the Panel to select candidates who are qualified to run the school system.

3. Will it promote public interest?

As stated in the introduction to part B of this chapter public interest is one of the most important aspects of a good system of public education. When the Educational Supplement was in the drafting stage, the CCPEP attempted to have a three stage method of panel selection included. The method would stipulate: a) nomination b) a panel, b) appointment by the Mayor, and c) ratification by the voters. The last step was proposed so that the public could play some role in the Board selection process. Unfortunately, political and legal problems resulted in a compromise which eliminated the third step and left the public alienated from one of the most important aspects of school governance, leadership selection.

The secrecy surrounding the current nomination process has caused some citizens to express anger and frustration. The Nominating Panel conducts its business behind closed doors, and does not release the list of nominees for public inspection. There is no mechanism for the public to express its opinion until after the actual selection is made.

Advocates of change in appointment procedures propose that this secrecy be lifted. The Nominating Panel's activities should be open and the public should be given an adequate opportunity for response and input. The list of nominees should be published in the newspapers two weeks prior to mayoral selection. Surveys show that 80% of Philadelphia's citizens rely on the media for information concerning public education. This makes the media the ideal forum through which the people of Philadelphia can analyze who should and who would be the best for the job of running the schools. Public focus on the issue should make the Panel and the Mayor more sensitive to the public will. Short of an election, this would probably be the most effective means of keeping the public concerned about education.

4. Will it help assure quality education?

The process of selecting a nominee involves an extensive amount of time and energy on the part of the Nominating Panel. Candidates must be submitted, screened, interviewed, and approved. The result is a list of individuals who, in the opinion of the Panel, are the most qualified to serve on the School Board. If, however, one or all of the names on the list do not suit the Mayor, the panel must restart the process. This time, however, the best candidates cannot be and are not included. Thus, some feel each successive list represents, in effect, a decline in quality.

For this reason, advocates of this proposal have submitted that only one list should be prepared, with no option

for a second list. The list would be divided into "sub-lists" of three names per vacancy. Thus, the Panel can put its first choices at the top of each sub-list, followed by its second choice, and so on. This method, combined with public input via the media, hopefully would produce the most qualified school administrators obtainable through the appointive method.

Advocates of this proposal feel that these revisions in the appointment procedures could conceivably bring the invisible hand of the Mayor into public focus.

Proposal: Elect the School Board

Originally, Philadelphia and Pittsburgh were the only two school districts in the Commonwealth that did not have an elected, independent School Board. Now, only Philadelphia has an appointed Board. It has been suggested that transition to an elected School Board would be desirable, but there is also strong opposition to this alternative.

Before a detailed examination of this proposal can be undertaken, several facts need to be observed. First, unless Pennsylvania's Election Code is revised, a School Board election would have to be partisan, that is, candidates would have to run as a member of a recognized political party. Non-partisan elections are not permissible in the Commonwealth. (It has been suggested, however, that School Board candidates might cross-file for elections, as is the case with municipal judges.) Next, it should be recalled that the decision of *Wilson vs. The Board of Public Education*, which bars non-elected bodies from holding taxing authority, is still the law of the Commonwealth. One of the most hotly debated issues in discussing an elected School Board is the effect a new, independent taxing authority would have on the city.

1. Will it fix financial and educational responsibility?

Advocates of an elected school board hold that it is more democratic. People are given a voice in the selection of their schools' administrators. Public confidence is restored because from all nationwide indications it appears that the Board elections would be hotly contested in Philadelphia, as they are contested throughout Pennsylvania and the United States. Greater accountability is achieved because the Board would be directly accountable to the electorate. Because of this increased accountability, it is felt that the Board would be more responsive to the people's needs and demands.

Conversely, it is argued that the election process is no guarantee that School Board members will have a deep interest in the schools. Elected Board members might have allegiances to local constituencies, and, although able to articulate the needs of those constituencies, they might lose effectiveness on city-wide issues. Regarding the belief that an elected Board results in greater responsiveness at least one study has indicated that fear of electoral sanctions is not a particular concern of elected board members. Appointed boards, according to this study, may overcompensate in their responsive behavior in the absence of being officially "the people's choice".⁶

2. Will it assure political independence and effectiveness?

Advocates of an elected School Board in Philadelphia often express the opinion that as long as the District has no direct control over its finances, it can never exercise the degree of political independence needed to be effective. If the School Board were elected, it could then legally set tax rates at a level guaranteed to provide adequate funding for the District.

Opponents to an elected School Board, particularly those in city government, are strongly opposed to any new taxing authority in Philadelphia. Their position is that the present municipal tax structure in Philadelphia is already overburdened and that *two* taxing authorities would result in fiscal chaos. They point to the specially commissioned report prepared by Professor George Sternlieb of Rutgers University which states that the business community in Philadelphia has become so sensitized to the threat of higher taxes that any further increase would have a negative effect. More businesses would leave the city; thus, any fiscal gain realized from a tax increase would not exceed the loss of tax revenues that would have been derived from the businesses that left.⁽⁷⁾

It has been suggested that an elected School Board without taxing authority would at least encourage public involvement and scrutiny. Others argue that the amount of work and time needed to effect the change from an appointed to an elected School Board would not be worthwhile unless the Board had taxing authority. Reorganizing the system without alleviating the funding problem would be in vain.

3. Will the change promote public interest?

It is the nature of school board elections to generate great public interest and controversy. As mentioned earlier, it is common throughout the United States and Pennsylvania to have hotly contested local elections. This premise is unchallenged by those opposed to an elected School Board.

4. Will it assure quality education?

It is hoped that electoral sanctions will assure that those elected carry on their duties in an efficient manner. However, as mentioned earlier (Section 1) some feel that electoral sanctions are not an important inducement.

Proposal: Create a City Department of Education

Cities and public school systems have been carefully preserved as separate political and legal entities. The mayors of some major cities have developed patterns of public non-interference in school affairs. The exception has been in cities where the Mayor appoints the members of the Board of Education. Even there, the movement to keep the school system free of local politics has mandated that there be more freedom of action by allowing for an independent nominating panel which recommends appointees from the ranks of civic leaders. A city with

such an arrangement is Philadelphia where the Educational Supplement has moved the Mayor away from official, direct control or management of the School Board.

However, this trend is beginning to reverse in many major cities. As one professional educator has noted:

Big-city mayors are either already involved in school problems or are on the threshold of involvement. At least four factors are responsible: (1) growing interaction between the school system and other departments and agencies of city government; (2) citizen concern over the quality of public education; (3) the interrelationship of the educational system with other city problems and conditions facing the mayor, and (4) intervention by the federal government in local school affairs through the courts or federal social and educational programs.(8)

All these factors have contributed to the growing role of City Council and the Mayor in school administration. The Mayor has been involved in controversies over labor relations, contract negotiations, and security matters.

Some feel that it may be time for a new structure of governance, one in which the school system is a department of city government, with the Superintendent responsible to the Mayor, and through him to the people. If the Superintendent were a member of the Mayor's Cabinet, he would be able to assist the Mayor in governing the system.

1. Will it fix financial and educational responsibility?

It is strongly felt by both parents and educators that public education must become accountable. Under the present system, the Mayor and the City Council both disclaim responsibility for the actions taken by the School Board. At the same time, the Board disclaims responsibility for its decisions, claiming that its hands are tied financially. The city department option has frequently been cited as the cure for this lack of accountability, since its proponents claim that the Board is, de facto, a city department, and its "independence" is merely an illusion. Making the Mayor and the City Council directly accountable, they feel, removes that illusion. Accountability would be enhanced as well because the District would then be subject to comparative review with other local services. Proponents argue that placing the District into the overall budget would clearly highlight the relative positions of the various services of the city.

Under the city department option, it is intended that authority and responsibility would be localized into the same hands, those of the elected officials. At the polls, voters could indicate their like and dislike of the way the system is being run. For this reason, the merger of the School Board into city government has been favored by some members of the School Board.

Opponents of the city department option contend that education is the Commonwealth's legal responsibility, explicitly mandated by the Constitution. (Article 3; Section 14) That responsibility is delegated to the School District as the body through which the Commonwealth's responsibility is discharged. Parent groups, in particular,

are concerned that if the School District becomes a city department, the Commonwealth will use this as an excuse to rid itself of the constitutionally mandated obligation to provide for a system of education which serves the needs of the Commonwealth. Therefore, parent groups tend to advocate strict maintenance of the present Educational Supplement.

2. Will it assure political independence and effectiveness?

The proponents of the city department option insist upon the Board maintaining a certain degree of independence, particularly in instructional areas. Even with the Superintendent as a member of the Mayor's Cabinet, instructional independence could possibly be achieved. On the Cabinet, the Superintendent could insure that the School District would be allotted the money it needs to operate efficiently. As one School Board member recently remarked, "As part of the city government the school system would be able to sit at the table, and have a voice in how the loaf of bread is divided rather than be an outcast waiting for some crumbs to fall its way".

Opponents of the city department idea point out that the instructional independence of the School District in general and the Board in particular would raise a legal problem. The original enabling legislation passed by the General Assembly, which authorized Philadelphia's Home Rule Education Supplement, explicitly prohibits City Council from regulating any aspect of public education other than setting the tax rates. Thus, there would have to be a major revision of the enabling legislation in Harrisburg before the electorate in Philadelphia could decide whether the city department option would be desirable. Both would probably involve extensive, time-consuming political activity. Critics of this proposal further point out that the Commonwealth Public Education Department would probably have grave doubts about granting total control over policy matters, such as curriculum, to a local authority. Opponents also fear that, under the control of the Mayor and City Council, educational expenditures would be ambiguous and not given a high priority. They feel that as a city department, education might suffer from all the 'politicking' going on around it.

3. Will it promote public interest?

From the point of view that accountability will be enhanced by the Board's becoming part of city government, proponents feel that the public, knowing part of city government, proponents feel that the public, knowing whom to blame, will take a greater interest in public education. Instead of being passed from the Board to the City Council to the Mayor and back they will be able to bring their complaints directly to the Mayor and City Council.

Opponents of this option feel that, instead of centralizing accountability, the city department option might turn education into a political football, passed back and forth between the Mayor's office and City Council. This

would, they believe, only increase the electorate's frustration and, ultimately, decrease their interest.

4. Will it assure quality education?

Proponents feel that as a city department, the Board would be able to lobby effectively as a member of the city's lobby, which is usually one of the most powerful lobbies in Harrisburg. This would insure that educational considerations are not overlooked in the General Assem

bly. In addition, the City government provides the broadest base for sources of taxes and revenues. This again will alleviate some of the financial problems that are undermining the quality of our schools.

Opponents feel that making the School District a city department could result in the unique problem of education being on the same level as paving streets. Education is a different service from those the City normally provides, and hence should not be treated like other services.

Notes

1. *Proposed Operating Budget for Fiscal Year Beginning J July 1979*, The School District of Philadelphia; April, 1979; p. 4.

2. *Ibid.*, p..1.

3. *Ibid.*, p. 47.

4. *Ibid.*, p. 50.

5. Jennings, Ziegler, *Governing American Schools: Political Interaction in Local School Districts* (Duxbury Press: No. Scituate, Mass., 1974), p. 33.

6. *Ibid.*, p. 87.

7. George Stemlieb, *The Impact of Local Taxation on the Economy of Philadelphia* (Center for Urban Policy Research: Rutgers University -Camden, March, 1977).

8. Jerome M. Ziegler, "Should Mayors Run the Schools?" *City/Winter*. 1972, p. 16.

Chapter Five

The Row Offices

History

The row offices of Philadelphia's government—the City Commissioners, Clerk of Quarter Sessions, Sheriff and Register of Wills—are vestiges of a period in Philadelphia's history when Philadelphians were governed by both city and county systems of government, without the benefit of home rule.(1) These elected offices once formed part of an active County government that became defunct in 1951 upon the adoption of the Home Rule Charter and the creation of a streamlined City government.(2) The row offices were *not* incorporated into the City Charter, however, and as a result, they were not restructured to mesh with the strong-mayor form of government embodied in the Charter. While there subsequently have been some changes in the composition of two of these offices, to this day the row offices have remained outside of the mainstream of the Charter. None of them reflects in its current form the principles underlying the Charter.

The most questionable characteristic of the row offices, from the point of view of the Charter, is the fact that their chiefs are *elected*, despite their basically administrative and record-keeping duties. The concept of electing large numbers of governing officials to serve in administrative posts dates from the era of Jacksonian Democracy, when the primacy of the electorate's right to choose all public officers was asserted. A different theory of representative government is evident in the Charter, stressing that accountability can best be achieved through popular election of legislators and a few key officials in the executive/administrative branch.

The strong-mayor form of government in our Charter centralizes accountability for most administrative and executive decisions in a single elected official—the Mayor. Most other executive or administrative posts are filled by appointment rather than election. The row offices represent a departure from these organizing principles; whether this departure can be justified should be a subject of examination during any Charter review that may occur.

With respect to the Offices of the Clerk of Quarter Sessions, the City Commissioners and the Sheriff, there is no question that by local action alone these offices could be fully consolidated into Philadelphia's municipal government. Acting alone, City Council may by ordinance completely restructure the Office of the Clerk of Quarter

Sessions. Acting with the approval of Philadelphia's electorate, City Council may completely revise the Offices of the City Commissioners and the Sheriff. With respect to the Office of the Register of Wills, however, it is unclear whether local action can change that office without explicit enabling legislation from the Pennsylvania General Assembly. On the assumption that all four row offices either are or eventually will be susceptible to local control, this chapter traces the history of the four offices, and describes proposals aimed at further incorporating the offices into the city's administrative structure.

I. LEGISLATIVE BACKGROUND

A complex series of legislative and judicial acts is responsible for the current status of the row offices outside the mainstream of the City Charter. An appropriate starting point is 1854, when a separate county form of government first became superfluous in Philadelphia. In that year, the General Assembly extended the boundaries of the City of Philadelphia to those of the large County. Despite the obvious advantages of having a single local form of government, overlapping city and county governments continued to exist in Philadelphia well into the 1940's, with predictably chaotic results. Compounding this unsatisfactory state of government was the fact that Philadelphians, like all other Pennsylvanians, lacked the power of home rule. County and municipal officials carried out the responsibilities delegated to them by the General Assembly in the manner specified by the General Assembly.(3)

Pressure for reform of what the Pennsylvania Supreme Court has called a "patch-work system of dual governments and its uneconomic division of functions,"(4) finally met with partial success in 1949. In that year, the General Assembly authorized first class cities—so defined that only Philadelphia qualified—to adopt a home rule charter of their own design. After two years of preparation by the Philadelphia Charter Commission, Philadelphia's voters approved the present Charter in April, 1951, effective January 7, 1952.

Unfortunately, the General Assembly's grant of home rule authority did *not* extend to Philadelphia county officials, but applied only to city officials. This limitation precluded the assimilation into the City Charter of county—offices such as the row offices with which we are concerned.

Moreover, the City-County Consolidation Amendment to the State Constitution, approved in a statewide election in 1951, again did not permit a the consolidation of city and county officials into a single city government. While the amendment converted most county officials and employees into city officials and employees for some purposes, it did not give the City the power to reorganize, abolish or merge the former county offices, nor did it permit the city to determine whether the holders of the row offices should be elected or appointed. As the Pennsylvania Supreme Court explained, the amendment merely subjected the affected officers and employees to rules applicable to other city officers and employees, e.g., laws concerning civil service requirements for employment. Thus, despite the considerable reform brought about by the Home Rule Charter and the City-County Consolidation Amendment, Philadelphians nevertheless were powerless in 1951 to alter the manner in which the row offices would be operated, and thus to fully streamline their local government.

In the years following the adoption of our Home Rule Charter, the city has gradually received the power to alter the structure and powers of the Row Offices, with the possible exception of the Register of Wills.

In 1953, the General Assembly authorized Philadelphia's City Council to "legislate with respect to the election, appointment, compensation, organization, abolition, merger, consolidation, powers, functions and duties of" various offices, including the Clerk of the Court of Quarter Sessions. City Council has used this power only minimally, acting in 1970 to shorten the former name of the office (Clerk of the Court of Quarter Sessions, Oyer and Terminer and General Jail Delivery) to its current name, and providing a method for filling vacancies in the office.

In 1963, the General Assembly adopted similar legislation with respect to additional offices, including the Sheriff and City Commissioners, but with one important difference: in the case of these offices, City Council's ordinances affecting them are not effective unless the ordinances receive the approval of Philadelphia's electorate.⁽⁵⁾ City Council has yet to present for voter approval any ordinance altering the nature of the Sheriff's Office. Significant, but limited, reorganization of the City Commissioner's office has occurred: in 1965, the voters of Philadelphia approved a City Council ordinance transferring from the City Commissioners' office all functions unrelated to elections, and localizing in the office all registration and election-related functions.⁽⁶⁾ The basic residency and age eligibility requirements, and the procedure for filling vacancies, also were changed. Fourteen years later, it is important to recognize that City Council and voters left unchanged the elective status of the office and provided no assurances that City Commissioners would possess job-related experience. Additionally, it should be noted that the City Commissioners' Office was not formally incorporated into the administrative structure of the City Charter, as it could have been. It is important that Philadelphians assess whether such

incorporation is advisable, and whether methods employed in the Charter to select qualified, accountable administrators, should be extended to the City Commissioners' Office.

Finally, as noted, it is unclear whether the Office of the Register of Wills may be changed by local action. The General Assembly has not passed enabling legislation analogous to that applicable to the other row offices. A provision of the Pennsylvania Constitution, and a State Supreme Court opinion interpreting that provision, leave unclear whether such enabling legislation is required. It is possible, but not certain, that the voters of Philadelphia could by referendum both incorporate the office into the City Charter and change its structure. In any event, the structure of the office has not yet been changed through local efforts.

With the city's capability to alter the organization, role and selection process of at least three of the four row offices in mind, the problems which have surfaced in these offices, and the proposed solutions, will be identified in the following sections.

II. CITY COMMISSIONERS

A. Duties and Structure of Office

The sole responsibility of the City Commissioners is to conduct smooth-running elections in which informed voter participation is maximized. The office's specific duties are spelled out in the Commonwealth's Election Code. The City Commissioners preside over two divisions, the Registration Division and the Election Division which carry out these duties. The Registration Division, heir to the pre-1965 Registration Commission, must supervise the registration and certification of voters, prepare street lists of the names and addresses of all registered electors on a district-by-district basis, and maintain voter registration records. The duties of the Election Division, which generally supervises the election process, include selecting and equipping polling places, overseeing the filing of petitions by candidates, purchasing and maintaining voting machines and ballots, instructing election officers, publishing notices of elections and polling places, computing and posting election returns, and investigating alleged election fraud.

B. The Selection Process

There are three City Commissioners, all of whom are elected by voters registered in Philadelphia. Each City Commissioner is elected at the same time as the Mayor and serves a four-year term which runs concurrently with that of the Mayor. No strictly job-related qualifications are necessary to serve as a City Commissioner. One must be at least 25 years old, a qualified elector of Philadelphia, and a city resident for at least three years immediately preceding one's election. There is no limit to the number of terms one may serve as City Commissioner.

No more than two City Commissioners may be members of the same political party at the time of their elec

tion. This provision is designed to ensure representation of a minority party on the election board. If a vacancy in the Office of City Commissioners should arise, the Mayor is required to appoint a substitute, who, upon approval by City Council, is authorized to serve for the remainder of the unexpired term of the Commissioner causing the vacancy.

C. Problems

The City Commissioners' Office has not achieved its goal of fostering maximum voter participation in smooth running elections. Organizational shortcomings have hindered the fair and efficient extension of the right to vote to all qualified citizens. Administrative deficiencies have, for example, prevented accurate registration of all qualified voters, as well as accurate preparation of district binders, making voting an extremely time-consuming process for affected citizens. Other findings are that the City Commissioners' Office has taken inadequate steps to prevent fraudulent registration, to maintain election expense account files, to train election officials for their election day responsibilities, to maintain the city's voting machines, and to keep records of such maintenance. (7)

An absence of formal written guidelines for standard procedures and responsibilities contributes to the City Commissioners' inability to achieve their established goal. Specific duties are unclear and lines of authority are blurred, since the office's structure and division of responsibilities are basically established solely through an oral tradition. The consequences of this lack of written guidelines in an office with a budget exceeding \$6 million has not surprisingly been confusion and inefficient service to the public.

D. Proposal: Appoint a Single Elections Commissioner

Arguments For

Critics of the present conditions in the City Commissioners' Office believe that an appointed, non-partisan official with administrative expertise would be better qualified to carry out the entirely administrative work of the City Commissioners' Office than partisan elected officials. They favor abolishing the elective office of City Commissioner and establishing within the Charter a city Department of Elections, to be headed by an appointed Elections Commissioner, who would undertake to remedy the problems described above. They present three arguments in support of this reform: 1) the present elective process does not reveal to the voters which candidates, if any, have the administrative skills necessary to supervise elections, 2) the present elective process needlessly politicizes what should be a non-partisan operation, and 3) appointment of a qualified administrator would be consistent with the principles of the Home Rule Charter.

Elaborating on the first argument, critics of the election of City Commissioners claim that the electoral process does not guarantee, and may even hinder, the selection

of qualified administrators. Voter choices, because of lack of information, often depend on party affiliation or name recognition, rather than on the more important consideration of the candidates' organizational skills. They contend that the voters' primary right is to receive effective and efficient service and that, in this case, voting does not foster the satisfaction of this right.

Second, it is argued that the supervision of elections should be as free as possible of political involvement. The present system almost requires candidates to be heavily involved in partisan politics. Furthermore, once in office, the elected City Commissioners are not prohibited from continuing to participate in party affairs; they may even be ward leaders or committee people. Thus, it is possible that the supervisors of what one hopes are fair elections may be openly committed to the policies and principles of a particular political body.

Finally, critics of the elective method of electing City Commissioners argue that complete integration of election supervision into the government established by the City Charter calls for appointment of a single administrator. The strong-mayor form of government established by the Charter centralizes electoral accountability in the Mayor, who is solely responsible for choosing qualified administrators. A single appointed election official would be chosen like any other administrator, which, under the Charter, would yield three benefits. First, the Charter stipulates minimum job-related qualifications for appointees to all Cabinet positions and it could do so for an appointed election supervisor as well. Second, the Charter requires all appointed officers to renounce partisan political activities and affiliations. Third, appointed officials may be removed by the appointing power and are thus more accountable during their tenure than elected officials who can only be removed after their fixed term of office.

Arguments Against

Proponents of the current election procedure argue that the short-comings which exist in the City Commissioners' Office do not justify depriving citizens of the right to vote for their public servants. They contend that technological and other administrative improvements are all that is needed to enhance the quality of elections in Philadelphia, and that if particular City Commissioners are opposed to or incapable of instituting these improvements, the solution is to elect other City Commissioners.

While electors may experience great difficulty in judging the administrative qualifications of candidates, arguably they feel more secure if they influence the selection of public officers than if an elected politician makes the appointment. Those with a distrust of all political figures are likely to believe that allowing appointment of an election official, in effect, licenses the appointing power to name an even more unsatisfactory official than voters would have elected. They question the independence of an appointed official from the appointing entity. Further, they believe that all candidates for election are at least carefully scrutinized by their opponents and the media.

Supporters of the status quo further contend that the presence of a member of a minority party provides an internal check on the operations of the office. This minority member should alert the public when the duties of the City Commissioners' Office are not being carried out fairly.

Issues Raised By the Appointment Proposal

a. Who should make the appointment?

Mayor. Most supporters of the appointment proposal believe that the Mayor should be the appointing power. In their view, the Home Rule Charter's strong-mayor form of government dictates that accountability to the electorate is maximized when a single, highly visible official, the Mayor, is responsible for all appointments. They note that virtually all appointed officials are appointed either by the Mayor or by mayoral appointees. The public can exert direct pressure on the Mayor to remove an ineffective election administrator.

Many opponents of the appointment alternative proposal oppose granting any additional power to the Mayor, especially where this power would directly affect the highly sensitive area of elections. In an effort to meet these objections, supporters of appointment have suggested the use of a nominating panel, discussed below.

The Governor. Advocates of appointment see gubernatorial selection as a less attractive but possible alternative. It would help assure that the Mayor could not use the power to appoint the election official to advance partisan interests. However, the governor is less accessible to Philadelphia residents than the Mayor, and thus the election administrator's accountability to the public could be diminished. Furthermore, this proposal would require action by the Pennsylvania Legislature.

The elected City Commissioners. If the electorate does not want to relinquish the opportunity to vote for the City Commissioners, supporters of appointment suggest a compromise proposal to help improve the administration of elections. Under this plan, the City Charter would be amended to require that the City Commissioners appoint a single administrative expert to carry out the daily affairs of a Department of Elections. The job of the City Commissioners would be to make general policy decisions only, such as when and where to draw boundaries of election districts. In this manner, some of the organizational shortcomings of the current system could be improved, while enabling voters to continue to feel that they have a direct influence over the election process.

Opponents of this compromise would charge that, like the original appointment proposal, it prevents the voters from determining who will be in daily command of the election process.

b. Nominating Panel

Although it is hoped that the appointing officials, elected by the public, would base their appointments on merit rather than political considerations, it is possible that partisan pressures could force them to make politically

motivated selections. To limit this possibility, a nominating panel mechanism, such as the one now used for the Director of Finance and Civil Service Commissioners could be used. Supporters of this device believe that, so long as the appointing official does not also appoint the nominating panel, the panel provides an important check on the appointing official's ability to impose his own political preferences on the selection process. The nominating panel would be a small group of civic leaders representing non-governmental institutions specified in the City Charter. It would recommend one or, if necessary, two, lists of qualified candidates to the appointing power, thus insuring that whoever was named would possess a minimum of the administrative skills necessary to supervise elections.

Opponents of the appointment proposal contend that the nominating panel inadequately guarantees that the appointing official's wishes will not excessively control the selection process. They further note that the nominating panel does not address their basic criticism of appointment, which is that the electorate should be entitled to directly choose who will safeguard the elective process.

c. Term of Office

If appointed, Election Commissioners could be removed from office by the appointing official. Nevertheless, to assure that the Election Commissioners would possess a degree of independence, some believe that, like the Managing Director and Civil Service Commissioner, the Election Commissioner should be presumptively entitled to serve a fixed term of office and should be removable only for cause. Some proponents of a fixed term also would support a 6 year presumptive term to emphasize that the Commissioner of Elections' policies are not connected to those of any particular administration.

Opponents of the appointive selection process would question whether a presumptive term of 6 years really would impede an administration's efforts to exert its influence upon the election department. Moreover, these critics would point out that the suggested protections would not prevent the appointed Elections Commissioner from initiating an improperly close relationship with a particular administration. They therefore regard these additional protections as poor substitutes for the protection of the ballot.

d. Number of Elections Commissioners

Some supporters of the appointment selection process would prefer that there be three Commissioners of Elections who, unless removed from office by the appropriate official, would serve staggered six year terms of office.

In this manner, administrative continuity over the years would be increased, and it would be possible to have minority party representation among the chief election officials.

Proponents of the single appointed commissioner alternative contend that internal operations would run more smoothly if there were only one Commissioner of Elections and there were no unnecessary diffusion of responsibility.

They further argue that minority party presentation provides no real guarantee of fairness: decisions of the election department heads would be made by majority vote, and any two officials could disregard the wishes of the third.

III. CLERK OF QUARTER SESSIONS, SHERIFF, AND REGISTER OF WILLS

The remaining three row offices should be assessed together, because the proposals for improvement are similar and, in some cases, would affect several of the offices at once. In considering these offices, however, it should be recalled that the procedure for adopting changes varies: City Council, acting alone, can alter the Clerk of Quarter Sessions' Office; City Council, with the approval of Philadelphia's electorate, can alter the Sheriff's Office; and City Council, with the approval of Philadelphia's electorate, *probably* can alter the Register of Wills' Office, although preliminary authorization from the General Assembly may be required.

A. Duties of the Offices

1. Clerk of Quarter Sessions

The Clerk of Quarter Sessions provides important administrative services in connection with criminal proceedings in certain of Philadelphia's courts. Specifically, the principal functions of the Clerk of Quarter Sessions are: to administer the records for criminal proceedings in the Criminal Trial Division and Family Court Division of the Court of Common Pleas, as well as for the Municipal Court Criminal Division; to collect costs and fines imposed by the courts on behalf of the County and Commonwealth; to process bail funds; to keep evidence to be submitted at trial; to respond to informational requests from inmates of penal institutions (for example, for copies of records or for hearings on petitions); and to collect and disburse support order money. The proposed operating budget for the Clerk of Quarter Sessions for Fiscal Year 1980 was nearly \$2112 million.

2. Sheriff

The Sheriff also serves the court system in Philadelphia. His or her principal responsibilities include transporting and extraditing prisoners; providing security in the courtrooms; serving court orders, subpoenas, jury notices and other legal documents; conducting sheriff's sales of property to enforce judgments against debtors; and serving as a member of the Jury Selection Board.⁹ The proposed operating budget for the Sheriff for Fiscal Year 1980 was nearly \$4 million.

3. Register of Wills

The Register of Wills serves in two capacities. As Register of Wills, he or she is responsible for collecting inheritance taxes, and for probating wills and granting letters of administration in cases where persons die without leaving a valid will. As *ex-officio* Clerk of the Orphans Court Division of the Court of Common Pleas, he

or she is responsible for performing the administrative record-keeping duties of that court. Additionally, as *ex-officio* Clerk of Orphans Court, he or she must supervise the Marriage License Bureau, which involves both issuing marriage licenses and keeping required marriage records. ¹⁰ The proposed operating budget for the Register of Wills (in both capacities) for Fiscal Year 1980 was approximately \$1.05 million.

B. The Selection Process

At any time, there are only one Clerk of Quarter Sessions, one Sheriff and one Register of Wills, each of whom is elected by voters registered in Philadelphia. Each of these officials is elected at the same time as the Mayor and serves a four-year term which runs concurrently with that of the Mayor. There are no job-related qualifications which one must possess before being eligible for any of these offices. To be qualified to serve in any of these positions, a citizen must be a resident of Philadelphia, and it appears that one must also be at least eighteen years old.

The Philadelphia Home Rule Charter, the First Class City Code enacted by the General Assembly, and the Philadelphia Municipal Code enacted by City Council, are all silent as to an age requirement for these offices.

The County Code enacted by the General Assembly, however, states that the age requirement for holding county office is 18. Presumably, this would also be the minimum age for holding office in Philadelphia, at least until the age requirement is changed through local action.

C. Problems

As is the case with the City Commissioners' Office, the Offices of the Clerk of Quarter Sessions, Sheriff and Register of Wills currently are troubled by administrative shortcomings. In audit letters prepared for these offices in June and July of 1979, the City Controller identified these problems. With respect to the Clerk of Quarter Sessions, the Controller noted that the Bureau of Accounts, which receives and disburses support order payments, was two years behind in its reconciliation of its bank accounts; that internal control of the cash bail account was poor; and that procedures for handling evidence were inadequate. With respect to the Sheriff, the Controller found that the manual accounting system which was used to keep track of custodial funds was outmoded, that payroll procedures were lax, that the book balances of certain accounts did not agree with their bank balances and control accounts, and that the published terms and conditions of Sheriff's sales were not enforced. With respect to the Register of Wills, the Controller reported that cash in the active escrow account had not been formally reconciled since August, 1978; that numbered documents were not properly accounted for; and that, contrary to sound principles of internal financial control, the task of receiving payments had been combined with that of recording such receipt.

D. Proposal: Appoint the Clerk of Quarter Sessions, Sheriff, and Register of Wills

Arguments For

For the same reasons that appointment of the City Commissioners has been suggested as a solution to that Office's administrative difficulties, it can be urged that the three remaining row offices should also be filled by appointment. Proponents of appointment would emphasize that if the Clerk of Quarter Sessions, Sheriff and Register of Wills were appointed, the City Charter's methods for ensuring that administrative officials are capable and accountable would, for the first time, apply to these three posts: minimum job-related qualifications could be spelled out in the City Charter (as currently is the case with respect to members of the Mayor's Cabinet). The Charter provision which requires appointed officers to renounce partisan political activities during their tenure would become applicable. Finally, once appointed under the terms of the Charter, these officials could be removed by the appointing power. Proponents of appointment believe that appointed officials holding administrative positions are therefore more accountable during their tenure than elected officials.

Who should make the appointment?

Testimony given at the 1952-53 Advisory Consolidation Commission hearings reflected the view that the appointing power for these row offices should rest with the judges of the appropriate court. Under this approach, the Board of Judges of the Court of Common Pleas, would select the heads of whatever offices might survive a re-organizational effort. Proponents of this alternative explain that the administrative functions carried out by these row offices relate primarily to the judiciary, rather than to city government. They view the separation of the Mayor from judicial matters as a substantial benefit. Judicial appointment of these three row office-holders would be consistent with the City Charter, which provides that in the case of new city officers whose primary duties are to assist the courts, the appointive power may be vested in the judges of those courts. The Prothonotary currently is chosen by judicial appointment.

Other supporters of appointment might favor the Mayor as the appointing power, despite the primarily judicial functions which the row offices serve. They might argue that the appointing power should be more susceptible to the will of the electorate than are judges, who must run against an opponent only once. (Thereafter, they have only to survive a retention vote.) This point, plus the general Charter principle of centralizing responsibility for administrative decisions in a single elected official, arguably justify making the Mayor the appointing official.

Arguments Against

The same arguments which can be offered in support of electing our City Commissioners also apply to the Clerk of Quarter Sessions, Sheriff and Register of Wills. Supporters of the election procedure would contend that neither the administrative deficiencies in these offices

nor the principles in the City Charter justify further diminishing Philadelphians' ability to directly select their public servants. If the elected, officers indeed are responsible, for their offices' administrative shortcomings, the solution is to elect other officers. Supporters of election would reject the view that voters are unable to evaluate the managerial credentials, or the integrity, of candidates for these posts. They further resist giving additional appointment power to any elected officials, and would particularly oppose giving the appointment power to the Mayor.

E. Proposal: Reorganize the Offices of Clerk of Quarter Sessions, Sheriff, and Register of Wills

Without addressing particular problems experienced by these row offices, a number of proposals can be made which would involve reorganizing some or all of these offices. Such proposals reflect the similarity of function of the three offices. Most of the proposals described below were made in the 1952-53 hearings before the Advisory Consolidation Commission, and were joined with recommendations that the heads of surviving offices be appointed.

One proposal to reorganize these row offices has been to combine the Offices of Clerk of Quarter Sessions Sheriff and Prothonotary into a single office dedicated solely to serving the court system in Philadelphia. The traditional peace-keeping powers of the Sheriff's Office (transporting prisoners and providing security in the courtroom) would be transferred to the Philadelphia Police Department.

In another effort to reorganize the row offices, the Clerk of Orphans Court function currently assigned to the Register of Wills could be transferred to the Clerk of Quarter Sessions. If this were done, the judicial records for all three branches of the Court of Common Pleas would be in a single office. This suggestion could also be employed in connection with the first proposal, above: the Clerk of Orphans Court function of the Register of Wills could be merged with the functions of the Clerk of Quarter Sessions, Sheriff and Prothonotary.

A less sweeping proposal would merge the Office of the Clerk of Quarter Sessions into the Prothonotary's Office, but would retain an independent Sheriff's Office with the hope that this independence would leave the Sheriff's Office strong enough to carry out its many responsibilities.

Each of these proposals reflects the belief that increased administrative efficiency would result from merging similar functions in the same office. Opponents of change might question whether the offices as they currently are constructed are indeed seriously inefficient. They might view each proposal as requiring substantial efforts and expenditures at a time when more minor administrative adjustments may be sufficient. Additionally, Inasmuch as supporters of reorganizing these three row offices generally favor *appointing* the head officials of any surviving offices, advocates of elected row offices should be expected to oppose reorganization under these terms.

Notes

1. *Pennsylvania Constitution*, Article 9, Sec. 4, as amended, 1968.
2. *Pennsylvania Constitution*, Art. 9, Sec. 13(a), (f).
3. Pennsylvania Economy League, *History of Philadelphia City Government* (Philadelphia, 1975), pp. 3-8.
4. *Lennox v. Clark*, 372 Pa. 355, 93 A.2d 834, 837 (1953).
5. Act of 1953, P. L. 1476, as amended 1963, 53 P.S. Sec. 13121(c).
6. *Philadelphia Code*, Sec. 2-112(4).
7. City Controller of Philadelphia, District Attorney of Philadelphia, Committee of Seventy, Greater Philadelphia Partnership, *The Election Process in Philadelphia*, 1979.
8. Philadelphia Common Pleas and Municipal Court Rules, 44(c), 44IB(4)(f), 442B(4)(f), 520(A), 600(C), 700, 810, 920. *See also* City of Philadelphia, *Supporting Detail for Fiscal 1980 Operating Budget*, Book I, Sec. 25.
9. Though not codified in the Home Rule Charter or First Class Cities Code, these are traditional roles of the Sheriff. *Pennsylvania Law Encyclopedia*. Vol. 33, Sec. 81 (1960). *See also* City of Philadelphia, *Supporting Detail for Fiscal 1980 Operating Budget*, Book I, Sec. 28.
10. 20 P.S. Sec. 901, 72 P.S. Sec. 2381, as amended, 1972. *See also* *Pennsylvania Constitution*, Art. 9, Sec. 4, and City of Philadelphia, *Supporting Detail for Fiscal 1980 Operating Budget*. Book I, Sec. 26.

Selected Bibliography

The Executive Branch

- Anderson, Stanley V. and Moore, John E., eds. *Establishing Ombudsman Offices: Recent Experiences in the United States*. Berkeley: Institute of Governmental Studies, University of California, 1972.
- Anderson, Stanley V., ed. *Ombudsman for American Government?* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1968. Baltimore, *Charter of Baltimore City*. 1964, as amended to Sept. 1, 1977. Banfield, Edward and Wilson, James. *City Politics*. New York: Holt, Rinehart, and Winston, 1965.
- Bureau of Municipal Research and Pennsylvania Economy League. *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience*. Philadelphia: Bureau of Municipal Research and Pennsylvania Economy League, 1957.
- Bureau of Municipal Research. *Philadelphia's City Representative-Director of Commerce: A Study of Organization and Functions*. Philadelphia: Bureau of Municipal Research, August, 1954.
- City (Philadelphia) Charter Revision Commission. *Report of the City Charter Revision Commission*. 1973.
- _____. *Transcripts of the 1973 City Charter Revision Commission Public Hearings*. 1973.
- Committee to Protect the Charter, Richard Chapman, Chairman. *Mayoral Power in America*. 1978.
- Crumlish, Joseph D. *A City Finds Itself: The Philadelphia Home Rule Charter Movement*. Detroit: Wayne State University Press, 1959.
- Detroit. *Charter of the City of Detroit*, Effective July 1, 1974.
- League of Women Voters of Philadelphia. *You and Your City*. Philadelphia: League of Women Voters of Philadelphia, 1976.
- Massachusetts Office of Planning and Program Coordination. *An Ombudsman for Massachusetts*. 1971.
- New York City. *New York City Charter*. Amended to June 1, 1977.
- Pennsylvania Economy League. "Charter Should Be Amended So City Ordinance Can Alter Number and Functions of Departments Under Managing Director," *Citizen's Business* No. 2413. September 27, 1975.
- _____. Personnel Administration in the City of Philadelphia. Philadelphia: Pennsylvania Economy League, July 1976.
- Philadelphia. *Capital Program of City of Philadelphia and School District of Philadelphia*. 1979-1984.
- _____. *Home Rule Charter*. 1951.
- _____. *Supporting Detail of Proposed Operating Budget for Fiscal Year 1979-80*.
- Philadelphia Charter Commission. *Transcripts of Public Hearings*, 1949. 51.
- Philadelphia City Council. *Journal of the City Council*. 1951-1978.
- Philadelphia City Planning Commission. *Annual Report* 1974.
- Philadelphia Civil Service Commission and Personnel Department. *Annual Report* 1977-78.
- Philadelphia Department of Public Property. *Annual Report* 1978. Rowat, Donald C., ed. *The Ombudsman: Citizen's Defender*. Toronto: University of Toronto, 1965.

The Executive Branch (The Budget)

- Adrian, Charles R. *Governing Urban America*. New York: McGraw-Hill, Inc., 1977.
- Baltimore. *Baltimore City Charter*, 1964, as amended to Sept. 1, 1977. Brenner, Clifford. *Survival and the Pursuit of Happiness*. 1970.
- Bureau of Municipal Research/Pennsylvania Economy League. *A Discussion of Some Proposed Revisions of the Home Rule Charter: the 1951-1956 Experience*. Philadelphia: Pennsylvania Economy League, 1957.
- Bureau of Municipal Research/Pennsylvania Economy League. *Proposed Charter Changes: Sectional Analysis* (Part 2 of above). Philadelphia: Pennsylvania Economy League, 1957.
- Bureau of Municipal Research. *Organization and Procedures for Performance of Financial Functions Under Philadelphia's Home Rule Charter*. 1951.
- Bureau of Public Information and Service, Office of the City Representative. *The New City Government*. 1951.

- City Charter Revision Commission. *Report of the City Charter Revision Commission*. Philadelphia: City of Philadelphia, 1973.
- City Charter Revision Commission. *Transcripts of City Charter Revision Commission Public Hearings*. 1973.
- Committee to Protect the Charter. *Mayoral Power in America*. 1978. New York. *New York City Charter*, as amended to June 1, 1977.
- Pennsylvania Economy League-Eastern Division. *How Philadelphia Can Avoid Following In the Steps of New York City*. 1976.
- Pennsylvania Economy League-Eastern Division. *Philadelphia City Council's Role In Setting Policy for Spending Federal Grants*. 1979.
- Philadelphia. *Capital Program for the City of Philadelphia and School District of Philadelphia*, 1979-1984.
- Philadelphia. *Philadelphia Home Rule Charter*. 1951. Philadelphia City Charter Commission. *Transcripts of the Philadelphia City Charter Commission Public Hearings*. 1951.
- Philadelphia. *Proposed Capital Budget for Fiscal 1980*.
- Philadelphia. *Proposed Capital Program for the Six Fiscal Years 1980- 1985, inclusive*.
- Philadelphia. *Proposed Operating Budget for Fiscal 1980*.
- Reuss, Henry S. *Revenue Sharing*. New York: Praeger Publishers, Inc., 1970

The School District

- Annual Financial Report: Fiscal Year Ending June 30, 1978*, The School District of Philadelphia, Dec. 1978. District of Philadelphia, Dec. 1978.
- Averch, Harvey, "How Effective is Schooling?", *Crisis in School Finance: Dollars and Sense in Education*, Chapel Hill, N.C.; Information Research Associates, 1972.
- Bailey, Stephen, *Schoolmen & Politics: A Study of State Aid to Education in the Northeast*, Syracuse Univ. Press, Syracuse, N.Y., 1962.
- Barth v. *Philadelphia School District*, 393 Pa. 557, 143 A.2d 909 (1958).
- Berke, Joel, "The Current Crisis in School Finance", *Crisis in School Finance: Dollars and Sense in Education*, Chapel Hill, N.C.: Information Research Associates, 1972.
- Binzen, Peter, "Philadelphia: Politics Invades the School District", *Saturday Review*, Feb. 5, 1972, Vol. LV, No.6.
- "Comments by the Drafting Committee", *Philadelphia Home Rule Charter*, Feb. 1951.
- Danson v. *Casey*, 33 Pa. Cmwlth 614, 382 A.2d 1238 (1978). Educational Home Rule Enabling Act of 1963.
- Educational Supplement to the Philadelphia Home Rule Charter* (1965).
- Edwards, Newton, *The Courts & the Public Schools: The Legal Basis of School Organization and Administration*, Univ. of Chicago Press, Chicago, IL., 1933.
- Fagan, Maurice, *Personal Statement on Revision of Charter Education Supplement: Report to the Charter Revision Commission*, Apr. 1973.
- Francis, S., *The Law and Education in Pennsylvania*, Banks-Baldwin Co., Cleveland, Ohio, 1970.
- First National City Bank, "Doesn't Anybody Love Property Taxes?", *Monthly Economic Newsletter* (May 1972).
- Ford v. Kendell Borough School District*, 121 Pa. 543, 15 A. 812 (1881).
- Hansen, Orval, "Public Education Financial Crisis", *Crisis in School Finance: Dollars and Sense in Education*, Chapel Hill, N.C.; Information Research Associates, 1972.
- Hearings before the House Educational Committee; Pennsylvania General Assembly, Jan. 18, 1978.
- Hearings on the Philadelphia School District 1979-80 Operating Budget (1979).
- Horton v. Meskill*, Connecticut Law Journal, Vol. 38, No. 42 (Apr. 19, 1977).
- Jennings, Zeigler, *Governing American Schools: Political Interaction in Local School Districts* N. Seitate, Mass., Duxbury Press, 1974.
- Lyon, David, "The Financial Future of City & School Government in Philadelphia", *Business Review*, Mar. 25, 1971.

- Mastrangelo v. Buckley*, 432 Pa. 352, 250 A.2d 447 (1962).
- McGuire, Joseph P., ed., *Crisis in School Finance: Dollars and Sense In Education* Chapel Hill, N.C.; Information Research Associates. 1972.
- McInnes v. Ogilvie*. 394 U.S. 322 (1969).
- McInnes v. Shapiro*. 293 F.Supp. 327 (1968).
- Operations Review of the School District of Philadelphia*, Touche Ross & Co., 1971.
- Proposed Operating Budget for Fiscal Year Beginning July 1, 1979*, The School District of Philadelphia, Apr. 1979.
- Report of the City Controller: Financial Condition of the City & School District*. Office of the Controller, Sept. 1978.
- Report of the City Controller: School District of Philadelphia; Fiscal Year Ending 30 Jun 1978*, Office of the Controller, Jan. 1979. *Report of the Governance Committee*. Citizens Committee on Public Education in Philadelphia, Apr. 1975.
- Resnick, Henry, *Turning on the System: War in Philadelphia's Public Schools* Random House, New York, 1970.
- Resolution #2 ~5*, Hearings before the Committee of the Whole, City Council of Philadelphia beginning on 12/13/77 through 2/14/78. *Robinson v. Cahill*, 62 N.J. 473 (1973). *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).
- School District of Phila...: Expenditure & Staffing Trends for School Year 1967 to School Year 1979*. PEL, Report #400, Dec. 1978.
- Serrano v. Priest*. 135 Cal. Rep. 345 (1977).
- State Constitution of the Commonwealth of Pennsylvania
- Stemlieb, George, *The Impact of Local Taxation on the Economy of Philadelphia*. Center for Urban Policy Research, Rutgers Univ. Camden, Mar. 1977.
- Summary of the Proposed Operating Budget: Fiscal 1979*, The School District of Philadelphia, Apr. 1979.
- Supplementary Statements to Notes of Testimony* presented to the City Charter Revision Commission by the Finance Task Force of the Citizens' Council on Charter Revision, 6/5/73.
- Supplementary Statements to Notes of Testimony* presented to the City Charter Revision Commission by the Educational Task Force of the Citizens' Council on Charter Revision, 6/26/73.
- Survey of Public Attitudes Toward Philadelphia Public Schools* presented to the Greater Philadelphia Movement -Research for Better Schools Inc., Oct. 1974; Robert Scanlon, Exec. Director.
- Survey of Public Education in the Nation's Big City School Districts*, National School Board Association, Nov. 1972. ;i.
- Wilksburg Borough v. Wilksburg School District*, 356 Pa.J.2.14, 74 A.2d 138 (1950).
- Williams, Betty, "House O.K.'s Education Dept., Victory for Carter Domestic Policy", *The Philadelphia Inquirer*, 12 July 1979.
- Wilson v. Philadelphia School District*, 328 Pa. 225, a95 A.90 (1937).
- Ziegler, Jerome M., "Should The Mayors Run The Schools", *City/Winter*, 1972; p. 16.