

## New Constitution for the State of New York

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## The New Constitution for the State of New York

By JACOB GOULD SCHURMAN\*

The constitutional convention met in Albany on the 6th day of April and completed its labors and adjourned on Friday, September 10th, at 8:15 P. M. There were 168 delegates, including 15 delegates at large. Of the delegates 116 were Republicans and 52 Democrats. But, except in the matter of apportionment, party politics seemed to play no part in the convention. With the exception of the apportionment article, which is to be submitted to the people for separate action, all the amendments incorporated in the new constitution (that is, 32 out of 33) were adopted not only by the votes of a majority of the Republican delegates but also by the votes of a majority of the Democratic delegates.

It was pre-eminently a convention of lawyers, indeed three-fourths of all the delegates were lawyers. Among them were many of the leaders of the bar in the state. Prominent lawyers from New York City of both parties exercised a commanding influence in the deliberations and decisions of the convention. By way of contrast it is worth recalling that in the convention of 1821 there were only 37 lawyers, as against 68 farmers; and even as late as the convention of 1846 there were almost as many farmers as lawyers, there being 42 farmers to 48 lawyers.

A great deal of hard work was done by members of the convention. Over 800 amendments were proposed and these were carefully considered in committees. Out of all these, 33 have been adopted. The most important of them are described in the following pages.

### *Reorganization of the State Administration*

The most important work done by the convention concerns the executive department of the government. Our administrative system had in the course of its evolution become very complex and unwieldy. Although the constitution nominally vests the executive power in the governor, there are, as a matter of fact, over one hundred

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and fifty different boards, commissions, bureaus and offices taking a more or less independent part in the administration of the state's affairs. This is due in part to the manifold activities in which the state has from time to time embarked and the failure of earlier conventions to make any proper organization of the government to which these activities might from time to time be adjusted by the legislature.

The new constitution provides for a grouping of all the related administrative functions of the state in a systematic plan of coordinated departments. The legislature is given power to make adjustments within this scheme but it is prohibited from creating any office or function not assigned to one of these departments. Under the existing constitution there is an enumeration of elective state officers, but no consistent plan of organization. The state superintendent of public works and the state superintendent of prisons are constitutional officers. But the commissioner of highways, the superintendent of insurance, the superintendent of banks and others are statutory officers. There seems no reason why some of these departments should be included in the constitution, while others are omitted. The new constitution proposes a new classification of all administrative functions of government into a few defined groups and the assignment of these functions, partly by constitutional provision and partly by legislative enactment, to a limited number of civil executive departments which are named in the proposed article.

It is proposed that there shall be seventeen civil departments in the state government. These departments fall into three groups, according to the general functions of the officers and departments described. In the first place, the attorney-general, who is the law officer of the state, and the comptroller, who is the chief fiscal officer of the state, are continued as elective officers. Many members of the convention desired to make these officers appointive, but they were compelled to yield their views to the majority. The basis of the compromise is to be found in the peculiar relations which these two officers hold to the people of the state as a whole.

The second group of departments embraces those which from the character of their jurisdiction and authority can not be considered as purely executive agencies of the government. Their functions are not exclusively administrative but in part judicial and legislative. To this class belong the department of education, the public service commissions, the civil service commission, the industrial commission, and the new conservation commission. These officers serve for longer terms than the governor, the object being to secure con-

tinuity of policy. With the exception of the educational department, in which no change has been made, the members of all these commissions are appointed by the governor with the advice and consent of the senate and their removal has been made more difficult than that of the purely administrative officers and that of the heads of purely executive departments.

Thirdly, we now come to the departments which are strictly executive in nature. There are ten of these, designated as follows: accounts, treasury, taxation, state, public works, health, agriculture, charities and correction, banks and insurance. The governor has exclusive power to appoint and to dismiss the heads of these departments. They may be regarded as so many fingers of the executive hand. And, as the Governor will be held responsible for the administration of public affairs, it was only right that he should be granted the freest choice in the selection and dismissal of his assistants and coadjutors.

Little change has been made in the functions of the departments of state, health, agriculture, banks, insurance, and labor and industry, excepting that certain miscellaneous duties of collecting public revenues now performed by some of them have been transferred to the department of taxation and of finance. The new department of public works includes the functions of the state engineer and surveyor, state superintendent of public works, state commissioner of highways, state department of public buildings and state architect. The department of charities and corrections remains substantially unchanged, but a secretary has been appointed as head of the department with power, not of administration, but merely of inspection and supervision of all state charitable institutions, state hospitals for the insane, state prisons, and other state correctional institutions.

The reorganization of departments, which has just been described, is associated in the popular mind with the demand for the short ballot. The voter on election day has in the past been compelled to choose not only his candidates for governor and for lieutenant-governor, but also his candidates for numerous other state officers. It was found in practice that it was impossible for the voter to exercise discrimination in making his choice. He knew something about the candidates for governor, but little about the other candidates and perhaps about some of them nothing at all. The reform adopted by the advocates of the short ballot had for its object to relieve the voters of the embarrassment caused by this multiplicity of offices and candidates on the ballot which he was required to cast on election day.

And the short ballot reform movement, on this ground alone, made considerable headway among the public.

But the reorganization of the administrative activities of the state and the consolidation of them into a limited number of departments was necessitated not only by the political considerations involved in the short ballot movement, but also by the requirements dictated by the principles of sound administration. From an administrative point of view the machinery of the state government was hopelessly defective. For good administration there must be some supreme authority who is ultimately responsible. In the state government this must be the governor. But the governor in the past shared the jurisdiction of the executive department with many other officers, some of them statutory, others of them constitutional, each occupying a circumscribed field in which he was practically independent of the governor. There was, therefore, no single agent who could ultimately be held responsible for the administration of state affairs. In the second place, the principles of good administration require that the supreme executive authority shall have the right to select and dismiss his assistants. This is what is done in private business and this is what is done in the government of the United States and in the government of our cities.

The new constitution proposes that the governor shall exercise ultimate control of the administrative affairs of the state with a free hand to select and dismiss his assistants. Consequently, the governor can hereafter be held responsible by the people for the administration which he gives them. In the past it was unjust to hold him responsible because over large portions of the administrative field he had no jurisdiction and could wield no authority.

Our state governments have been far less developed than our federal government and our city governments. Many western states have realized the evil and they have endeavored to cure it, but the remedies which they have adopted were such fads as the initiative, referendum and recall, etc., which while they exercise a certain deterrent effect upon evil-doers, have no potency to stimulate to higher service either the average or the superior man. Their aim was to make evil-doing difficult or impossible. The recent constitutional convention of New York state on the contrary, while not blind to the dangers of corrupt administration, was especially dominated by the thought of securing efficient government by the concentration of power and responsibility. If this proposed reorganization of the state government meets with the approval of the people and produces the results which it is reasonable to anticipate, it is bound to mark an epoch in the development of state government in America.

*The Budget*

We have not yet exhausted the duties which the new constitution proposes to put upon the governor. One other function of supreme importance has been assigned to him. In the past the appropriations of public moneys have been made by the legislature, and made in a thoroughly hap-hazard manner. The governor indeed had the right to veto any appropriation made by the legislature either at the time or within thirty days after the adjournment of the legislature. This procedure, however, is in direct contravention of the practice followed by our best city administrations, and also of the practice of the most advanced governments in the world. In all these bodies it has been recognized that the preparation of the budget is a function belonging to the executive and not to the legislative department. The proper work of the legislature is to legislate; it has no administrative control or authority over the bureaus or departments which spend the money of the state and cannot, therefore, correctly appraise their needs. Furthermore, since the legislature is made up of members who represent localities, each is naturally anxious to secure appropriations for his district, so that the appropriation bill when finally adopted represents a compromise or bargain between districts, rather than a deliberate and well-digested grant to meet the legitimate needs of the different agencies of the state government. Finally, the appropriation bill, as it has been enacted in the past, is put through with little or no publicity and little or no debate and criticism.

The procedure hitherto followed needs to be reversed. As the chief executive is responsible for the operations of the executive agencies that spend the state's money, he alone, after consultation with the heads of these agencies, is in a position to prepare an estimate of the proposed expenditures for the next fiscal year. It should be the duty of the governor of the state of New York, as it is the duty of the executive branch of the government in European countries, to go before the legislature with his estimates and ask that the legislature grant the appropriations needed for carrying on the public service. It is the duty of the legislature to scrutinize every item asked for and to criticize anything that is open to criticism, but the legislature should not have power to make any increase in the items of appropriation asked for by the governor. It should, of course, have a right to reduce or strike out any item and legislative criticism may sometimes lead to reductions; but, before changes are made, the governor and heads of departments should be heard on their financial proposals. The new constitution provides that they shall have the right to go before the legislature and, when requested by the legisla-

ture, it shall be their duty to appear to explain the items in the annual estimate. The new constitution further provides that the governor, along with the estimates of proposed expenditures for the ensuing fiscal year, shall present to the legislature a financial statement of the current resources and liabilities of the state, including its debts and various funds, and including also, for the purpose of comparison, a statement of its current expenditures and revenues in past years. And, if it shall appear that the resources of the state are inadequate to meet the proposed expenditures, the governor shall submit a proposition for new measures of taxation.

It will be seen that this reform completely reverses the existing relations between the governor and the legislature in the matter of appropriations. At the present time the initiative in the making of appropriations is with the legislature and the governor has the right to veto what the legislature proposes. Under the new constitution, on the other hand, it is provided that the initiative in matters of appropriation shall be with the governor who submits to the legislature an estimate of the expenditures which he deems necessary for carrying on the state's business and requests the legislature to make the appropriations for that purpose. The legislature is at once put in the position of critic and reviser of the governor's financial programme. No legislator can put his finger in the treasury to get appropriations for his own locality and hence all legislators will be interested in keeping down the expenditures of the state.

It is not, however, intended absolutely to prohibit all financial legislation by the legislature. But it is provided that neither house shall consider further appropriations until the appropriation bill proposed by the governor shall have finally been acted upon by both houses. Additional appropriations may then be made by separate bills, each for a single work or object, but these bills are subject to the governor's veto. The estimates of the financial needs of the legislature and of the judiciary are made independently of the governor, the former being certified by the presiding officers of each house and the latter by the comptroller. These are transmitted to the governor for inclusion in his annual budget; he may not revise them, but he is free to make such recommendations as he may think proper.

If one attempted to describe in language borrowed from foreign governments the governor's powers, functions and duties under the new constitution, it might be said that he is really the prime minister or chief executive of the state and at the same time minister of finance or chancellor of the exchequer. There is no reason why the real head of the state in Canada, England, France, or Australia

should not occupy such a two-fold position. If in practice he does not ordinarily do so, it is probably due to the fact that the burdens of a finance minister are too heavy to combine with the position of head of the cabinet; and in any event the prime minister selects the minister of finance and is responsible for his official work.

It will be seen that the new constitution puts very grave and onerous duties on the chief executive. He is made definitely responsible for the success of his administration. There can be little doubt that the state will gain by this concentration of power and responsibility. And the opportunity of rendering such large and important service to the state should attract to the office of governor a class of men who in the past have felt little or no ambition for the honor.

In view of the larger powers which have been vested in the governor, it is essential that he should be held to strict accountability by the people. For this reason the convention made no change in the governor's term of office. The committee on governor and other state officers reported indeed in favor of extending the term from two to four years and this proposal was favored by an influential group in the convention. But, after careful consideration and discussion, the convention decided by an overwhelming vote in favor of leaving the term as it is. If the governor makes a good record in two years, the people will have an opportunity of re-electing him; if he makes a poor record, the people will have an opportunity of getting rid of him. The committee on governor and other state officers recommended the four-year term with ineligibility for re-election. Had this been adopted, it would have removed the governor for four years beyond the control of the electorate. But, since in a republic the voters will in the end control their own officials, I have no doubt that if the four-year term had been adopted it would have led in a short time to a strong demand for the recall. The good judgment of the convention was shown in leaving the term as it has been. Under the cabinet system of Great Britain and other parliamentary countries the chief executive may be dismissed at any time by an adverse vote of a majority of the representatives of the people in the legislature.

The governor's salary was increased from \$10,000 to \$20,000 a year and that of members of the legislature from \$1,500 to \$2,500 a year.

#### *Restraining and Dignifying the Legislature*

The emergency message by the governor, authorized by the constitution of 1894, has been perverted from its original purpose and so much abused that the convention voted to abolish it and to

require that no bill shall be passed and become a law unless it shall have been printed and upon the desks of the members of the legislature in its final form at least three calendar legislative days prior to its final passage. The effect of this change should be to make the legislature more open and deliberative.

Other amendments adopted by the constitution make for the same end, while at the same time they tend to dignify the legislature and to restore it to its true function of enacting general laws and making necessary appropriations for the conduct of the state government. The article providing home rule for cities prohibits the legislature tinkering in municipal affairs which in the past has occupied much of its time and diverted it from its own proper work, while it has also been a prolific source of scandal. Under the amendment authorizing county home rule, it will be seen that the legislature is prohibited from passing special laws except at the request of the authorities of the county concerned. Grants of money for local purposes have been another prolific source of trouble and scandal for the legislature. A constitutional amendment adopted by the convention provides that no public moneys or property shall be appropriated for the construction or improvement of any building, bridge, highway, dike, canal, feeder, waterway or other work until plans and estimates of the cost of such work shall have been filed with the secretary of state by the superintendent of public works, together with a certificate by him as to whether or not in his judgment the general interests of the state then require that such improvement be made at state expense. And the existing constitutional provision against the legislature's passing private or local bills has been extended so as to embrace bills granting to any corporation, association or individual the right to prove a claim against the state or against any civil division thereof and bills authorizing any civil division of the state to allow or pay any claim or account. The legislature is forbidden to audit or allow any private claim or account against the state or against any civil division thereof, while it is authorized to pay such claims and accounts against the state as shall have been audited and allowed according to law.

These various prohibitions against special and local legislation are, of course, in the interest of the honest, efficient and responsible administration of public affairs. But it cannot be too strongly emphasized that at the same time, by inhibiting such irregular and improper activities on the part of the legislature, they leave it free for the discharge of its own proper functions. They throw it back upon the consideration of questions of general public policy and legis-

lation. And since the legislators, under the amended constitution, will find it impossible to get public moneys for their own localities, outside of the regular and systematic method of appropriation, it will be natural and easy for them to see that others do not in any irregular way get their fingers on the public moneys, with the result that all appropriations are likely to be scanned in a spirit of economy hitherto unknown in our legislative halls.

The present constitutional inhibition against members of the legislature receiving any civil appointment within this state or the senate of the United States from the governor, the governor and senate, the legislature, or any city government has been omitted from the new constitution. The motive for the change was to furnish additional inducements to young men of character and ability to lead them to devote themselves to the service of the state. Under the amended constitution a candidate for election to membership in the assembly or senate might also aspire to appointment as head of one of the administrative departments and consequently to a seat in the governor's cabinet. At present even the ablest young men after a term or two in the legislature retire to private life. The proposed amendment would tend to keep them longer in the public service and familiarize them both with the administrative and the legislative branches of the government.

Of course this change would tend to break down the rigid barriers that now separate and often antagonize the legislative and executive departments of the government. Each would be kept better informed of the sentiments and policies of the other. Unnecessary friction would be avoided. Directness and simplicity would take the place of roundabout and complex methods. Party responsibility could be more directly enforced. The one danger to be guarded against is the subordination of legislative independence to executive domination. But party solidarity and frequent elections will probably prove a sufficient protection; if not, other remedies can be devised in the light of experience. For the rest, the eligibility of legislators for administrative posts and cabinet positions, like the reorganization of the executive department and establishment of an executive budget, is only another step towards that representative and responsible cabinet government which most civilized countries have adopted. For the sake of efficiency and definite responsibility this system invests the chief executive or prime minister with large powers. And among those powers is leadership in the legislature—leadership exercised both directly and through the agency of cabinet members. The power to appoint legislators as members of his cabinet will enable

the governor to exercise a leadership, not indeed so complete, yet sufficiently influential, in the legislature of the state of New York. Indirectly, a strong and wise governor, if he enjoys popular confidence, may through his cabinet guide the legislature; directly he is real head of the executive department and responsible minister of finance.

### *Finances*

I have already had something to say about state finances in describing the proposal for an executive budget system. But a fuller account of this important subject is indispensable in any report of the work of the convention. The crucial fact of the situation is the great and rapid increase in the cost of government, and the great and rapid increase in the debt both of the state itself and of its political subdivisions. Exclusive of interest on the canal and highway debts and of the free school fund, the annual expenditures out of the general fund of the state have increased from \$7,163,831.18 in 1885 to \$42,408,488.24 in 1914. This represents an increase in the general running expenses of the state of nearly six hundred per cent. in thirty years. During the same period the population of the state increased only eighty-two per cent. and the assessed valuation of real and personal property liable to taxation only two hundred and seventy-four per cent. Furthermore a considerable portion of this increase in assessed valuation does not represent a real increase in property, but is due either to new methods of taxation, like the special franchise tax as levied in 1899, or to increase in percentage of assessment, as, for example, in New York City, where in 1903 the rate of assessment was raised from less than seventy-five per cent. to approximately ninety per cent.

There are special circumstances which explain in part this increase in the general running expenses of the state during the last thirty years. The care of the insane has been taken over from the counties by the state and this involves an annual expenditure of about seven million dollars. The care of the new system of highways now adds about six million dollars a year to the annual expenses. Much more is spent on education than formerly. Finally the state has undertaken a number of new activities, all of which involve additions to the cost of government.

In 1903 the net debt of the state was only \$7,400,000; at the present time the net debt, over and above all sinking funds, is over \$145,500,000. The gross debt outstanding to-day is over \$186,000,000 and the total authorized debt is over \$231,000,000. As is well known,

\$100,000,000 of this debt has been authorized for highways and a good deal over \$100,000,000 for canals. But, however meritorious the objects, the annual interest on the debt and the annual contribution to the sinking funds for extinguishing it make a heavy burden on the taxpayer.

The convention proposes an improved method of handling the debt of the state. The provision of sinking funds for the payment of bonds has not worked satisfactorily in practice. The state authorities have made mistakes in calculating and collecting contributions for the sinking funds. Some years a very much larger amount has been contributed than would be necessary under scientific amortization; in other years no contributions whatever have been made to some of the funds. The total result has been to put unnecessary burdens upon present taxpayers, up to September 30, 1914, \$34,487,679.41 having been contributed where only \$4,940,095.13 was actually required. Nor are miscalculations of this sort the only drawback to the present system of straight term sinking fund 50-year bonds. Such sinking funds leave in the hands of public officials large sums to be cared for, invested and re-invested for fifty years, with attendant risk of loss and the temptation to make investments in various local securities for political purposes. Furthermore, there is the temptation to extravagance, as the generation which contracts the debt is not required to begin paying it off at once.

For all these and other reasons, the convention voted that hereafter all state debts except emergency debts should be based upon serial bonds; that the life of no bond should exceed fifty years, and that the bonds should be paid off in full in equal annual installments. The convention also provided that, with the consent of the outstanding bond-holders, the present straight term 50-year bonds may be replaced with serial bonds. Even if a somewhat higher rate of interest must be paid on the new securities as an inducement for getting the old bonds turned in, there would be a considerable saving in expense to the state. The comptroller's office has calculated that, if the existing canal debt of \$118,000,000 is refunded into serial bonds bearing a rate of interest of four and three-fourths per cent., as against the present average rate of less than four and one-half per cent., the consequent saving to the state would be not less than \$34,120,091.91.

#### *Home Rule for Cities*

The convention provided a scheme of home rule for cities which is as liberal and comprehensive as is compatible with the sovereignty

of the state. Under this scheme every city is to have exclusive power to manage, regulate and control its property, affairs and municipal government. And this grant of power is to include among other things the power to organize and manage all departments, bureaus or other divisions of its municipal government and to regulate the powers, duties and qualifications of all city officers and employees, including their mode of selection, number, terms of office, compensation and method of removal. The grant of home rule also includes the power to revise and enact amendments to the city charter in relation to its property, affairs or municipal government. Every amendment which changes the framework of the government of the city or modifies restrictions as to issuing bonds or contracting debts shall be submitted to the legislature and, if not disapproved by joint resolution, shall take effect as law. Every other amendment to a city charter by the local authorities takes effect upon its enactment without such submission to the legislature. The legislature is prohibited from passing any law relating to the property, affairs and municipal government of any city, except such as is applicable to all the cities of the state without classification or distinction. Furthermore, the legislature may delegate to cities for exercise within their respective local jurisdictions such of its powers of legislation as to matters of state concern as it may from time to time deem expedient. Provision is also made for the general revision of the charters of cities in the year 1917 and, optionally, in every eighth year thereafter, through commissioners chosen by the electors of the entire city. When such a commission has revised a charter, it is submitted to the electors for their approval and, if a majority of the electors voting thereon approve it, is then submitted to the legislature and, if not disapproved by the legislature by joint resolution, takes effect as law. It will be seen that in general the city has both initial and final jurisdiction in all matters of purely municipal concern and it initiates amendments in matters of state concern which latter amendments, however, the state, through the legislature, retains the power to veto, if it so desires. In this latter connection, it will be noticed that the state acts at all only for the purpose of disapproving. Its affirmative action is not required to validate the amendments made by the city authorities and electors. These become law unless disapproved by the legislature. In this way the inertia of the legislative body is enlisted in the interest of home rule for cities. The reserved right of the legislature of the sovereign state of New York to disapprove legislation enacted by the cities of the state may be compared with the analogous right reserved by the British parliament to disallow laws on imperial

subjects enacted by the legislatures of Canada, Australia, and the other self-governing dominions.

The new constitution requires the legislature to provide for a method of limitation under which debts may be contracted by the cities, counties, towns, villages and other civil divisions of the state, to the end that such debts shall be paid in annual installments, each of which shall fall due and be paid no later than fifty years after it shall have been contracted; furthermore that no state debt be contracted for a period longer than the probable life of the work or object for which such debt is contracted.

### *Home Rule for Counties*

In the case of cities the initiation of charter amendments is, as has already been seen, with the cities themselves. In the case of counties, however, it is provided that the legislature by general laws may establish forms of county government which any county may adopt when approved by the electors thereof, in such manner as the legislature may prescribe. In the case of cities the legislature is inhibited from passing laws relating to purely local affairs or government; but in the case of counties, while local or special legislation is not absolutely forbidden, it is not to be enacted except upon request by resolution of the governing body of the county or counties to be affected.

The provisions of the new constitution in relation to county government do not apply to any county or counties wholly included within a city.

Finally, the new constitution provides that the legislature may confer upon any elective or appointive county officer or officers any of the powers and duties now exercised by the towns of any county or the officer or officers thereof relating to highways, public safety and the care of the poor

### *Judiciary*

The changes in the judiciary article of the constitution may be grouped under three heads, namely, those intended to simplify procedure, those designed to relieve the congestion of court calendars, and those which provide for the reorganization of certain courts to meet growth and changed conditions.

The demand for simpler and briefer rules of procedure was met by providing that the legislature must at its session in 1916 enact a short practice act and a separate body of court rules. This will be easily done because the report of the board of statutory consolidation recommending a short practice act of seventy-one sections and a

separate set of court rules was presented to the legislature in 1915. The proposed constitution provides against frequent or unwise changes in the short practice act by prohibiting the legislature from passing any amendment to it oftener than once in five years and then only on recommendation of a commission appointed to investigate the need of amendment and by means of a single bill upon that subject. The alteration of the court rules is given into the hands of the judges of the court of appeals and the justices of the appellate division of the supreme court.

The committee on the judiciary found a state of congestion in the calendars of the court of appeals and the appellate divisions of the first and second departments. To relieve this congestion and promote a speedy determination of litigation the new constitution increases the number of court of appeals judges from seven to ten by incorporating therein the three justices of the supreme court who are now designated to sit in the court of appeals. The new constitution also requires that court, on or before March 1, 1916, to designate not more than six nor less than four justices of the supreme court to sit with the judges of the court of appeals and requires that the court of appeals be divided into two parts and sit thus until the calendar is reduced to one hundred cases, but in no event later than December 31, 1917.

The number of justices to be designated to the appellate division in the first department is increased from seven to not more than twelve nor less than ten and in the second department from five to seven. The appellate division in the first department is empowered to sit in two parts for the purpose of relieving its calendar of congestion.

Slight changes in the minor courts of the state are made in order to keep pace with progress and perfect the judicial system. The jurisdiction of the county courts is extended from \$2,000 to \$3,000 and to cases in which the defendant, although not a resident of the county, has an office for the transaction of business in the county and the cause of action arose in such county. The county courts in Kings, Queens, Richmond and Bronx counties are abolished and their criminal jurisdiction transferred to the court of general sessions of the city of New York, while their civil jurisdiction is vested in the city court of New York. The jurisdiction of the city court of New York is increased from \$2,000 to \$3,000.

#### *Bill of Rights*

Not many changes were made in the bill of rights, but two general provisions are worthy of special mention. One is that no person shall

“be denied the equal protection of the laws;” the other is that the party accused “in any criminal case shall have the right to at least one appeal.”

Another amendment of the bill of rights provides that any person may, in the manner prescribed by law after examination or commitment by the magistrates, waive indictment and trial by jury on a charge of felony punishable by not exceeding five years' imprisonment or of an indictable misdemeanor, by subsequent proceedings being had by information before the superior court of criminal jurisdiction or a judge or justice thereof. This provision, if the constitution is adopted by the people, will work a beneficent reform. At present throughout the greater part of the state grand juries are convened only three or four times a year and persons accused of crimes may lie in prison for months awaiting an indictment; and whether the accused are guilty or innocent such delay and imprisonment are penalties that no one under such circumstances should be required to bear.

### *Taxation*

The new tax article provides that taxes shall be imposed by general laws for public purposes only. It authorizes the legislature to prescribe how taxable subjects shall be assessed and to provide for officers to execute the laws relating to the assessment and collection of taxes and to provide also for the supervision, review and equalization of assessments.

For the assessment of real property heretofore locally assessed the legislature is authorized to establish tax districts, none of which, however, unless it be a city, shall embrace more than one county. But no such tax district shall be established until a law providing therefor shall have been adopted by a vote of a majority of the people voting thereon in such proposed district at an election for which provision shall be made by law. The legislature may provide that the assessment roll of such large district shall serve for all the lesser tax districts within its boundaries, and the assessors shall be elected by the electors of such districts or appointed by such authorities thereof as shall be designated by law.

The subject of exemptions was thoroughly discussed in the committee on taxation. As a result the new article provides that hereafter no exemptions from taxation shall be granted except by general laws and upon the affirmative vote of two-thirds of all the members elected to each house.

The new taxation article is designed to give New York state a scientific system of taxation. So far as real property is concerned, the

town is the present unit of assessment, but in the proposed amendment the legislature may, with the approval of the voters of the territory concerned, establish tax districts up to the limits of the county. The most important change, however, concerns personal property. At present personal property escapes its fair share of taxation. Under the proposed amendment the state will have power over the assessment of personal property, wherever located, and will provide officers for the execution of the laws relating both to the collection and assessment of taxes. The state will also provide for the supervision, review, and equalization of assessments.

The adoption of this taxation article will put New York state abreast of other states in the matter of a scientific system of taxation. And, as the debt of the state is now so large and the cost of government so high, the question of taxation is a most serious one. Some opposition has already developed to this amendment, putatively on the part of farmers, but really, there is reason to suspect, on the part of millionaire owners of personal property. The article is to be submitted to the voters independently of the constitution as a whole. And in the interests of the state it ought to be adopted.

#### *Labor Legislation*

The new constitution establishes a civil department in the state government to be known as the department of labor and industry. The head of this department shall be either an industrial commissioner or commissioner, as may be provided by law. The commissioner shall be appointed by the governor by and with the advice and consent of the senate.

This department has charge of the workmen's compensation law, and the new constitution not only includes the provisions of the workmen's compensation amendment adopted in 1913, but extends its provisions so as to embrace compensation for injuries or death resulting from occupational diseases of employees. Another amendment in the industrial field adopted by the convention provides that the legislature shall have the power to regulate or prohibit manufacturing in tenement houses.

#### *Conservation*

The new constitution provides for a conservation commission of nine members, to serve without compensation, to be appointed by the governor by and with the advice and consent of the senate, for terms which shall expire in nine successive years. One commissioner shall reside in each judicial district. There are restrictions as to

eligibility for appointment affecting persons engaged in the lumbering business or using hydraulic power or financially interested in corporations engaged in such business. The department of conservation has charge of the development and protection of the natural resources of the state; encouragement of forestry and the suppression of forest fires; the exclusive care, maintenance and administration of the forest preserve; the conservation, prevention of pollution, and regulation of the waters of the state; the protection and propagation of its fish, birds, game, shell fish, etc., with the power, subject to veto within thirty days by the governor, to enact regulations with respect to the taking, possession, sale and transportation thereof which shall have the force of law. The department is empowered to reforest lands in the forest preserves, construct fire trails thereon and cut and remove dead trees and dead timber for the purpose of reforestation and fire protection, but shall not sell the same.

Under the conservation amendment the legislature is required to make annual provision for the purchase of real property within the Adirondack and Catskill parks, the reforestation of lands and the making of boundary and valuation surveys.

The legislature is also empowered to authorize the use, by the city of New York for its municipal water supply, of lands now belonging to the state in the counties of Ulster and Greene for just compensation.

#### *Conclusion*

The foregoing are the principal amendments adopted by the convention. There is no space to describe others, though some of them are well worthy of consideration. Among them is an amendment to facilitate impeachment of officers of the state by means of a provision that the legislature of its own motion may convene to take action in the matter of the removal of a judge of the court of appeals or justices of the supreme court and that the assembly of its own motion may convene for the purposes of impeachment of the higher officers of the state. Especially worthy of mention also is the provision empowering the legislature to establish children's courts and courts of domestic relations and to confer upon them such equity and other jurisdiction as may be necessary for the correction, protection and guardianship of delinquent, neglected or dependent minors and for the punishment of adults responsible therefor and of all persons legally chargeable for the support of wife or children who have abandoned or neglected to support either.

On the whole the work of the convention has been well done. The average of ability and intelligence of the delegates was very high.

The discussions were as a rule instructive and illuminating. The conclusions reached have, generally speaking, the warrant of good sense, reason and experience. No radical measure has been adopted. No reactionary measure has been adopted. All the amendments are in the direction of sane and moderate progress. The general frame work of the existing constitution has been retained and the modifications recommended by the convention are intended to remedy the most striking deficiencies of the existing system as these have developed in practice. A disposition to conserve existing institutions and an ability to improve are Burke's tests of statesmanship. Measured by that standard the convention confidently invites the sovereign people to pass upon its work.