A REPUBLICAN LOOKS AT THE 1968 VIRGINIA GENERAL ASSEMBLY

By M. CALDWELL BUTLER

The real significance of the General Assembly of 1968 is apparent only when it is compared with earlier years. Virginia turned a corner in 1966 with a dramatic change in the course and direction of its government, and the momentum of that session was sustained in part by the General Assembly of 1968.

For example, significant increases in support of higher education and mental health facilities continued; correctional programs received new emphasis; medical care for the indigent was initiated; conservation and recreation programs continued to expand; the highway construction schedule was maintained; a significant highway safety program was adopted; and positive legislation in areas of crime and riot control was enacted.

On balance: A session of moderate achievement, moving forward at a modest pace, holding great promise for the future, and demonstrating once again the tremendous benefits to be derived from a properly functioning two-party system.

Two years ago, in these same columns, I was privileged to view the General Assembly of 1966. At that time, I applauded the change in the course and direction of Virginia’s government, modestly conceded that it resulted from the pressure of the growing Republican Party as the two-party system came of age in Virginia, but warned that the momentum of 1966 must be sustained or the dominant party would be supplanted.

It is now apparent that we had conscientious readers within the Administration. Much that was suggested two years ago in these columns is found in some degree in the legislation of 1968.

Although much legislation of merit failed to pass, old issues are being met with a new technique: Kill the bill, but study the problem. For example, this General Assembly did very little in terms of concrete action in many areas except to create special study commissions, or authorize special studies by the Virginia Advisory Legislative Council. When compared with the refusal to acknowledge a problem in the past, an agreement to “study” is, indeed, progress!

A word of warning! It has been the practice in past years to withhold reports of interim studies until after the election, thus avoiding campaign commitments in sensitive areas on the ground that the problem is being “studied.” Hopefully, the groundwork is not being laid to use this device to answer Republican charges of inaction in the gubernatorial campaign of 1969.

ANNUAL SESSIONS AND CONSTITUTIONAL REVISION

For many years, Republicans have urged a Constitutional amendment to require annual sessions of the General Assembly. This is but one of the many shortcomings of Virginia’s Constitution. The Constitution of Virginia in its present form is too lengthy, too detailed, too restrictive, and too clumsy to serve satisfactorily or efficiently as the basic law for the government of a State with an expanding economy and a growing population, most of which lives and works in urban areas. This need for wholesale Constitutional revision was a significant part of the Republican effort in the General Assembly of 1966 and the legislative campaign of 1967.

When the General Assembly convened in January, we became aware that the Governor of Virginia also considered Constitutional revision a major need. He urged the immediate appointment of a Constitutional Revision Commission.

Needing no credentials to establish their sincere interest in Constitutional revision, Republicans did not hesitate to point out that the procedure selected by the Governor for revising Virginia’s Constitution may not produce the best results. The Constitutional Revision Commission, which has already gone to work, is to make its report to a special session of the General Assembly next February. Its recommendations, with the modifications the General Assembly may make in that session, will be considered by another session of the General Assembly and then submitted to the people in a referendum.

A quicker and more appropriate procedure, which was also urged by the Republicans in 1966, is an unrestricted Constitutional Convention, composed of delegates elected by the people, whose recommendations would be also subject to ratification in a referendum. A convention can be called after a favorable vote of the people. This method is far superior because the members of a Constitutional Convention are free of the transient political pressures and divisions of the Legislature and can give the Constitution the attention it deserves. Although the Constitutional Revision Commission can still recommend that a convention be called to consider its sug-
news letter

assitant editor

ralph eisenberg

published on the 15th of each month from september through august by the institute of government, university of virginia, charlottesville, virginia 22903. the views and opinions expressed herein are those of the author, and are not to be interpreted as representing the official position of the institute or the university.

entered as second-class matter january 2, 1925, at the post office at charlottesville, virginia, under the act of august 24, 1912.

printed by the university printing office

there was, however, an issue which did arise! it was mentioned frequently during the 1967 legislative campaign. indeed, the public interest became so great that the speaker-apparent announced prior to the election in november of 1967 that, if selected, he would distribute committee assignments more equitably.

the new speaker was as good as his word! republicans for the first time were appointed to major committees: this writer, to privileges and elections, a prestigious, but not always useful, committee; others, to agriculture, courts of justice, general laws, insurance, education, game and inland fisheries, and welfare. the speaker has been equally considerate since adjournment in his appointment of republicans to interim study commissions.

republicans were not appointed to those important committees concerned with revenue, the budget, and urbanization; and no republican was appointed to the interim study commission to study the revenue sources of the state. indeed, it has been suggested that the democrats now trust us with everything but their money!

this is not entirely true. only the speaker and the governor show evidence of enlightenment and trust. there are still no republicans on the virginia advisory legislative council. the president of the senate has not seen fit to appoint republicans to major interim studies.

these few republican appointments fall far short of representation in proportion to our members. while we are temporarily pacified, we hope that the general assembly of 1970 will find republicans on every major committee in the house of delegates.

pay-as-you-go

the commonwealth of virginia, being a sovereign state, has the right to borrow any sum of money it may choose, subject to the limitations imposed by its constitution. section 184 (a) of the constitution limits virginia’s bonded indebtedness to one percent of the assessed value of taxable real estate in the state, and this source of revenue, which has never been tapped, is only available after a referendum.

in theory, then, virginia has not borrowed any money and lives on its current income. this is called “pay-as-you-go.” virginia has, in fact, long ago abandoned “pay-as-you-go” and circumvented the constitutional limitations by borrowing indirectly through revenue bonds (which are not backed by the credit of the state) issued by independent authorities and by our colleges and universities, or by pushing much of the burden of borrowing onto the localities.

indirect borrowing through revenue bonds is considerably more expensive than direct borrowing. nevertheless, the general assembly of 1968 authorized $53 million for additional revenue bonds, bringing the total to well over a half a billion dollars.

one other source of costly borrowing was called to the attention of this general assembly: the supplemental retirement system. the general assembly of 1964 authorized the governor to borrow $10 million from this fund for construction of an office building. in 1966, this amount was increased to $24 million, and in 1968 to $35 million. this is bad for two reasons: the funds of the supplemental retirement system are being loaned to the commonwealth at a rate considerably below the return it could expect on other investments, and the commonwealth is borrowing money from the supplemental retirement system at a rate higher than that at which it could borrow from the public. the differential may be as much as three percent. republican efforts to point this out to the general assembly and to the administration fell on deaf ears.

hopefully, the constitutional revision commission will suggest to the general assembly that some restrictions on bonded indebtedness be removed to permit virginia to finance its operation in a business-like, economical manner.

bond issue

this general assembly agreed to submit to referendum on november 5, 1968, the question of whether the state of virginia shall issue $81 million in general obligation bonds, the maximum amount permitted under the constitutional limitation mentioned above. republicans objected to the manner in which the legislature was asked to give its endorsement to this proposal. the administration asked that the general assembly agree to recommend the issuance of bonds, before it had even considered the budget. republicans suggested in debate that they be given 10 days in which to review the budget to see if the $81 million could be found elsewhere.
or even suggest new revenue sources. This was disdainfully rejected by an Administration bent on its predetermined course. Republicans were voted down on this simple procedural question of whether we ought not to satisfy ourselves that we need the money before we agree to borrow it.

Republicans, however, took their own challenge seriously. Although denied membership on the Appropriations and Finance Committees of the House, we undertook, as we had two years before, to make our own budget review. Careful research revealed that the Administration, in keeping with an ancient tradition, had underestimated the sales tax revenue by approximately $25 million. This matter was promptly called to the attention of the Appropriations Committee of the House, and graciously acknowledged. Our suggested budget cuts of approximately $22 million in addition were not so kindly received. Other Republican-supported alternatives were defeated, including the removal of the whiskey exemption from the sales tax, and sale of the State's stock in the R. F. & P. Railroad.

The budget bill itself, after approval by the Appropriations Committee, received only the limited debate it has received in the past. Efforts to change it on the floor again came to nought. Legislative participation in the budgeting process of the Commonwealth of Virginia remains a farce!

And now the bond issue will go to the people. Although no one has questioned publicly the need for the facilities which the $81 million will purchase, there are those who do not intend to vote for it, and there are those who believe that its passage is in doubt. I, and many others, would have looked harder elsewhere for the necessary funds. We have been outvoted and overruled. The money has now been appropriated and this source of the funds has been selected. Our choices now are: Support this bond issue or delay further the construction of these facilities at our colleges and mental institutions.

I expect to vote for it. I predict that the people of Virginia will approve it!

Disappointment

The failure to sustain a total commitment to public education must be accounted the major disappointment of this session. The people of Virginia had been allowed to expect more. The Governor had personally conducted State-wide and regional conferences on education. Public interest had been aroused as never before. The modest budget proposal of the State Board of Education had received wide publicity, and it was generally anticipated that it represented an attainable goal. Unfortunately, the Governor's budget proposal and the budget finally approved fell short of the recommendation of the State Board. Virginia's relative position among the states in its contribution to public education will not change substantially.

The enactment of the Statewide compulsory school attendance law—one of the major disappointments mentioned in these columns two years ago—must have accounted for a significant gain for education. The refusal of the General Assembly of Virginia to modify in any particular Virginia's tuition grant problem had been noted. A State appropriation of three and one-half million dollars is a comparable setback. It seemed then, as now, that our commitment to education demanded curtailment of at least this expenditure and the application of at least these additional funds to the public school system.

Legislation to permit the appointment of county school boards by the boards of supervisors after a referendum (long a plank in the Republican platform), passed the House of Delegates only to run into trouble in the Senate. A compromise of doubtful constitutionality which would have benefited only a few counties was accepted over Republican objections. The Governor concluded (with mild expressions of mild regret) that he should veto it. It is regrettable, indeed, that the proponents of this measure in the House of Delegates did not have the courage to stand their ground without compromise. Other Republican efforts to curtail the extensive appointive powers of circuit court judges were also turned back; but the people of Virginia are growing aware of this nefarious system. Its days are numbered!

One modest Republican economy has arrived. Sometime during the early part of this biennium, Virginia's Commission on Constitutional Government, an unwarranted use of public funds to present one side of a controversy, will run out of money and die quietly. A major victory!

For years, Republicans, opposing the use of secret legislative sessions, have urged the enactment of "open meetings" legislation. This General Assembly enacted legislation which could curtail this activity somewhere maybe. It is significant, regrettable, and characteristic, however, that the General Assembly refused to place any additional limitations upon secret sessions in any phase of the legislative process. Here again, we gain comfort only because this modest gesture is such an improvement over past performance.

The between-sessions exchange concerning the conduct of a member of the Highway Commission, and his eventual removal by the Governor, had pointed up the absence of an established standard of conduct for all Virginia officials. The use of members of the General Assembly as private fee attorneys for State agencies and their appearances before these agencies as private counsel called attention to the same lack of a standard of conduct for members of the General Assembly. Legislative committees have listened patiently to Republican suggestions over the years but have never seen fit to enact any major legislation in this area. This time, however, a special study commission on conflict of interests has been created by the General Assembly. It has already been appointed by the Governor. At least two members of the Commission are card-carrying Republicans. An encouraging development!

The 1966 General Assembly created a commission to study the Virginia metropolitan areas. The able and extensive research of this commission and its report received wide publicity. Its major recommendations did not receive the support of the Administration, and the accomplishments in this area are, at best, negligible. Friction continues to develop between Virginia's cities and the urban counties surrounding them. Regrettably, little that this General Assembly did improved the situation.

Embarrassment

This General Assembly was embarrassed by the Virginia Alcoholic Beverage Control Board. Much legislation affecting the Board was under consideration from time to time: A local referendum on the sale of liquor-by-the-drink, which passed; a sales tax on whiskey, which failed; the right to appeal from decisions of the Board in certain cases, which failed; and several others.

A State agency has the responsibility of administering the laws passed by the
General Assembly. Its members should reserve opinion until asked for it by the appropriate committee of the Legislature. The members of the Alcoholic Beverage Control Board did not have the grace to do this. Indeed, at least two members of the Board made a point of being present under the gallery during debate on the measures affecting them. On one occasion, a member of the House of Delegates addressed a question to the members of the Board from the floor, and the reply was the nod of a head. Shades of Bishop Cannon, the “Dry Messiah” of Virginia!

The growing power of the Board, coupled with the increasing value of the licenses issued by it, and the influence its presence already has upon the membership of the General Assembly creates an extremely dangerous situation. Clearly, this agency is not receiving the attention and the action indicated.

ELECTION LAWS

There has been no major legislative change in the election laws of Virginia in recent memory. Some changes, of course, have come through the courts or the Federal Voting Rights Act of 1965. It has long been the Republican contention that Virginia’s election laws are deliberately confusing and misleading in order to restrict the electorate, a restricted electorate being a controlled electorate. As a result, Virginia’s voter participation is near the bottom of the 50 states. When the Federal Voting Rights Act of 1965 became law, this low voter participation brought Virginia within those seven or eight states which cannot make changes in their election laws without the approval of the Attorney General of the United States.

We had been assured that no improvement in our election laws would be questioned unless designed further to restrict the electorate. The situation demanded legislative attention and there was no reason why something could not be done. The most powerful committees of both Houses are the Privileges and Elections Committees. Their control over the election laws has been absolute. They have steadfastly refused to make any material changes in the election laws and 1968 was no exception!

Evidence of misconduct in the administration of Virginia’s election laws was produced before these committees. Immediately prior to the session, indictments were returned in the United States District Court charging a number of residents of Lee County, Virginia, with conspiracy to violate Virginia’s election laws in the congressional campaign, and seven have since been convicted. Similar charges were made concerning the legislative campaign of 1967. Witnesses were brought to the General Assembly telling of widespread abuses of the absentee ballot in several Southwest Virginia counties.

Predictably, the Privileges and Elections Committees of the House and Senate did nothing! The Governor of Virginia, however, was alarmed. He responded to Republican charges of misconduct in these elections by appointing two special prosecutors, one Republican and one Democrat, both of outstanding ability; and he stepped in to insist upon the creation of an Election Laws Study Commission. A similar Republican proposal has been heretofore rejected by the General Assembly every two years.

This is major progress. Nothing was done, of course, but the study should lead to something.

CONCLUSION

The General Assembly of 1968, building upon the progress of the previous session, moved forward at a moderate pace. A creditable performance! Nothing spectacular!

But the General Assembly of 1970 can be one of Virginia’s greatest. We can reaffirm our commitment to public education and continue the expansion of public services begun in 1966 and continued in 1968. Out of the studies authorized by this session can come action for the next. We can achieve the most modern and efficient Constitution of any state; we can develop the most efficient, simple, and profitable method of assessing and collecting our income taxes; we can achieve the best system of courts and the most effective system for the administration of justice; we can have the most modern and democratic voting procedures, permitting the broadest participation; we can have a legislative machinery restoring the General Assembly to its rightful place in our system of checks and balances; we can point our mental health program toward the most effective use of our facilities and money, and expand these services in the most appropriate way; we can find the most efficient means of distributing our funds for public education; we can establish a standard of ethical conduct for our elected officials and State employees that will be the envy of the Nation; we can improve our corrections and welfare system; we can broaden our retirement system; and, finally, we can so amend our Constitution as to permit the financing of the government of Virginia in a business-like manner.

We can accomplish this and much more in 1970. We can—but we won’t—unless we keep the pressure on!