

**Looking Back on the Legislative Modernization
Movement in Pennsylvania:
Remarks of Herbert Fineman,
Former Speaker
of the Pennsylvania House of Representatives,
Given at the Annual Meeting
of the Pennsylvania Political Science Association,
April 4, 2003 at Villanova University,**

(with introduction and commentary by Michael Cassidy)

On April 4, 2003 the Pennsylvania Political Science Association (PPSA) hosted a roundtable discussion on "The Legislative Modernization Movement in Pennsylvania: A Look Back at the 1960s and the 1970s." The panel included Herbert Fineman, former Speaker of the Pennsylvania House of Representatives. Fineman appeared with Franklin Kury, a prominent Harrisburg lobbyist and former Deputy Attorney General, House member, and state Senator known for his authorship of landmark public utility regulatory reform and environmental protection legislation in the 1970s. The panel also included Rutgers University Professor Alan Rosenthal, the author of numerous books on state legislatures and a key advisor to state legislatures and national legislative leadership organizations. Fineman was the featured speaker. His prepared remarks were followed by comments from the other panelists.

Known as the "father of the modern Pennsylvania legislature" and the "architect of legislative reform," Speaker Fineman was first elected to the House of Representatives in 1954 and was elected to the Democratic caucus leadership as Whip in 1965. He served as the Democratic Floor Leader from 1967 to 1968 and from 1973 to 1974. He was Speaker from 1969 to 1972 and from 1975 to 1977 (Pennsylvania House Journal 1994; Pennsylvania House of Representatives Homepage 2003).

Fineman's tenure in the House was timed perfectly to allow him to participate in the nationwide legislative reform movement. The first major concerns about the inadequacies of twentieth century state legislatures were expressed around the time of Fineman's first election to the House (Heard 1966a, 1-4). The movement for legislative modernization was strongest nationally from 1965 to 1980, corresponding closely with Fineman's service in House leadership positions (Rosenthal 1998, 49). During his time as leader, Fineman rose to prominence in the national reform movement and led Pennsylvania's modernization efforts. He shared the goals of that movement and helped shape its proposals. Political scientists generally described these goals in terms of the basic functions of the legislative branch: representation, lawmaking, and oversight. Thus, re-

formers wanted to provide legislators with the tools to perform their representational function, enable them to independently formulate public policy, and empower the legislature as a co-equal branch of government (Herzberg and Rosenthal 1971, vi-iii; Keefe 1966, 37-47; 1971, 187). Legislative practitioners just wanted to build the “competence to meet problems of our society where they arise” (Margolis 1971, 25-27).

In his presentation to the PPSA, Speaker Fineman described the need, motivation, challenge, and scope of the reform movement that completely transformed the legislative institution in Pennsylvania. His remarks are reprinted here in full. The commentary that follows is intended to describe Pennsylvania’s reform efforts in more detail, to place them in their national context, and to amplify Fineman’s remarks with some of the comments made by the other panelists.

Remarks of Speaker Herbert Fineman

I was first elected to the Pennsylvania House of Representatives for the term commencing in 1955, and I continued to serve consecutive terms thereafter for a period of 22 years. During that long tour of duty, I experienced the maturing of the Pennsylvania House of Representatives from a totally ineffective, non-analytical, non-originating, non-constituency-oriented organ of state government to an entity that in 1977 was well on its way to becoming that which had been envisioned by the framers of our state constitution — an equal coordinate branch of government.

Prior to the onset of structural and procedural reform in the Pennsylvania House of Representatives, its primary role had been merely to give its automatic stamp of approval to whatever proposals came forth from the office of the state’s chief executive. The fact is that the House of Representatives existed, not because of any contribution it was making to state government or its people, but rather because Article I of the Constitution of 1790 provided that “the legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” The physical facilities of House members were totally in consonance with the House’s meaningless status. We had no offices, we had no telephones, we had no file cabinets, we had no desks except that which was assigned to us on the floor of the House Chambers, we had no place to meet with constituents who might come to the Capitol, and no regular secretarial service — and we were being paid the grand total of \$3,000 per annum.

I must, in all candor, admit that as a newly elected member to the house in 1955, I was not immediately able to discern the vastness of those shortcomings. I had been so enamored of the fact that, as an unendorsed candidate, I had been elected to the Pennsylvania House of Representatives and additionally was so awe-struck by the beauty of the House Chamber itself, that a clear vision or perspective of the then role of the House of

Representatives in state government did not manifest itself to me.

As the years passed, however, and I was able to assume roles of leadership, the myopia cleared and there slowly arose within me a very strong desire to be part of an effort to bring the House to that status of being an equal coordinate branch of government. I knew that this was a result that could ensue only if the House could independently, with its own research resources and information, begin to analyze the changing manifestations and complexities of state government responsibilities, to more clearly discern the escalating needs of our citizenry, and to create proposals to meet those challenges. These ends had to be pursued, not through reliance upon the governor, lobbying organizations, or other sources, which was so much the case then, but rather through our own analysis and research efforts. Only in this manner would the judgments to be concluded by us be independently arrived at. This would necessitate research facilities and staff expertise as well as necessary physical accommodations and appropriate member compensation, all of which would be in consonance with the deep needs of the House. And so we embarked on that endeavor.

When I first became the Democratic Floor Leader in 1967, I sought to engage, for the initial time, qualified professional personnel for my office and those of other officers of the Democratic Caucus. Subsequently, in 1969 when I was elected Speaker, we also engaged staff for all committee chairmen. It was made eminently clear to all chairmen, however, that those to be employed were not to be political patronage appointees, but rather the most able personnel available. These included researchers, attorneys, communication personnel, legislative analysts, and administrative assistants. In due course, personnel were also made available for all members.

The real surge in reform efforts took place commencing in the 1969-70 session. At least 13 new procedural changes were initiated during that period, including:

- Creation of an ethics committee
- Reduction in the number of House standing committees from 33 to 21
- An increase in minority representation on each committee (from a 13-6 distribution to 14-9) to reflect more accurately the division of the House between majority and minority
- Limitation on the power of a committee chairman to kill a legislative proposal, either by not calling a meeting or by failing to submit a legislative proposal to the committee for consideration
- Installation of a vote lock system to ensure against absentee voting
- Opening of all committee meetings to the public
- Installation of a fiscal note system assessing the cost, on both a

one-year and a five-year basis, of every legislative proposal on the calendar so that House members and the public were more fully informed as to costs prior to enactment

- Establishment of orientation sessions for all new members
- Creation of a legislative audit advisory commission
- Employment of public hearings on legislation
- Synopsis of every bill reported to the calendar for members and the press

Thus, the year 1969 was truly the real starting point of reform in the Pennsylvania House of Representatives. In subsequent years, we further provided for the establishment of a commonwealth compensation commission. I have already noted that legislative compensation in 1955 was \$3,000; today a legislator earns \$64,638 per annum plus expenses. In a span of 48 years base legislative salaries have increased a total of \$61,638. Since 1995 salaries have been tied to a cost-of-living basis.

We also held a greater number of public hearings throughout the Commonwealth, provided for public televising of House sessions and public hearings, provided for the auditing of legislative accounts by independent public accounting firms, and made such audits available to the public.

One of the more important legislative innovations was initiated in 1976 when we created the Legislative Office for Research Liaison, known as L.O.R.L. This office was created to make the knowledge and expertise of the Commonwealth's universities in scientific and technical matters available to legislators on social, physical, and life sciences. Originally, six schools participated in this program. Today, at least 20 do.

The continuing installation of procedural reform was of vital importance in enabling legislators to be more effective in discharging their varying responsibilities, which include acting as a representative of and spokesman for the needs and desires of constituents; serving as an ombudsman where injustices occur because of official red tape, rules, and regulations; being an innovator and initiator of new programs; and exercising legislative oversight functions.

While it is true that organizational structures and legislative procedures are important to the quality of legislative performance, procedural reform in and of itself does not automatically yield more efficient and more effective state government. Nor should a legislature be judged solely on the basis of its procedural mechanisms and facilities, as the Citizens Conference on State Legislatures had done at one time. Rather, it should be judged by how well it represents the heterogeneous population of Pennsylvania and by the quality of its legislative output. To do otherwise would be much like evaluating a football team by the quality of the stadium it plays in, or the kind of locker room facilities or equipment that are provided, or the uniforms that are furnished. The best equipped

team is not always the best performer. The Constitutional Convention that penned the U.S. Constitution and the early congresses of the national government would indeed rate very low in terms of facilities and organizational structures, but what they produced has endured and served us well for over 200 years.

Resources most certainly are important and vital, but they are not the entire story. Conceivably, legislatures that have little may use that little very well, and legislatures that have much may use what they have poorly. What matters is the degree of commitment to the tasks at hand, and the spirit and dedication with which those tasks are undertaken. I believe that the benefits of procedural reform, coupled with the enthusiasm for the tasks at hand that may be engendered by legislative leaders, can together make the legislatures true laboratories of democracy.

Commentary on Speaker Fineman's Remarks by Michael Cassidy

If Herbert Fineman had not been a panelist on the PPSA roundtable on legislative modernization, whoever was on the panel would inevitably discuss Herb Fineman's crucial role in Pennsylvania's efforts and his substantial contribution to the national effort, which he omitted from his remarks. Of course, Fineman was not solely responsible for legislative reform and modernization in Pennsylvania. There were others like Judge Robert E. Woodside, author James Michener, Mellon Charitable Trust president Theodore Hazlett, Jr., and former governors George Leader, William Scranton, and Raymond Shafer. Other legislative leaders also played important roles, especially K. Leroy Irvis, James J. Manderino, and Matthew Ryan, all of whom served with Fineman and would follow him as Speaker. State Senate leaders, such as former Senate President Pro Tempore Henry Hager, also were important. But for the 11 years between 1967 and 1977, Fineman was the main force and catalyst for legislative modernization as he alternately served as Democratic Floor Leader and Speaker. He was the chief point of contact with the national reform movement and the leader with the power (sometimes unilateral) to initiate change in Pennsylvania.

It is obvious from his remarks that Fineman's major, but not exclusive, focus was internal capacity building described early in the reform movement by Donald Herzberg as the "six S's," i.e. "improved staff, services, space, salaries, sessions and spirit" (Heard 1966b, 159; Rosenthal 1998, 50-54). Decades later, Herb Fineman still would be remembered for his insistence on upgrading the working conditions of the members of the General Assembly. As House Democratic Floor Leader Ivan Itkin said on June 7, 1994 at the unveiling of Fineman's portrait in the State Capitol building, Fineman "gave lawmakers the tools they needed to comprehend the issues that crossed their desks." "In fact," Itkin added, Fineman

“gave them the desks and offices in the first place.” Matthew Ryan, then Republican Floor Leader and a former Speaker, commented on what Fineman’s national role in the reform movement meant to Pennsylvania:

It was Herb who could be caught researching a new initiative or exchanging sought-after innovative ideas from lawmakers nationwide. When Herb Fineman went to NCSL (National Conference of State Legislatures) or one of the other national legislative leadership meetings, it was not as junketeer. He went as an officer of that group, he went as a player, as a man who was going there to contribute to that organization and to take — he was a taker. He took the ideas of the other states and brought them back to Pennsylvania and really helped to modernize and make this House — and the Senate would steal our ideas — and this general legislature better because of what he brought back from these other states, and other states better because of what they got from him.

Speaker H. William DeWeese summarized the testimonials given that day by thanking Fineman for his “legacy of modernization” (*Pennsylvania House Journal* 1994, 1067-1073).

It is difficult to overestimate the importance of the modernization effort on the way legislators and their institution function. Former Senator Franklin Kury described his participation in the 2003 PPSA panel as “what lawyers call a ‘competent witness’” to institutional changes in the legislature. Kury recalled that when elected to the House in 1966, he had little or no staff support or even regular access to phones to make long distance calls. He recounted how there was no staff to help explain bills in caucus meetings or to provide independent analysis of the Governor’s budget request. Even basic secretarial services were scarce. But some members like Kury had an advantage. In the pre-modernization legislature, lawyers, insurance agents, and other business professionals could rely on their private offices to handle constituent correspondence and other public business, but other legislators could not. As he put it, “Thank God I was a lawyer and had a secretary back in the district to put out mail for me.”

Kury was elected to the state Senate in 1972 at a time when staffing for individual members of the Senate was just becoming available. In his PPSA panel comments, he spoke with great pride of his work in the Senate made possible, in large part, by his newly-acquired authority to hire qualified staff to help develop the major legislation he sponsored to reorganize the Public Utility Commission. “This is what I feel proudest about,” said Kury. “Until that point in Pennsylvania, whenever the Senate of Pennsylvania wanted legislation drafted [on utility issues] we went to the lobbyist of the Electric Association. We didn’t do that. We gave him

our bill and asked for his comments rather than the other way around!" Staffing improvements and the other modernization reforms, Kury argued, gave the Senate the ability to develop its own legislation (Pennsylvania Political Science Association 2003).

Kury's and Fineman's recollections were in substantial agreement with a 1968 study done by EBS Management Consultants of New York for Pennsylvania's Commission on Legislative Modernization. That report stated that except for the desks on the chamber floor, "the average Representative does not have a desk or telephone and the average Senator finds himself in a room with three other Senators" (Commission on Legislative Modernization 1969, 95; also see 56 and 94-102). While these and other accounts of the inadequacies of legislative staff and facilities abound, no account from the 1960s seems to exist that argues the opposing proposition.

Historical Background and Pressures for Modernization in Pennsylvania

After a period of relative legislative supremacy in Pennsylvania and nationally, beginning with long fought battles for legislative power in the colonial period that reached their peak during the Revolutionary War period, legislatures — the "First Branch" — went into a long period of decline after the Jacksonian Era (Advisory Commission on Intergovernmental Relations 1985, 31-35; Commission on Legislative Modernization 1969, 56-62; Wolf 1969, 1-3). In reaction to widespread corruption, Pennsylvania's legislature was hobbled by the Constitution of 1874, which greatly limited legislative powers by making legislative sessions biennial unless called into special session by the Governor, and by limiting the legislature's ability to raise revenues. As a "dubious" anti-bribery measure, the 1874 document also increased the size of the Senate from 33 members to 50 and the size of the House from 100 members to 200 (Commission on Legislative Modernization 1969, 62-64; Wolf 1969, 4-5). These anticorruption reforms did not work. The Pennsylvania legislature suffered further degradation under the control of the infamously powerful and corrupt Quay/Penrose machine, which used the legislature as its powerbase in the decades that bracketed the turn of the century (Beers 1980, 41-57). Reformers of every stripe would spend nearly a century trying to undo the damage.

Pennsylvania was not alone. After suffering more than a century of neglect and worse, state legislatures all over the nation were considered inept, antiquated institutions. In 1966 Alexander Heard, a political scientist and Chancellor of Vanderbilt University, wrote his often quoted observation that "state legislatures may be our most extreme example of institutional lag. In their formal qualities they are largely nineteenth cen-

tury organizations and they must, or should, address themselves to twentieth century problems" (Heard 1966a, 3). It was clear to many that these nineteenth century institutions would have to undergo significant change to meet the challenges from above in the form of new federally-imposed responsibilities and from below in the form of increasing expectations from voters.

In the 1960s, President Lyndon Johnson's Great Society programs signaled the quickening of a fundamental shift in the federal-state relationship. Where New Deal programs were administered by new federal bureaucracies, Johnson's "War on Poverty" provided federal money for new state and locally administered programs. According to a 1976 report of the federal Advisory Commission on Intergovernmental Relations, federal aid to the states had increased from \$2.9 billion in 1954 to over \$60 billion in 1976 (*Shapp v. Sloan* 1978, 603). This process of devolution accelerated under the Nixon Administration and culminated in the block grant approach used in the Omnibus Budget Reconciliation Act of 1981 in the first year of the Reagan Administration (Advisory Commission on Intergovernmental Relations 1985, ch. 2).

Even without this push from the federal government, states like Pennsylvania were expanding services and budgets to meet growing expectations in basic education, higher education, labor and safety, highway construction, environmental protection, new human services, and structures for internal accountability. In Pennsylvania, for example, Governor John Fine's 1953-54 biennial budget hit \$1 billion (Beers 1980, 185). Federal funding of state programs as we know it today did not exist. In 1971 the General Assembly passed Governor Milton Shapp's first annual budget, which recommended spending just over \$3 billion in state funds plus \$768 million in federal money (Governor's Executive Budget 1971-1972, A17-19). This represented a six fold increase in state spending only partially explained by a roughly 50% increase in the Consumer Price Index between 1955 and 1970 and a 9% increase in Pennsylvania's population from the 1950 to the 1970 census.

These new federal and homegrown responsibilities for effectively and efficiently managing programs and money called into question the capacity of state governmental institutions. Awakening from a period of stagnation that the federal Advisory Commission on Intergovernmental Relations (1985, 35) once called "The States Asleep, 1922-1955," a wave of reforms transformed both the executive and legislative branches in many states. From the 1960s into the 1980s, state legislatures including Pennsylvania's underwent a difficult process of modernization to meet these new challenges. Prodded by its legendary House Speaker, Jesse Unruh, California led by raising legislative salaries, providing staff and offices, and implementing procedural reforms (Rosenthal 1971b, 11).

A National Movement

Emulating reforms in California and in Congress, a national movement for legislative modernization emerged in the 1960s. The movement lacked a single structured leadership or plan (Rosenthal 1998, 50). Many groups participated prominently such as the American Assembly, the National Conference of State Legislative Leaders (NCSLL), the American Political Science Association (APSA), the federal Advisory Commission on Intergovernmental Relations (ACIR), the Council of State Governments (CSG), the Citizens Conference on State Legislatures (CCSL), the Eagleton Institute of Politics at Rutgers University, and various chapters of the League of Women Voters (Advisory Commission on Intergovernmental Relations 1985, 68). In addition, the long-standing reform organization, the National Municipal League, was heavily focused on state constitutional reform and revision. The National Legislative Conference, a group largely comprised of the staff directors of legislative service agencies, actively pursued a reform agenda and made comprehensive reform recommendations as early as 1961 (Heard 1966b, 158-162). The shared purpose of these groups resulted in strikingly similar recommendations and identified best practices. Alan Rosenthal (1971b, 3-4) summarized the reform proposals from different organizations into a short list of nine general programmatic recommendations:

1. Elimination of many constitutional limitations on the authority of state legislatures, including limits on the taxing power, earmarking of revenues, requirements on referenda, and legislator compensation.
2. Increase in the frequency and length of legislative sessions, without limitation on time or subject.
3. Reduction of the size of legislative bodies so that they are no larger than fair representation requires.
4. Increase in compensation and related benefits, with expenses of legislative service fully reimbursed.
5. Adoption of more rigorous standards of conduct by means of codes of ethics and conflict of interest, disclosure, and lobbying legislation, as well as ethics committees or commissions with some enforcement powers.
6. Adequate space and facilities for committees and individual members, including electronic data processing and roll-call voting equipment.
7. Improvement of legislative operations to ensure efficiency in the consideration of bills and the widespread dissemination of procedural and substantive information.
8. Strengthening of standing committees by reducing their num-

- ber, defining their jurisdictions, and improving their procedures.
9. Increasing the number and competence of legislative staff working for leaders, committees, and rank-and-file members.

Although ostensibly independent on paper, these reform groups were interrelated in many respects. For example, Larry Margolis, staff director of the CCSL, was the former staff director for California Speaker Unruh. The NCSLL, the CCSL, and Unruh worked closely with Donald Herzberg and Alan Rosenthal of the Eagleton Institute (Herzberg and Rosenthal 1971, viii-xii). Speaker Fineman served as an officer, and ultimately president, of the NCSLL in the early 1970s — a post held in the 1960s by Speaker Unruh. In addition to the staff of the NCSLL, Fineman counted people like Alan Rosenthal of Eagleton and Larry Margolis among his close associates. When the NCSLL, the NLC, and other groups merged to form the National Conference of State Legislatures in 1976, they became a powerful voice for continuing modernization. At the same time, the NCSLL spun off the State Legislative Leaders Foundation.

The reform efforts of these organizations often shared common private funding sources. The Ford Foundation and the Carnegie Corporation funded the work of the CCSL and the Eagleton Institute seminar series on legislative modernization, as well as many of the National Municipal League's efforts at state constitutional reform (Burns 1971, preface; Heard 1966b, 158-159; Rosenthal 1998, ix-x; Wolf 1969, iv). Pennsylvania was among 13 states receiving grants from the APSA and the Ford Foundation for new legislator orientation programs, which were first held in December 1970. Fineman and all future speakers continued the new member orientations (Wise 1984, vi). The APSA also sponsored a series of books on individual state legislatures to introduce new legislators and the public to the legislative process. The series included Sidney Wise's 1971 book *The Legislative Process in Pennsylvania*. The Pennsylvania House published a second edition in 1984. Cross-pollinated, cooperative, bipartisan, and largely non-competitive, these groups, along with academics and individual state legislative leaders and members, formed a national movement dedicated to reforming the institutions of representative government.

The most effective public campaign was launched by the CCSL, which formed in 1965 to evaluate each legislature and make recommendations for legislative rules changes and capacity building. It established a detailed set of criteria for use in assessing legislative capability. These criteria were organized under general headings that formed the acronym F.A.I.I.R — Functionality, Accountability, Information handling capability, Independence, and Representativeness. Each of these headings was broken down into sub-criteria, such as size of the legislature (a peculiar fetish of many reformers), committee structure, staffing, facilities, public

access to information, internal accountability, fiscal review capabilities, conflict of interest rules, and member effectiveness (Burns 1971, 37-150). The CCSL also evaluated each legislature according to F.A.I.I.R. criteria, it made specific recommendations about each, and it ranked the legislatures in its "complete report" in 1971 (Citizens Conference on State Legislatures 1971). The group summarized the results in a 1971 Bantam paperback by John Burns targeted to the general public titled *The Sometime Governments: A Critical Study of the 50 American Legislatures*. California, both the poster child and gold standard for reformers, scored first in the overall rankings (Burns 1971, 181-6). Pennsylvania, with its reforms only partially complete at the time of the study, ranked 21 among the 50 states. On individual criteria, Pennsylvania ranked 37 on Functionality (penalized in part for the legislature's large size), 23 on Accountability, 23 on Informed, 5 on Independence and 36 on Representativeness (Burns 1971, 289-94).

Predictably, these rankings were highly controversial and hotly contested in state legislatures across the country. Speaker Fineman and other state legislative leaders railed against the rankings when they were released. He argued then, as he did years later in his remarks before the PPSA panel, that the best equipped legislature is not always the best performer. During the PPSA panel discussion, Alan Rosenthal reflected on the controversy. He said he had told Margolis that the rankings were "indefensible social science." Rosenthal reported that Margolis replied, "if you don't give them a number, no one will ever remember it." With the advantage of hindsight, Rosenthal says that the ranking system was "terrible social science. It was stupidity. But it was political brilliance." Fair or unfair, the numerical rankings were a great motivator for state legislative reform efforts. Even Fineman now characterizes his old disagreement with Margolis as a disagreement between friends (Pennsylvania Political Science Association 2003). In the decades that followed the release of the CCSL report, the F.A.I.I.R. criteria (if not the rankings) were used by groups such as the ACIR to evaluate state legislative capacity (Advisory Commission on Intergovernmental Relations 1985, 69-112).

Constitutional Revision in Pennsylvania

In 1955 the Commission on Intergovernmental Relations, known as the Kestnbaum Commission, issued its report to President Eisenhower recommending the return of governmental functions to the states, while urging sweeping revisions in antiquated state constitutions. This report gave a boost to the work of the National Municipal League and reformers at the state level (Advisory Commission on Intergovernmental Relations 1985, 40-61). States also reacted to the landmark "one man, one vote" decision of the U.S. Supreme Court in *Baker v. Carr* (1962) requiring states to reapportion their legislatures to ensure equal representation

based on population. Reapportionment by the new standard often required constitutional revision; and in many states, such as Pennsylvania, it provided an opportunity to redress other state constitutional provisions effecting legislative capacity.

In 1959 and 1967, in work that was largely completed before Fineman's ascendancy, Pennsylvania amended its Constitution of 1874 to remove the restrictions on legislative sessions. The 1959 Amendment established annual sessions, with the even year being devoted to budget matters and the odd year to other legislation (Legislative Reference Bureau 1986, 173-4). This Amendment opened the way for a full time legislature, but one that still needed the Executive to call special sessions in the "budget years" to consider substantive legislation. During the Leader Administration, the General Assembly created the Commission on Constitutional Revision, referred to as the "Woodside Commission" after its chairman, former House Republican Leader and then Pennsylvania Superior Court Judge Robert E. Woodside. In its report, the commission treated the 1959 amendment as a half-way measure and recommended that the legislature be a "continuing body during the term for which its Representatives are elected" (Report of the Commission on Constitutional Revision 1959, 19-20).

The legislative workload juxtaposed with constitutional limitations made "special sessions" called by the Governor a practical and constitutional necessity in the 1960s. Seven special sessions were called between 1959 and 1966 — one by Governor Lawrence and six by Governor Scranton. Some of these special sessions were little more than an extra regular session with a laundry list of unrelated topics in the Governor's session call (Pennsylvania Manual 2001-2002, sec.3, 181-182). During the 1960s the legislature was in continuing session, albeit without constitutional approbation.

After three more constitutional study commissions completed their work and one attempt to call a general constitutional convention failed, a series of significant constitutional changes worked their way through the amendment process during the Scranton Administration. The voters adopted the Woodside language in 1967 by a margin of two to one, making the legislature a "continuing body." Among other changes, the amendments relaxed gubernatorial term limits by allowing the governor to serve two consecutive terms rather than one. The legislature could now meet in two-year sessions without restrictions. Annual budgets have become the norm and bills introduced during the first year of the session carry over into the second year. Also under the 1967 Amendments, either the Governor or the General Assembly may call special sessions (Wolf 1969, 8-26). Since the legislature is in continuous session, special sessions are used primarily as a political device to focus attention on a particular subject. Since 1968, special sessions have run concurrently with the regular session.

Following Governor Scranton's failed attempt, Governor Shafer succeeded in 1967 in getting a "limited" Constitutional Convention on the ballot for voter approval. It was a hard fight for both Scranton and Shafer. The Republican leadership was initially skeptical of any convention at all, and the Democrats wanted an open (unlimited) convention (Wolf 1969, 25-33). House Minority Leader Fineman brokered the final deal for a "limited" convention advocated by Shafer and he provided the legislative votes necessary to place the issue on the May primary ballot (*Pennsylvania House Journal* 1967, 215-224). Voters approved a measure authorizing the Convention along with seven constitutional amendments. The Constitutional Convention of 88 Republican and 74 Democratic delegates (called the "Con Con" at the time) met from December 1967 through February 1968 (Beers 1980, 350-355). Under its mandate to address legislative reapportionment, this convention drafted amendments to set up a bipartisan Legislative Reapportionment Commission and to bar the creation of multimember districts (from which about half of the House members were elected prior to the 1966 legislative reapportionment) (Burns 1971, 82-83; Commission on Legislative Modernization 1969, 81; Legislative Reference Bureau 1986, 32-34). In all, 85 major changes were made in the old constitution and were incorporated into five comprehensive amendments (Beers 1980, 354). Former governors Leader and Scranton headed the "Vote Yes" campaign (Wolf 1969, 51). The amendments were easily ratified by the voters in April 1968. The Pennsylvania tactic of piecemeal amendment and limited convention proved successful in achieving the goals of constitutional revision, whereas similar attempts in neighboring New York and Maryland failed (Beers 1980, 351; Penniman 1971, 205-214).

The "Con Con" also settled one of the most controversial recommendations made by the reform movement in Pennsylvania and elsewhere: reducing the size of the legislature. Many proposals to do so had been soundly rejected. One proposal to reduce the House by half to 101 members lost in the convention by a vote 14-135. City political machines of both parties, in concert with widespread rural opposition, trounced by margins of 2 to 1 several proposals to make more modest reductions (Commission on Legislative Modernization 1969, 14; Wolf 1968, 40-41). Herb Fineman (an ex officio convention delegate) refrained from voting on the issue and focused instead on taxation and finance issues. His friend and size-reduction advocate, author James Michener who was also the Convention Secretary, repeatedly lost that fight on the Convention floor and refused to revisit the question later when the Commission on Legislative Modernization (1969, 43) addressed it. Delegates and future governors Robert P. Casey and Richard Thornburgh voted for most of the more modest reductions, as did future Speaker K. Leroy Irvis. (None of them voted to cut the House to 101 members.) Republican Leader Lee Donaldson

and Judge Woodside helped to lead the opposition to any fixed reduction in the size of the House. To prevent any future attempt to tamper with the size of the legislature by statute, the Convention constitutionally fixed its size at 203 representatives and 50 senators (Debates of the Constitutional Convention of 1967-1968, 440-520). Soon after the Convention's close, Larry Margolis of the CCSL complained bitterly in a paper presented at an Eagleton conference. The House's size and the Convention's "failure" to reduce it, he said, "acted against the probability of equipping the members of the legislature adequately" (Margolis 1971, 32). As it turned out, the House's size did not create any important or lasting impediment to Pennsylvania's reforms. After 1968, attempts to reduce the size of the legislature provided comic relief but not a serious threat to the status quo. Reform efforts to make significant reductions in the size of the legislature met similar fates in most other states (Advisory Commission on Intergovernmental Relations 1985, 73-76; Rosenthal 1998, 51).

Pennsylvania's Commission on Legislative Modernization

Like Pennsylvania, many states formed their own commissions to study their legislatures and some sought academic evaluations from the Eagleton Institute. Others relied on and reacted to the ongoing work of the CCSL and its final report.

In 1968 the Pennsylvania General Assembly overwhelmingly adopted House Resolution 207, which established a legislatively appointed Commission on Legislative Modernization. The commission was charged with recommending reforms intended "to strengthen the legislative branch of State government so that it can maintain its position of co-equality as an independent, self-sufficient branch of government." The resolution was sponsored by House Republican (Majority) Leader Lee Donaldson and co-sponsored by the leadership of both House caucuses. Fineman was a co-sponsor of the resolution and one of the appointing authorities named for the commission (History of House Bills and Resolutions 1967-1968, 413). The resolution passed the legislature with the Republicans in control of both chambers.

Fineman would be Speaker the next year when the report was issued, and he took on its implementation over the succeeding legislative sessions. The commission was commonly referred to as the "Michener Commission" after its famous co-chairman, James Michener. It was also co-chaired by Theodore Hazlett, Jr., president of the Mellon Charitable and Educational Trust. The commission included former Governor George Leader and Judge Woodside, both of whom had been involved in earlier reform efforts (Wise 1984, 14-16). After reviewing preliminary reports from management consultants and academics, and hearing testimony from legislative leaders and staff, capitol-beat reporters, state organiza-

tions like the AFL-CIO, the Chamber of Commerce, and the League of Women Voters, the commission issued its 204 page report in January 1969 (the year before the final CCSL report). The published report, titled *Toward Tomorrow's Legislature*, made 58 recommendations, all largely reflected in Rosenthal's summarized list and in Fineman's remarks.

As he had done even before the commission issued its report, Fineman continued to enhance staff services, office space, salaries, and other facilities for members. He also moved forcefully to empower committees in the legislative process with staff, facilities, and a mandate to deliberate. In this regard, he followed the advice (knowingly or unknowingly) given by Rosenthal in his 1971 essays on legislative reform where he recommended "some balance in the internal distribution of power" and suggested that "those legislatures, such as New Jersey, Pennsylvania, and New York, where power is highly centralized, might devote more attention to strengthening committees" (Rosenthal 1971a, 81). Committee empowerment under Fineman was noticeable. Sidney Wise quotes "a longtime lobbyist" before the Commission on Legislative Modernization in 1968 as saying "the committee system functions more in name in Pennsylvania than it does in actuality," for "the caucus is the controlling body." He also quotes a legislative staffer in 1971 commenting on the recent changes: "In the past few years, certain House committees have become much more powerful. ... They write their own bills [and] they could buck party leadership and get measures passed" (Wise 1971, 39-41).

Fineman also championed efforts to manage better the time of members — another goal of national and state reformers. The CCSL directly criticized Pennsylvania for time-management shortcomings in its 1971 report (Burns 1971, 57-62 and 103; Commission on Legislative Modernization 1969, 10 and 28-30). In 1975 Fineman introduced an innovative system that divided the legislative schedule into "committee weeks" and "floor weeks." The "committee weeks" provided time for fuller committee deliberation and hearings prior to floor votes and minimized member/committee scheduling conflicts. The "floor weeks" were devoted to consideration of legislation by the House itself. In another innovation, Fineman changed committee assignment criteria to give newer members opportunities to sit on more prestigious committees (Fineman 1976). Although these innovations received national attention, they did not all survive intact after his speakership. Some vestiges exist: the House still does not schedule floor action during weeks in which budget hearings are held by the Appropriations Committee, and newer members are still granted seats on key committees.

Revitalizing committees and improving facilities for members did not, by anyone's estimation, diminish Fineman's power, which was at its height in the early 1970s. As Charles Davis of the NCSLL argued, a weak

institution would have “leaders in name only,” while stronger, more powerful legislatures would convey that power on its leaders (Davis 1971, 195-204). In this same vein, Speaker Fineman and other legislative leaders moved forcefully in the 1970s to wrestle appropriations powers back from the executive branch. Pennsylvania took a national leadership role as ACIR, the NCSL, and others pushed to have state legislatures assert control over federal funds then being sent to the states under sole gubernatorial control. Since 1961, appropriations acts in Pennsylvania had asserted the power of the legislature to appropriate federal funds and did so in general, all inclusive language. When federal funds hit 25% of the state budget in 1975, the legislature moved to appropriate all federal funds in program specific line items (*Shapp v. Sloan* 1978, 600). Democratic Governor Milton Shapp denied that there was such legislative authority. In 1976 the General Assembly, under Democratic control, passed Senate Bill 1542 (Act 117 of 1976) with only one dissenting vote in the House. The legislature then overrode the Governor’s veto by votes of 40-10 in the Senate and 169-22 in the House (History of Senate Bills and Resolutions 1975-1976, A200). The law forbade the State Treasurer from expending any federal funds not specifically appropriated by the General Assembly. Shapp challenged the law on constitutional grounds. The General Assembly intervened to join State Treasurer Grace Sloan as a respondent. Justice Louis Manderino, the brother of the then House Democratic (Majority) Leader James Manderino, wrote the opinion of the State Supreme Court. Shapp lost his state appeal and the U.S. Supreme Court refused to hear his appeal on federal grounds. ACIR, which was referenced in the Court’s opinion, hailed the Pennsylvania case as a precedent-setting victory for legislative authority (Advisory Commission on Intergovernmental Relations 1985, 9 and 117-122; *Shapp v. Sloan* 1978, 603 and 605-606).

Successful Accommodation of Pennsylvania Traditions

Sidney Wise (1971, 25) observed in that “there are few states in the nation where party caucuses are as important to the legislative process as they are in Pennsylvania.” In Pennsylvania the party caucus largely controls the committee system and the style and scheduling of floor debate. The state’s tradition of strong parties tempered the legislature’s response to reform recommendations. While reformers on state commissions and national conferences generally favored nonpartisan staffing, the modernization pattern in Pennsylvania accommodated its traditions of strong parties and the informal, but entrenched, four caucus structure in the legislature (Senate “D’s and R’s” and House “D’s and R’s”). For example, the Michener Commission recommended that in addition to majority and minority committee staffing, bipartisan staff should be added for con-

stituency service and press relations. (the CCSL recommended nonpartisan staff for almost everything.) Realizing that press releases describing member and party positions on bills are inherently political, the legislature decided to create caucus-based information offices. Constituency service was addressed during Fineman's tenure and shortly thereafter by adding clerical staff for individual members in Harrisburg and in home district offices. Research assistance to members in the House was provided by central caucus staff controlled by leadership or by L.O.R.L.

Fineman's remarks and the PPSA panel discussion shed additional light on the development of the partisan staffing structure. Speaking mostly of the earlier years, Fineman noted that even though he did not always have the active participation of other leaders in his reform efforts, he never encountered active opposition. Fineman would often begin by making a unilateral move to staff the House Democratic caucus or committees and then invite the other caucuses to join in equal measure, which they gladly did. This pattern of funding caucus staff and services equally was later formalized in the appropriations process where legislative staff accounts were set up to provide equal funding to both the minority and majority caucuses of each house, guaranteeing equal funding for policy, research, and member support staff (Governor's Executive Budget 2003-2004, E40.1-40.7). House Republicans, also proactive, commissioned the Pennsylvania Economy League to study the issue of staff support for the caucus in 1973 (Wise 1984, 16). This caucus-based system also had the advantage of providing job security for staff, which protected them from swings in legislative control.

While Fineman was known as a tough partisan leader, he was not necessarily opposed to nonpartisan staff services such as L.O.R.L., which he set up as a non-partisan research agency to serve members. In the Fineman era and after, however, questions of whether to adopt a partisan staff support structure or add nonpartisan staff services generally were resolved in favor of adding partisan staff. By the end of the 1977-78 legislative session, the average Senator had several staff persons working in Harrisburg and in the district. House freshmen had at least a shared secretary in Harrisburg and funding for at least a part-time home office staffer. The Michener Commission reported that in 1968 there were 221 Senate employees and 311 in the House, not including joint service agencies (Wise 1984, 50). According to historian Paul Beers, 127 of those staff positions were created the previous year (Beers 1980, 341). By 1983 the Senate employed 620 people and the House employed 1,000 (Wise 1994, 50).

Pennsylvania also made an accommodation between the "small is beautiful" approach of many reformers, as applied to the number of standing committees, and the political reality of the legislative environment. The Michener Commission, later supported by the CCSL, recommended

that the House and Senate establish 13 parallel committees, a mammoth political undertaking especially for the House (Burns 1971, 291). While the commission was completing its report, Speaker Fineman reduced the number of substantive committees in the House from 33 to 21 plus Ethics, Rules, and other "housekeeping" and internal oversight committees with no original jurisdiction over bills. He did so by consolidating committees with similar jurisdictions and associated interests. Five committees dealing with local government matters were combined into two. Three transportation-related committees were merged into one. In the Senate, 19 standing committees existed, plus Executive Nominations and Rules. The number of committees in the Senate had been stable for decades and there was little sentiment for further reduction (Cassidy and King 1999, 4; Wise 1971, 39-45). Fineman and the House Democratic leadership issued a position paper in 1969 recommending further reductions to 15 committees beginning with the 1971 session. That reduction did not occur, presumably because of opposition from committee chairman and legislators hoping to become chairmen, an obvious tactical problem recognized by Rosenthal (1971c, 174).

Overall the Michener Commission's recommendations found wide acceptance in the legislature. Wrote Sidney Wise (1984, 15-16):

suffice it to say that the General Assembly reacted favorably to most of the proposals and out of them emerged an agenda for a decade. Even more important, the commission created among the members of the legislature a realization that the old ways were simply inadequate at a time when expectations for legislative effectiveness were increasing so dramatically — in Pennsylvania and throughout the Nation.

After Fineman

At the time of Fineman's departure in 1977, the legislature was well on its way in creating caucus-based staff support for members, committees, and caucus leadership. The legislature provided funds for caucus-based district offices in the 1978-79 budget. The last bastions of exclusive majority control of chamber-wide services were the offices of the Chief Clerk and Controller of the House and the Secretary of the Senate, which had responsibility for payrolls, legislative expenses, and other official record keeping (Wise 1971, 22-25). The unprecedented growth of staff, facilities, and member expenses superimposed on an antiquated payroll system, in part set by statute and a less than professional management system, was a prescription for disaster.

In April 1978, the House passed House Resolution 122, sponsored by Speaker K. Leroy Irvis, Republican Leader Robert Butera, Democratic Leader James Manderino, and other leaders. It established a commission

“to make a comprehensive and impartial study of the organization and operation of the Pennsylvania House.” The commission was chaired by former House member John Pittenger who had been a former Secretary of the Pennsylvania Department of Education and would later become Dean of the Rutgers School of Law. Adding urgency to the commission’s deliberations, the *Philadelphia Inquirer* published in the summer of 1978 a multi-part exposé, titled “Pennsylvania’s Assembly: How it is out of control,” attacking the loose management and personnel practices of the House and Senate (Wise 1984, 17).

The commission released its recommendations after the end of the legislative session in December 1978. Despite a change in control of the House from Democratic to Republican, the recommendations were passed unanimously in House Bill 777 (Act 104 of 1979) jointly sponsored by Speaker H. Jack Seltzer, the new Republican Floor Leader Matthew Ryan, and Democratic Floor Leader K. Leroy Irvis (History of House Bills and Resolutions 1979-1980, A97). The legislation created the Bi-partisan Management Committee (BMC) to oversee House operations including payrolls, expense accounts, purchasing, personnel, and services. It was also empowered to keep the official records of the House.

The BMC is comprised of the Speaker, the majority and minority leaders, and the majority and minority whips. All decisions of the committee require four votes, thereby ensuring some measure of bipartisan agreement. Employees of the BMC, including those of the Chief Clerk (called “Core employees” to distinguish them from caucus staff), were made officially non-partisan. When donkeys and elephants were banned from offices, some employees adopted the “Pink Panther” as their mascot.

At the initiative of Senate President Pro Tempore Henry Hager, similar reforms were unanimously adopted in Senate Bill 7 of 1981 (Act 90 of 1981) (History of Senate Bills and Resolutions 1981-1982, A2). The Senate Committee on Management Operations (COMO) created by the act differed from its House counterpart in that it requires only a simple majority vote to take an action (Wise 1984, 16-20). As Senate (Republican) minority leader, Hager later led efforts to strengthen the legislature’s oversight of administrative regulations with the passage of the Independent Regulatory Review Act in 1982 (Wise 1984, 86-99).

Continuing Bipartisan Support

William Keefe (1971, 189-91) once warned that partisanship could be an obstacle to reform. In Pennsylvania, Herb Fineman turned partisanship into an ally of reform. Despite Pennsylvania’s reputation for stiff partisanship, the reform movement was supported by both parties throughout the period and afterward. In part the “deal” to fund equally each caucus staff worked in favor of capacity building because the mi-

minority party was given any new capacity enjoyed by the majority party and therefore did not oppose the reforms. Perhaps the bipartisan cooperation reflected the political realities of the time. In the politically uncertain 1960s, 1970s, and 1980s, all four caucuses would find themselves in the minority at some point (Kennedy 1999, 6-8)

In the mid-1970s, California State Senate Republican Whip H.L. "Bill" Richardson (who served in the California Senate from 1966 to 1988) lampooned the development of the professional legislature on partisan and ideological grounds in his book, *What Makes You Think We Read the Bills?* (Richardson 1978, 90-95) No such opposition could be seen in Pennsylvania. Matthew Ryan, who was House Republican Whip throughout most of the 1970s, Republican Leader in 1978, and Speaker on and of between 1981 and 2003, consolidated existing reforms and endorsed further improvements in member services. Throughout his tenure he never wavered in his support for institutional modernization.

Some academic criticism of Pennsylvania's reforms surfaced in Charles Greenawalt and Terry Madonna's critique "The Pennsylvania General Assembly," suggestively subtitled "The House of Ill Repute Revisited" (Greenawalt and Madonna 1992). It is safe to say, however, that during the 1965-1980 period of reform, there was remarkably little internal or external opposition to modernization per se in Pennsylvania (excepting the perennial press stories decrying any increase in legislative pay or "perks," actual or perceived).

In the years since 1980, other states' modernization reforms have been challenged and in some cases rolled back. Even the flagship of the reform movement, the California legislature, was repeatedly humbled by ballot initiatives in the 1980s and 1990s that reduced the power of the Speaker, eliminated the legislative pension system, established term limits, and reduced the size of the legislative staff (Rosenthal 1998, 76-80). But there have been no serious attempts to roll back the accomplishments of the modernization movement in Pennsylvania. Pennsylvania, which does not permit ballot initiatives, has retained the internal bipartisan commitment to upgrade legislative capacity, most recently in the areas of computerization and constituency and media outreach.

Since Fineman's departure, Pennsylvania's budget and the Federal government's share of it continues to grow. The FY 2003-04 General Fund Budget as proposed by Governor Edward Rendell is over \$20 billion, exclusive of federal funds totaling about \$13 billion (Governor's Executive Budget 2003-2004, C8-9, C32).¹ The number of committees has crept up in the House. Today there are 21 committees plus Rules in the Senate, and 23 not necessarily parallel committees plus Rules in the House (Pennsylvania Manual 2001-2002, sec.3-37 and 3-184). Legislative staffing and facility improvements have continued. The House now employs about

1600 people, over 80% of whom work for the caucuses as leadership staff, committee staff, member staff in Harrisburg and in the districts, or in central research, member services, legislative media relations offices, computer support, graphics, newsletter production, printing, and mail shops. The same services are provided for the 50 Senators by just under 1,000 staffers.² The Capitol East Wing was built in the 1980s during the Thornburgh Administration to house legislative offices, committee hearing rooms, visitor facilities, and a media center. The Legislature also expanded into three adjoining buildings in the Capitol Complex. The old executive office building has been renamed "The Speaker Matthew Ryan Building," and the old South Office building, which the legislature shares with the courts, has been named after Speaker K. Leroy Irvis. Most recently the legislature has taken over the first two floors of the old North Office Building with the expectation that it will someday carry the name of a prominent state Senator.

On the PPSA panel, Alan Rosenthal reiterated the benchmarks he has used to judge legislative capacity and the success of the reform movement: the legislature must "participate vigorously in public policy making," "review and evaluate the conduct of the administration and the effects of state programs," and "represent and help out constituents" (Hertzberg and Rosenthal 1971, vii). According to Rosenthal, the reforms of the 1960s and 1970s clearly have increased the ability of the nation's legislatures to affect public policy, conduct fiscal and programmatic oversight of the executive branch, and reach out to and represent constituents. He also indicated that "capacity is no longer an issue in most states" (Pennsylvania Political Science Association 2003). Furthermore, the reforms of the 1960s and 1970s have made legislatures generally more representative, open, internally democratic, and responsive (Rosenthal et al 2003, 197-198).

The evidence is equally clear that Herb Fineman's "legacy of modernization" has had the same effect of empowering the legislature he served. In 1994 the members of the House of Representatives assembled in observance of the unveiling of Fineman's portrait as Speaker. K. Leroy Irvis, who succeeded Fineman as Speaker, told the assembled members (only 20 of whom had actually served during Fineman's tenure): "You are the voice of the people, and the man who gave you the power of that voice is former Speaker Herbert Fineman" (*Pennsylvania House Journal* 1994). Although no building in the Capitol Complex carries Fineman's name, his vision of a modern, professional legislature is imprinted on the institution itself.

Notes

1. The General Fund encompasses most government functions but does not include other smaller dedicated funds, of which the Motor License Fund is the largest. In FY 2003-04 the Motor License Fund proposes to spend \$2.9 billion in state and \$1.5 billion in federal funds (Governor's Executive Budget 2003-2004, C32).
2. Data provided by the Chief Clerk of the House and the Chief Clerk of the Senate, June 2003.

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