

A History of the Adoption of the Maryland Executive Budget Amendment
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I. Introduction

In 1904 the General Assembly appropriated \$1,000 for a tombstone for and a portrait of Governor Thomas G. Pratt whose three-year term as governor expired in 1848 and who died in 1869. The tombstone that marks the former governor's grave in St. Anne's Cemetery on College Creek in Annapolis has this singular inscription: "He saved the credit and upheld the honor of this State." This remarkable tribute in granite honors executive leadership that was instrumental in averting insolvency when the state was unable to repay the money it had borrowed to invest in the Baltimore and Ohio Railroad, the Chesapeake and Ohio Canal, and other works of internal improvement in the 1820s and 1830s. One result of this financial crisis was the adoption of the debt clause of the 1851 Constitution which, then and now, limits the legislature's power to create debt by requiring that bond bills levy a tax for their redemption.

In seeking support for the appropriation to honor the memory of Governor Pratt, the chief sponsor, Delegate Edward Goslin of Caroline County, referred to the former governor's imperishable work which was the cornerstone of the state's prosperity at the beginning of the twentieth century. However, eight years after making this speech, Mr. Goslin was serving as a member of the Maryland Senate and was warning that history was about to repeat itself. This warning was prophetic, for three years later the state confronted another financial crisis when appropriations exceeded revenue by \$1,500,000 at a time when total revenue was approximately \$12,000,000. The response was to amend the constitution in 1916 to establish an executive budget system which, then and now, essentially provides that the governor prepares and submits to the General Assembly a budget, that is, a comprehensive plan of expenditures for the next fiscal year, and that the General Assembly may only strike or reduce the amounts. (Md. Const., Art.

III. Sec. 52). Although the General Assembly may initiate appropriations which are supplementary to the governor's budget, such appropriations must be supported with the levy of a tax. Thus, the budget amendment precludes passage of bills such as the Pratt monument appropriation, which did not levy a tax for its support.

The adoption of the executive budget system reversed the well-established roles of the executive and legislative branches of government in a fundamental matter of public finance: the expenditure of public money. Prior to the adoption of this system, the initiative lay with the legislative branch and the governor had a veto. With the establishment of the executive budget, the governor assumed the initiative and the General Assembly had a veto. To be sure, beginning with the debt crisis of the 1820s and 1830s, there had been a steady trend of amending the constitution to limit the power of the General Assembly and to enhance the power of the governor. However, adoption of the Executive Budget Amendment was not merely a continuation of this trend. It was an action which was more fundamental, for it transposed the legislative and executive roles in a vital aspect of public finance.

To understand how such a fundamental change occurred, it is relevant to consider the historical evolution of the powers of the governor and the General Assembly. (See Sec. II of this paper: Historical Perspective on Roles of the Executive and Legislature, pp. 6-11.) By the 1914 session of the General Assembly, the balance of power had been shifting toward the governor for almost 100 years. However, the legislature still had the initiative in fiscal matters, as illustrated by enactment of the Pratt monument appropriation. Following the 1914 session, it became apparent that appropriations exceeded revenue. (See Sec. III: The 1914 Session and the Resulting Deficit, pp. 12-17.) One of the factors that contributed to the crisis was the practice of continuing appropriations. The proposed solution of an Executive Budget Amendment is to be understood in the context of the ideas of the progressive era, especially the "efficiency

movement.” (See Sec. IV: The Progressive Era and the Efficiency Movement, pp. 18-21.) One of the reforms of the progressive era was the executive budget system which had its first application for municipal government, including Baltimore City. (See Sec. V: The Progressive Movement and the 1898 Baltimore City Charter, pp. 22-25.)

Although the federal government conducted an important study of the executive budget system during the administration of President William Howard Taft (See Sec. VI: The Taft Commission’s Federal Budget Study, pp. 26-31), the model for the Maryland Executive Budget Amendment was the provision for an executive budget in a new constitution proposed by the New York State constitutional convention in 1915. (See Sec. VII: The Proposed New York State Constitution’s Budget System, pp. 32-38.) However, as New York State’s voters rejected the proposed constitution, there was little public acknowledgment of the New York antecedents of the proposed Maryland amendment during the ratification campaign in the following year. Moreover, as the referendum on the amendment was conducted at the same time as the 1916 presidential election in which supporters of the re-election of President Woodrow Wilson campaigned on the slogan, “He kept us out of war,” there was also little public acknowledgment that the executive budget system was adapted from the longstanding British parliamentary practice which forbade the House of Commons to increase requests for supply (appropriations) from the governing ministry (prime minister and cabinet) without the approval of the responsible government minister (cabinet member). (See Sec. VI: Taft Commission’s Federal Budget Study, pp. 39-45.)

In considering why the response to the state’s financial crisis of 1915 resulted in such a fundamental change, several factors were decisive. One of these factors was that the crisis occurred in a gubernatorial election year in which the ultimately successful candidate, Emerson Harrington, the incumbent Democratic comptroller, was on the defensive for what his political opponents saw as his role in bringing about the crisis.

Accordingly, he pledged that the Democratic Party's state convention would appoint a commission to propose an executive budget amendment. (See Sec. VIII: The Gubernatorial Election of 1915 and the Budget Issue, pp. 46-53.) Another decisive factor was that the convention appointed exceptionally well-qualified individuals to the commission, including Dr. Frank J. Goodnow, who chaired the commission and who had recently been installed as president of The Johns Hopkins University. Dr. Goodnow had not only an academic interest in the subject but had served on the Taft Commission and had testified in favor of an executive budget system before the committee of the New York State constitutional convention. (See Sec. IX: The Goodnow Commission and the Budget Amendment, pp. 54-61.) Finally, the convention pledged that the party's members in the legislature would support the proposed amendment and they did so. (See Sec. X: The 1916 Session and the Passage of the Executive Budget Amendment, pp. 62-63.) At the general election of 1916, voters ratified the amendment by a margin of two to one. (See Sec. XI: Ratification of the Executive Budget Amendment, pp.64-67.)

II. Historical Perspective on Roles of the Executive and the Legislature

In the 1914 session of the General Assembly, the initiative in fiscal matters, including the enactment of appropriation measures, was still vested in the legislature. This had been the case since the adoption of the Constitution of 1776. The dominant role of the state legislature in financial matters is to be understood in the context of the American Revolution and reaction against the dominance of executive power in the colonial era. Even though the third decade of the nineteenth century witnessed the beginning of a trend to limit the power of the legislature and to enhance the power of the executive, the legislature's initiative in financial matters was still intact in the 1914 session.

The charter granted in 1632 by King Charles I to Cecilius Calvert, the second Lord Baltimore, and to his heirs, vested ownership of the land and authority to govern the colony in Lord Baltimore as the proprietor of Maryland.¹ The charter expressly conferred on the proprietor the “absolute power...to...make and enact LAWS” with the “advice, consent and approbation of the Free-men” of the Province.² Initially, the proprietor claimed the right to initiate all legislation.³ Although it was soon conceded that the representative body which became known as the General Assembly could initiate legislation, the proprietor and the resident governor appointed by the proprietor retained an absolute veto.⁴ By 1650, the General Assembly had become a bicameral body consisting of an appointed council and an elected Lower House which became known as

¹ For many years the charter was published in the *Maryland Manual*. See, for example, *Maryland Manual 1987-1988*, 745-748 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000183/html/am183--745.html>). It is now available on the website of the Maryland State Archives (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/html/charter.html>). See also Carl N. Everstine, *The General Assembly of Maryland 1634-1776*, Vol. I (Charlottesville, VA: The Michie Company, 1980), 25-26.

² Charter of Maryland, Art. VII (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000183/html/am183--745.html>).

³ *General Assembly*, 41-42.

⁴ *General Assembly*, 51-53.

the House of Delegates.⁵ However, it was the governor who called the legislature into session, addressed its members, prorogued its sessions, and even approved the officers of the elected house.⁶ Moreover, throughout the colonial era there were disputes over the roles of the governor and the legislature in levying fees and taxes and granting supply, that is appropriations.⁷

In some respects, the Constitution of 1776 continued institutions and practices that existed in the colonial era.⁸ Thus, there continued to be a governor, a bicameral legislature, and a judiciary. Moreover, the Constitution of 1776 expressly declared that English statutes and common law as well as provincial statutes continued to apply until modified by the General Assembly.⁹ However, there was a radical change in the concept of sovereignty and the roles of the governor and the General Assembly. It was expressly declared, “That all Government of right originates from the people, is founded on compact only, and is instituted solely for the good of the whole.”¹⁰ Moreover, in obvious reaction to the power of the colonial governor, the constitution provided that the governor of the state be elected by the General Assembly for a term of one year subject to a limit of three successive terms.¹¹ Although the governor signed bills,¹² this was a purely ministerial act as the governor had no veto power. Instead of the governor convening the

⁵ *General Assembly*, 85-87.

⁶ *General Assembly*, 110, 182, 316, and 503. During the 25 years in the late seventeenth and early eighteenth centuries when Maryland was a royal colony, the governor, who was appointed by the Crown, was still the preeminent official. See 149 and 186.

⁷ *General Assembly*, 374-375.

⁸ *General Assembly*, 569. Carl N. Everstine, *The General Assembly of Maryland 1776-1850* (Charlottesville, VA: The Michie Company, 1984), 2-3.

⁹ Constitution of 1776, Declaration of Rights, Art. 3

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0223.html>). The texts of the State's four successive constitutions (1776, 1851, 1864 and 1867) were published in comparative form by the Constitutional Convention Commission in 1968 in a volume entitled *Constitutional Revision Study Documents*. See p. 597 *et seq.*

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000138/html/am138--597.html>).

¹⁰ Constitution of 1776, Declaration of Rights, Art. 1

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0222.html>).

¹¹ Constitution of 1776, Sections 25

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0241.html>) and 31

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0244.html>).

¹² Constitution of 1776, Sec. 60 (<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0255.html>).

legislature, the constitution prescribed annual sessions.¹³ Only if the two houses disagreed on a time for adjournment would the governor decide the issue.¹⁴ Moreover, both houses had express authorization to elect their own officers and to adopt their own rules.¹⁵

The vexing issue concerning the authority to levy fees and taxes was resolved by an express declaration “That no aid, charge, tax, burthen, fee or fees ought to be set, rated or levied under any pretense without the consent of the Legislature.”¹⁶ As members of the newly established Senate were elected by an electoral college for terms of five years,¹⁷ the members of the House of Delegates, who were directly elected by the voters for one-year terms,¹⁸ had the sole authority to originate money bills.¹⁹ The Senate could only assent or dissent to such bills.²⁰ However, money bills were subject to a one-subject limitation.²¹

By the time of the financial crisis of the 1840s, the Constitution of 1776 had been amended to provide for direct election of the governor for a three-year term.²² The same amendment provided for popular election of senators for staggered terms of six years.

¹³ Constitution of 1776, Sec. 23

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0241.html>).

¹⁴ Constitution of 1776, Sec. 29

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0244.html>).

¹⁵ Constitution of 1776, Sec. 24

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0241.html>).

¹⁶ Constitution of 1776, Declaration of Rights, Art. 12

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0224.html>).

¹⁷ Constitution of 1776, Secs. 14-18

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0238.html>).

¹⁸ Constitution of 1776, Sec. 2

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0233.html>).

¹⁹ Constitution of 1776, Sec. 10

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0236.html>).

²⁰ Constitution of 1776, Sec. 22

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0241.html>).

²¹ Constitution of 1776, Sec. 11

(<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0237.html>).

²² Laws of Maryland, 1836-37, Ch. 197, Sec. 20

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000537/html/am537--194.html>). Laws of Maryland 1837-38, Ch. 84

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000601/html/am601--88.html>). The Constitution of 1776 was amended by the legislature approving an amendment at one session and then confirming this approval at the next session following an intervening election. See Constitution of 1776, Sec. 59 (<http://mdsa.net/megafile/msa/speccol/sc4800/sc4872/003145/html/m3145-0254.html>).

Although as early as 1796 the General Assembly had accepted the practice of the governor submitting a message reviewing public issues and recommending legislation,²³ the legislature remained the dominant branch of state government. Thus, without executive direction and exercising its initiative in financial matters, the General Assembly enacted a series of bond bills during a fourteen-year period beginning in 1826 to finance state investment in the Baltimore and Ohio Railroad, the Chesapeake and Ohio Canal, and other works of internal improvement.²⁴

By 1840, the state's debt amounted to \$15,000,000 and the annual interest due the bondholders was \$575,000.²⁵ As the interest due exceeded earnings from the improvement companies by almost \$485,000 and the state's annual revenue was only about \$1,500,000,²⁶ interest payments were suspended in 1842.²⁷ Initially, there was a reluctance to levy the taxes necessary to repay the debt.²⁸ However, a more resolute legislature willing to levy the necessary taxes and the leadership of Governor Pratt, who was elected in 1844, were considered decisive in averting repudiation.²⁹ By 1848, the state was able to resume payment of interest on the state debt.³⁰

As a consequence of the debt crisis, the constitutional convention which met in 1851 included a clause in the proposed constitution which required the legislature to levy an irrepealable tax in legislation authorizing the issuance of state bonds.³¹ Voters ratified

²³ *Votes and Proceedings of the House of Delegates, November Session, 1796*, 13

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000105/html/am105--72.html>) and 28 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000105/html/am105--87.html>).

²⁴ Hugh Sisson Hanna, *A Financial History of Maryland, 1789-1848* (Baltimore: The Johns Hopkins University Press, 1907), 79 and 94. See also Alan M. Wilner, *The Board of Public Works: A History* (Annapolis, MD: The Hall of Records Commission, 1984), 18-20

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000216/html/am216--18.html>).

²⁵ *Financial History*, 94-95, 100, 131.

²⁶ *Financial History*, 100, 129.

²⁷ *Financial History*, 105.

²⁸ *Financial History*, 105.

²⁹ *Financial History*, 119.

³⁰ *Financial History*, 124.

³¹ Constitution of 1851, Art. III, Sec. 22

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--9.html>).

this constitution in the same year. Moreover, this clause is part of the current constitution adopted in 1867.³²

Even before adoption of the 1851 Constitution, there were amendments to the 1776 Constitution to regulate and limit the powers of the legislature in financial matters. Thus, as the consequences of the legislature's improvident borrowing became apparent, there was an amendment requiring confirming legislation after an intervening election for legislation authorizing debt in the name of the state, "so that the opinion of the people may be expressed thereon."³³ Another amendment provided that no money could be withdrawn from the treasury except by an appropriation made by law.³⁴ Aside from limitations on financial legislation, the constitution was amended to limit the length of legislative sessions,³⁵ and to provide for biennial rather than annual sessions of the legislature.³⁶

In addition to extending the governor's term to four years, the Constitution of 1851 formally recognized the governor's role in reporting to the legislature on the condition of the state and in recommending legislation.³⁷ It also established the elected

³² Constitution of 1851, Art. III, Sec. 34

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--11.html>).

³³ Laws of Maryland, 1841 (Extraordinary Session), Ch. 55

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000592/html/am592--366.html>); Laws of Maryland, 1841-42, Ch. 319

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000593/html/am593--270.html>).

³⁴ Laws of Maryland, 1843-44, Ch. 339

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000595/html/am595--295.html>); Laws of Maryland, 1844-45, Ch. 86

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000609/html/am609--60.html>). This requirement was carried forward to the Constitutions of 1864 and 1867 and is now Art. III, Sec. 32 (<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

³⁵ Laws of Maryland, 1838-39, Ch. 411

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000598/html/am598--428.html>); Laws of Maryland, 1839-40, Ch. 2

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000600/html/am600--3.html>).

³⁶ Laws of Maryland, 1845-46, Ch. 269

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000610/html/am610--294.html>); Laws of Maryland 1846-47, Ch. 306

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000611/html/am611--291.html>). The same amendment also lengthened the term of delegates to two years.

³⁷ Constitution of 1851, Art. II, Secs. 1

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--6.html>) and 18

office of comptroller “to have general superintendence of the fiscal affairs of the State.”³⁸ Among the duties prescribed for this office were preparing and reporting estimates of state revenue and expenditures.³⁹ Continuing the trend of limiting legislative power, the General Assembly lost the power to amend the constitution.⁴⁰ As a further limitation on legislative power, the constitution provided that all laws were subject to a one-subject requirement and had to be passed by a majority of the membership of the respective houses.⁴¹ Moreover, certain special laws were forbidden.⁴²

The trend of enhancing the power of the governor and limiting the power of the legislature continued in the Constitutions of 1864 and 1867. Thus, the Constitution of 1864 provided that the governor along with the comptroller and treasurer would constitute the Board of Public Works.⁴³ Moreover, that instrument provided for establishment of an inviolate public school fund.⁴⁴ The Constitution of 1867 granted the governor the power to veto bills before they became statutes. Although the General Assembly could override a veto by a three-fifths vote of the membership of each house,

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--7.html>), now Sec. 19 (<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

³⁸ Constitution of 1851, Art. VI, Secs. 1 and 2

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--17.html>).

³⁹ Constitution of 1851, Art. VI, Sec. 2

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--17.html>).

⁴⁰ The Constitution of 1851 directed the General Assembly to conduct a referendum after each decennial census on the question of calling a constitutional convention. Art. XI

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--20.html>). Ratification by the voters following a proposal by the Legislature was introduced in the Constitution of 1864, Art. XI (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000102/html/am102--764.html>), and was continued in the present constitution, Art. XIV, Sec. 1

(<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

⁴¹ Constitution of 1851, Art. III, Secs. 17 and 19

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--9.html>), now Secs. 28 and 29.

⁴² Constitution of 1851, Art. III, Secs. 21 (divorce)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--9.html>) and 47 (corporations)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000101/html/am101d--11.html>), now Secs. 33 and 48 (<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

⁴³ Constitution of 1864, Art. VII, Sec. 1

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000102/html/am102--758.html>), now Art. XII, Sec. 1 (<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

⁴⁴ Constitution of 1864, Art. VIII, Sec. 6

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000102/html/am102--762.html>), now Sec. 3 (<http://mdsa.net/msa/mdmanual/43const/html/03art3.html>).

the governor's veto was absolute for bills presented near the close of a session or after adjournment.⁴⁵ In 1891 the constitution's veto provision was amended to grant the governor an item veto of appropriation bills.⁴⁶

By 1914, the governor's power had also been increased by statutes designating the governor an ex-officio member of the State Board of Education⁴⁷ and the State Roads Commission.⁴⁸ At this time, public education and road construction and maintenance accounted for substantial increases in state spending.⁴⁹ Although the governor was not a member of the Board of State Aid and Charities, he appointed the members.⁵⁰ This board, initially established in 1900, was charged with the responsibility of reviewing and making recommendations on the ever-increasing requests from public institutions and private charities for public money.⁵¹ Although by 1914 the legislature's powers had been limited in some respects, and the powers of the governor had been increased, the initiative in financial matters remained vested in the General Assembly.⁵²

⁴⁵ Constitution of 1867, Art. II, Sec. 17

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000074/html/am74d--549.html>).

⁴⁶ Laws of Maryland, 1890, Ch. 194

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000396/html/am396--211.html>), ratified by the voters at the General election of November 3, 1891.

⁴⁷ Laws of Maryland, 1904, Ch. 584 (Art. 77, Sec. 5)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000209/html/am209--4807.html>).

⁴⁸ Laws of Maryland, 1908, Ch. 141 (Art. 91, Sec. 33)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000483/html/am483--247.html>).

⁴⁹ *Annual Report of the Comptroller of the Treasury of the State of Maryland for the Fiscal Year ended September 30, 1905 to the General Assembly of Maryland*, vi

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269p--6.html>), xiii-xv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269p--13.html>);

Comptroller's Report, 1910, x

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000274/html/am274p--10.html>);

Comptroller's Report, 1914, xii-xiii

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000278/html/am278p--10.html>).

⁵⁰ Laws of Maryland, 1904, Ch. 549

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000209/html/am209--4763.html>).

⁵¹ Laws of Maryland, 1900, Ch. 679. Although enacted, this law was not printed in the volume of session laws for 1900. Ch. 679 was repealed and re-enacted in 1904 (fn. 50).

⁵² The federal constitution also reduced the power of state legislatures when it was amended to provide for the election of United States senators by popular vote. Prior to the ratification of the Seventeenth Amendment, senators were elected by their respective legislatures.

III. The 1914 Session and the Resulting Deficit

By the 1914 session it had become the established practice for the General Assembly to pass two omnibus appropriations acts. As the legislature still met biennially, there was one omnibus act for each of the succeeding fiscal years.⁵³ These statutes were written in a narrative style and had no figure for the total amount of money appropriated. Although the General Assembly had convened on January 7, 1914 and was to adjourn on April 6, the omnibus appropriation bills which became law were not introduced until March 31.⁵⁴ The bills, which became SB 757 and SB 758, were referred to the Finance Committee and were favorably reported without amendments on the same day.⁵⁵ By April 4, the bills had been passed by the House of Delegates without being amended.⁵⁶ Following adjournment of the General Assembly on April 6, the bills were approved by the governor on April 13 subject to reductions made by the item veto of \$61,500 for FY 1915 and \$21,500 for FY 1916.⁵⁷ As there was no opportunity for the legislature to consider the vetoes, they were absolute.

At the beginning of the 1914 session, the governor had submitted a message to the General Assembly which referred to reports of the state's financial officers and advised that any additional appropriations required "a most careful examination."⁵⁸ As contemplated by the constitution, the comptroller's report for FY 1913, which was submitted to the General Assembly on December 15, 1913, included statements of

⁵³ Laws of Maryland, 1914, Chs. 386 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--612.html>) and 389 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--624.html>).

⁵⁴ *Senate Journal*, 1914, 2663-64.

⁵⁵ *Senate Journal*, 1914, 2667-68.

⁵⁶ *House Journal*, 1914, 3142-3143, 3332, 3336.

⁵⁷ Laws of Maryland, 1914, 621-622 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--621.html>), 632-633 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--632.html>).

⁵⁸ *Senate Journal*, 1914, 25, 27-28.

probable receipts and disbursements.⁵⁹ However, these statements pertained to the then current fiscal year which began on October 1, not the prospective fiscal years for which the 1914 session would make appropriations.

At the end of the calendar year 1915, the comptroller reported that at the close of the fiscal year on September 30, 1915, the state had a general fund deficit of \$1,446,555,81.⁶⁰ For this fiscal year, the state's total revenue, including the balance from the preceding year, amounted to \$12,092,459.55.⁶¹ As \$1,274,687.70 appropriated to various public and private institutions was not paid during the course of FY 1915,⁶² the state's financial plight became known before the end of the fiscal year. Moreover, a report to the comptroller by the Harvey S. Chase & Co., dated December 15, 1915, stated that the deficit for FY 1916 would approach \$2,000,000.⁶³

In previous reports of the comptroller there had been repeated warnings of an impending financial crisis. In these years, the state did not have an income tax or sales tax. The principal sources of revenue were license fees, a gross receipts tax on corporations, and the state property tax.⁶⁴ After falling to 16 cents per one hundred of assessed value for the tax year 1907,⁶⁵ the State property tax rate rose to 32 and one-third

⁵⁹ *Comptroller's Report, 1913*, 22

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000277/html/am277--22.html>), 24

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000277/html/am277--24.html>).

⁶⁰ *Comptroller's Report, 1915*, xv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279p--15.html>).

⁶¹ *Comptroller's Report, 1915*, v

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279p--5.html>).

⁶² *Comptroller's Report, 1915*, xv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279p--15.html>).

⁶³ Maryland State Archives, *A Report to Hon. Emerson C. Harrington, Comptroller of the Treasury concerning the Financial Condition of the State of Maryland and also concerning a Proposed "State Budget"* (Harvey S. Chase & Co., 1915), 1, GOV PUB 806036, 2/3/6/27.

⁶⁴ *Comptroller's Report, 1915*, 3-5

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--3.html>). The Comptroller's Reports for this era include a great deal of detail. Thus, in the report for FY 1910, it is stated that receipts in the treasury included \$6 from the "Conscience Fund" and \$1.26 from the "State Tomato Scales." *Comptroller's Report, 1910*, 2-3

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000274/html/am274--2.html>).

⁶⁵ Laws of Maryland, 1906, Ch. 404 (Art. 81, Sec. 22)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000479/html/am479--731.html>).

cents for the tax year 1915.⁶⁶ At this time the proceeds of the state property tax were dedicated to the school fund and debt service on state bonds.⁶⁷ In addition to increased spending on public schools, a public roads program resulted in increasing appropriations as well as additional debt to finance the program. Moreover, there were evermore generous appropriations for charitable institutions.⁶⁸ Overall total disbursements rose from \$4,462,701.42 in FY 1905 to \$11,263,751.09 in FY 1915.⁶⁹ In the report for FY 1907, the Comptroller warned that “demands upon the Treasury have increased greater proportionately than its revenues.”⁷⁰ This warning was repeated almost annually in the following years.⁷¹

⁶⁶ Laws of Maryland, 1914, Ch. 396 (Art. 81, Sec. 24)

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--637.html>).

⁶⁷ Laws of Maryland, 1914, Ch. 396

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--637.html>).

⁶⁸ From FY 1905 to FY 1915 total disbursements of the Public School Tax rose from \$1,195,565.22 to \$1,619,500.75. See *Comptroller's Report, 1905*, 29

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269--29.html>) and *Comptroller's Report, 1915*, 59

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--59.html>). In FY 1905, at the beginning of the public road program, \$6,000 was disbursed for public roads. See *Comptroller's Report 1905*, 12

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269--12.html>). By FY 1915, \$4,356,422.69 was disbursed for the improvement and maintenance of public highways. See *Comptroller's Report, 1915*, 20

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--20.html>), 38. As \$3,538,696.85 was disbursed from money that had been borrowed, interest on the debt for highway purposes rose from nothing in FY 1905 to \$366,650 in FY 1915. See *Comptroller's Report, 1905*, 9

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269--9.html>); *Comptroller's Report, 1915*, 36

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--36.html>). In the two years between the 1912 and 1914 sessions, appropriations for charitable institutions rose from \$1,389,187.72 to \$1,881,244.88. By 1915 there were 119 institutions which received State funds. *Seventh Biennial Report of the Board of State Aid and Charities, 1912-1913*, 10; *Eighth Biennial Report of the Board of State Aid and Charities, 1914-1915*, 7. See also *Comptroller's Report, 1915*, 21-33

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--21.html>), 38

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--38.html>).

⁶⁹ *Comptroller's Report, 1905*, vi

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269p--6.html>);

Comptroller's Report, 1915, viii

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279p--8.html>), 39

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000279/html/am279--39.html>).

⁷⁰ *Comptroller's Report, 1907*, xiii

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000271/html/am271p--8.html>).

⁷¹ *Comptroller's Report, 1908*, vi

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000272/html/am272p--6.html>);

Comptroller's Report, 1909, xiii

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000273/html/am273p--8.html>);

Comptroller's Report 1910, vi

The comptroller's reports for this era also identified the longstanding practice of "continuing appropriations" as contributing to the state's financial condition. Thus, the report for FY 1907 noted that thousands of dollars were withdrawn from the treasury pursuant to "continuing appropriations," that is authorizations which did not expire but continued indefinitely.⁷² Moreover, if the full amount was not disbursed in one fiscal year, the balance became an arrearage to be paid in a subsequent year.⁷³ The most venerable of these enactments was one passed in 1798 (Ch. 107) which was still benefiting an educational institution in Frederick County.⁷⁴ The practice was so well established that in the 1904 session, which appropriated funds to honor the memory of Governor Pratt and his dedication to fiscal prudence,⁷⁵ the General Assembly appropriated \$200,000 annually for road improvements.⁷⁶ While not itself a continuing appropriation, the Pratt monument appropriation was illustrative of the practice of passing special appropriations for particular purposes. Such appropriations made it impossible to ascertain the extent of appropriations until the Legislature had adjourned.⁷⁷

When the House of Delegates considered the Pratt monument appropriation bill in the 1904 Session, the journal recorded the remarks of the sponsor, Delegate Edward E.

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000274/html/am274p--6.html>);

Comptroller's Report, 1911, xvi

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000275/html/am275p--16.html>);

Comptroller's Report, 1913, vi

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000277/html/am277p--6.html>);

Comptroller's Report 1914, xii

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000278/html/am278p--12.html>).

⁷² *Comptroller's Report, 1907*, xiv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000271/html/am271p--8.html>).

⁷³ *Comptroller's Report, 1907*, xiv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000271/html/am271p--8.html>).

⁷⁴ *Comptroller's Report, 1907*, "Statement B," 6

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000271/html/am271--6.html>).

⁷⁵ Laws of Maryland, 1904, Ch. 127

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000209/html/am209--4049.html>).

⁷⁶ Laws of Maryland, 1904, Ch. 225, Sec. 16

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000209/html/am209--4211.html>). See also

Comptroller's Report, 1905, xiv-xv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000269/html/am269p--14.html>).

⁷⁷ *Comptroller's Report, 1907*, xiv

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000271/html/am271p--8.html>).

Goslin⁷⁸ of Caroline County.⁷⁹ In his remarks, Delegate Goslin reviewed the history of the debt crisis of the 1840s and of Governor Pratt's role in persuading the legislature to levy taxes to generate revenue to pay the bondholders.⁸⁰ Goslin described the governor's work as imperishable and as laying the "cornerstone of our financial prosperity."⁸¹ However, in 1912, just eight years after extolling Governor Pratt's legacy of sound financial practices, Mr. Goslin delivered a very different address as a member of the Senate. These remarks were recorded in the journal.⁸² Again, Mr. Goslin recalled the history of the debt crisis. However, he expressed concern that outlays were outpacing revenue.⁸³ In this regard, he specifically noted the substantial increase in appropriations for private charities.⁸⁴ Noting the increasing demands on the state treasury, he expressed the concern of "history repeating itself."⁸⁵

⁷⁸ Mr. Goslin was a merchant and farmer. He was a Democrat and first served in the House of Delegates in the 1890 session. During that session, he was assigned to the Committee on Ways and Means. Subsequently, he chaired a county auditing board. In 1904 he was again a member of the House of Delegates (see *Maryland Manual, 1904*, 264 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000116/html/am116--264.html>)). While representing Caroline County in the Senate from 1908 to 1912 (see *Maryland Manual, 1912-13*, 230 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000123/html/am123--230.html>)), he became Secretary of the State Roads Commission in 1910. After the expiration of his term in the Senate, he was a member of the Commission until his death in 1914 (see the *Fifth, Sixth, Seventh and Eighth Annual Reports of the State Roads Commission for the Years 1912, 1913, 1914 and 1915*, 5, 8, 13).

⁷⁹ *House Journal, 1904*, 383-89

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000408/html/am408--383.html>).

⁸⁰ *House Journal, 1904*, 383-85

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000408/html/am408--383.html>).

⁸¹ *House Journal, 1904.*, 388

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000408/html/am408--388.html>).

⁸² *Senate Journal, 1912*, 1256-61.

⁸³ *Senate Journal, 1912*, 1260.

⁸⁴ *Senate Journal, 1912*, 1260.

⁸⁵ *Senate Journal, 1912*, 1260.

IV. The Progressive Era and the Efficiency Movement

Although in 1914 the initiative in financial matters still remained with the General Assembly, the session that year continued the trend of limiting the power of the legislature. In that regard, the legislature proposed and voters subsequently ratified two amendments to the state constitution, the Charter County Home Rule Article and the Referendum Article.⁸⁶ The Charter County Home Rule Article limited the power of the General Assembly to enact local laws for the counties, including Baltimore City, which had adopted a charter. The referendum established the voters' right to petition laws passed by the General Assembly to referendum, subject to certain exceptions. Both were ratified at the general election of November 2, 1915, and are Articles XIA and XVI, respectively.⁸⁷ These two amendments were widely advocated by reformers commonly identified as supporters of the Progressive Movement. They also advocated adoption of the executive budget system.

The Progressive Movement had its genesis among the younger generation of well-established families concerned with conditions brought about by rapid industrialization and the congestion of urban life in the late nineteenth and early twentieth centuries.⁸⁸ They generally regarded local and state government as corrupt and beholden to corporate interests.⁸⁹ They did not have a narrow view of the role of government but considered it a proper instrument to relieve social and economic conditions.⁹⁰ However, to make this instrument more responsive, progressives proposed measures to end corruption and waste. Reformers were particularly interested in making the electoral system and

⁸⁶ Laws of Maryland, 1914, Chs. 416 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--657.html>) and 673 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000533/html/am533--1140.html>), respectively.

⁸⁷ *Maryland Manual, 1915-1916*, 252 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000126/html/am126--252.html>).

⁸⁸ Otis L. Graham, Jr., *The Great Campaigns: Reform and War in America, 1900-1928* (Englewood, NJ: Prentice-Hall, Inc., 1971), 6-7, 17.

⁸⁹ *Great Campaigns*, 4-5.

⁹⁰ Benjamin Parke DeWitt, *The Progressive Movement* (1915; rpt. Seattle: University of Washington Press, 1968), 24.

government more responsive to the will of the voters. Hence, they advocated primary elections to nominate candidates and popular participation in government through the initiative, referendum, and recall.⁹¹ To end corruption and waste, reformers also advocated restructuring government, especially by increasing executive power and employing business methods.⁹² At this time, business methods were themselves being reformed as a result of what became known as the “Efficiency Movement.”

The first person prominently identified with the Efficiency Movement was Frederick Taylor.⁹³ Taylor was an engineer and became president of the American Society of Mechanical Engineers.⁹⁴ His primary concern was with the development of scientific management for industrial concerns.⁹⁵ Eventually, he set out his views in a book entitled, *The Principles of Scientific Management*.⁹⁶ Although the Efficiency Movement initially focused on the private sector, this movement greatly influenced the public sector. In considering the application of scientific management to government, it was argued that there should be a distinction between politics and administration. The foremost advocate of this distinction was Dr. Frank J. Goodnow. Questions of ends, it was said, were properly the subject of politics and legislation. However, questions concerning means were properly a matter of administration which could be scientifically managed.⁹⁷

⁹¹ *Progressive Movement*, 23-24.

⁹² *Progressive Movement*, 4-5, 15, 21.

⁹³ Samuel Haber, *Efficiency and Uplift: Scientific Management in the Progressive Era, 1890-1920* (1964; rpt. Midway, 1973), x.

⁹⁴ *Efficiency and Uplift*, 7.

⁹⁵ *Efficiency and Uplift*, 18.

⁹⁶ One of Frederick Taylor’s associates was Frank Gilbreth, who had been in the construction business. However, as Mr. Gilbreth developed motion studies, he disassociated himself from Mr. Taylor and worked with his wife, Lillian Gilbreth (see Haber, 37-41). Two of the Gilbreth children wrote a humorous account of growing up in the home of a pair of efficiency experts, published under the well-known title, *Cheaper by the Dozen*. See Frank B. Gilbreth, Jr., and Ernestine Gilbreth Carey, *Cheaper by the Dozen* (New York: T. Y. Crowell Co., 1948). The book was recently republished by Perennial, an imprint of Harper Collins Publishers.

⁹⁷ *Efficiency and Uplift*, 103. Dr. Goodnow’s views on this subject were published in 1900 in *Politics and Administration: A Study in Government*, American National Biography Series, Vol. 9 (New York: Oxford University Press, 1999), 250.

The Efficiency Movement was, therefore, concerned with the application of scientific or business methods of organization, management, and control to government.⁹⁸ Personnel, purchasing, and especially the budget were central concerns of the Efficiency Movement.⁹⁹ Initially, the focus was on reforming municipal government.¹⁰⁰ Only later did state and federal governments become subjects of reform.¹⁰¹ At the municipal level, part of the reform program sought to free city governments from state legislative interference by establishing home rule.¹⁰² To provide a model, the National Municipal League adopted four proposed constitutional amendments that would allow cities of a certain size to adopt a charter and frame a government and that would limit the power of the state legislature to pass local laws.¹⁰³ One of the proposed constitutional amendments mandated passage of a general municipal corporations act.¹⁰⁴

At the same conference, the League also approved a model Municipal Corporations Act.¹⁰⁵ This act reflected views commonly held by reformers and included provisions on home rule, a strong mayor, and an executive budget system.¹⁰⁶ With respect to an executive budget system, the model act provided that the mayor would, on a prescribed date each year, “submit to the Council the annual budget of current expenses of the city, any item of which may be reduced or omitted by the Council, but the Council shall not increase any item in nor the total of said budget.”¹⁰⁷ One of the delegates to this conference was Dr. Frank J. Goodnow, then serving as a professor at Columbia

⁹⁸ *Progressive Movement*, 320.

⁹⁹ *Progressive Movement*, 321.

¹⁰⁰ *Great Campaigns*, 27.

¹⁰¹ *Great Campaigns*, 30, 33.

¹⁰² *Progressive Movement*, 319.

¹⁰³ *Proceedings of the Columbus Conference for Good City Government and the Fifth Annual Meeting of the National Municipal League, November 16, 17 and 18, 1899* (Philadelphia: National Municipal League, 1899), 45-46, 216-223.

¹⁰⁴ *Columbus Conference*, 222.

¹⁰⁵ *Columbus Conference*, 45-46, 224-249.

¹⁰⁶ Art. II, Sec. 16; Art. III, Sec. 7; Art. IV, Sec. 1.

¹⁰⁷ Art. III, Sec. 7.

University.¹⁰⁸ Dr. Goodnow read a paper entitled, “Political Parties and the City Government under the Proposed Municipal Program.”¹⁰⁹ This conference elected Charles J. Bonaparte of Baltimore as chairman of the Executive Committee.¹¹⁰

¹⁰⁸ *Columbus Conference*, 273.

¹⁰⁹ *Columbus Conference*, 63.

¹¹⁰ *Columbus Conference*, 5-6.

V. The Progressive Movement and the 1898 Baltimore City Charter

Charles Bonaparte, the grandson of a brother of Napoleon Bonaparte, was a prosperous Baltimore lawyer and leading reformer in the late nineteenth and early twentieth centuries. In the administration of President Theodore Roosevelt, he served first as secretary of the Navy and then as attorney general. In 1885 he had been one of the organizers of the Reform League of Baltimore and had served as chairman of its executive committee in the latter part of the 1890s.¹¹¹

In 1895, the League, along with reform Democrats and Republicans, was instrumental in defeating the dominant Democratic organization which had consistently triumphed in state elections since the Civil War and had been led for well over a decade by United States Senator Arthur P. Gorman.¹¹² In Baltimore City, the longtime leader of the organization was I. Freeman Rasin. Thus, the organization was known as the “Gorman-Rasin machine” or simply as “the Ring.”¹¹³ Running on a platform pledged to reform, the successful Republican candidate for governor was Lloyd Lowndes, a wealthy Cumberland banker. In Baltimore City, the successful Republican candidate for mayor was Alcaeus Hooper. Like other reformers, Mayor Hooper, a textile manufacturer, was committed to improving the efficiency of city government. However, in his single term, his plans for revision of the city charter by the General Assembly were unsuccessful.

¹¹¹ Charles Bonaparte’s law office was on Park Avenue. His critics mocked him as the “Peacock of Park Avenue.” See James B. Crooks, *Politics and Progress: The Rise of Urban Progressivism in Baltimore, 1895-1911* (Baton Rouge: Louisiana State University Press, 1968), 15. See also *American National Biography* (hereafter *ANB*), Vol. 3 (New York: Oxford University Press, 1999), 154.

¹¹² Although the state’s investment in the Chesapeake and Ohio Canal contributed to the state’s financial embarrassment in the debt crisis of the 1840s, the canal proved to be financially and politically rewarding to Senator Gorman in his early life. Senator Gorman, who was born in 1839, became speaker of the House of Delegates in 1872 during the administration of Governor William Pinkney Whyte (1872-1874). At this time, it was arranged for Mr. Gorman to become president of the C & O Canal Company at an annual salary of \$10,000. See John R. Lambert, *Arthur Pue Gorman* (Baton Rouge: Louisiana State University Press, 1953), 4, 34, 36. Moreover, “It was expected that he would run the canal company as an adjunct of the Democratic Party patronage—technically in the interest of William Pinkney Whyte—and he proceeded to live up to these expectations.” *Gorman*, 36. In 1874, the Legislature elected Governor Whyte to the United States Senate. However, Mr. Gorman defeated his trusting benefactor when Senator Whyte sought re-election. *Gorman*, 46-47.

¹¹³ *Gorman*, 9-11, 40.

Although reformers regarded his Republican successor, William Malster, as a spoilsman, Malster appointed a commission for the purpose of proposing a revision of the city charter.¹¹⁴

The Commission members were exceptionally well qualified and represented both political parties. However, it is considered to have worked in a nonpartisan manner.¹¹⁵ The chairman of the Charter Revision Commissioner was William Pinkney Whyte, who had served as mayor, comptroller, attorney general, governor, and U.S. senator. Other members were Daniel Gilman, the first president of The Johns Hopkins University; Ferdinand Latrobe, a seven-term mayor who had been supported by “the Ring;” George Gaither, a Republican reformer who was appointed attorney general in 1899 by Governor Lowndes to fill an unexpired term; and Samuel Schmucker, who was appointed to the Court of Appeals in 1898 by Governor Lowndes.¹¹⁶ Thomas Ireland Elliott, city solicitor; Thomas G. Hayes, city counselor and future mayor; and Lewis Putzel, city attorney and reform member of the General Assembly, served on the commission in an ex-officio capacity.¹¹⁷

In its 27 January 1898 report to the General Assembly, the commission set out certain “well-defined and recognized principles relating to municipal government.”¹¹⁸ These included improving accountability of public officials, requiring appointment of experts in departments where professional qualifications were necessary, and checking hasty legislation, especially on financial matters.¹¹⁹ In carrying out this last principle, the commission recommended a Board of Estimates consisting of the mayor, two other

¹¹⁴ *Gorman*, 84-87, 93.

¹¹⁵ *Politics and Progress*, 94; and J. H. Hollander, *The Financial History of Baltimore* (Baltimore: The Johns Hopkins University Press, 1899), 357.

¹¹⁶ *Politics and Progress*, 94; *Maryland Manual, 1899*, 218-219 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000111/html/am111--218.html>).

¹¹⁷ *Politics and Progress*, 94; *Maryland Manual, 1899*, 221 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000111/html/am111--221.html>).

¹¹⁸ Report of the Commission, January 27, 1898, as published in the *New Charter of Baltimore City*, revised edition (Baltimore: Press of King Bros., 1903), i-ii.

¹¹⁹ *New Charter*, i-ii.

elected officials (the comptroller and president of one branch of the City Council) and two mayoral appointees (the city solicitor and city attorney).¹²⁰ This board would control financial policy of the city.¹²¹ More specifically, this board would prepare the estimates of all appropriations of public funds; that is, a budget.¹²²

The report blandly stated that the legislative functions of the council were in “no wise impaired” and not a penny of public money could be spent until it was appropriated by the council.¹²³ However, the proposed charter radically altered the power of the council by providing that the council could reduce but not increase the amounts fixed by the Board of Estimates. Moreover, the council could not add items. The then-existing practice was for a joint Ways and Means Committee of the bicameral city council to prepare the budget.¹²⁴ The proposal to shift initiative to a body controlled by the mayor was modeled on a comparable provision of the charter of the recently established metropolis of greater New York.¹²⁵ The work of the National Municipal League was also influential.¹²⁶ Although the council sought to revise the work of the Charter Commission, it was unsuccessful.¹²⁷ With only slight change, the General Assembly enacted the proposed charter into law in 1898.¹²⁸ The executive budget system, as established by the 1898 legislative charter, Sec. 36, was carried forward into the charter

¹²⁰ *New Charter*, iv-v.

¹²¹ *New Charter*, v.

¹²² *New Charter*, v.

¹²³ *New Charter*, vi.

¹²⁴ *Financial History of Baltimore*, 363-64.

¹²⁵ *Financial History of Baltimore*, 363-64. In 1897, the New York State legislature enacted a statute known as the Greater New York Charter. See Laws of New York State, 1897, Ch. 378, Sec. 1. This act consolidated various municipal corporations and other entities to form the City of New York. In relevant part, the charter established a Board of Estimate and Apportionment, which consisted of the mayor and four other members, two of whom were also elected officials (Sec. 226). Annually, it was the responsibility of the board to prepare a budget of estimated expenditures for the next fiscal year to be submitted to the bicameral municipal assembly. Subject to certain exceptions, the assembly could reduce the amounts. One exception was for “such amounts as are now or may hereafter be fixed by law.” (This evidently referred to State Law. See Sec. 230.) It was also expressly provided that the municipal assembly could not increase any amounts or add new items (Sec. 226).

¹²⁶ *Politics and Progress*, 95.

¹²⁷ *Financial History of Baltimore*, 357-58.

¹²⁸ Laws of Maryland, 1898, Ch. 123

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000482/html/am482--241.html>).

adopted pursuant to the Charter County Home Rule Article in Article XIA of the Constitution of Maryland.¹²⁹ Although the 1898 charter did not address home rule or civil service issues, it reflected principles of municipal reform and was considered an “efficient instrument of government.”¹³⁰

¹²⁹ In the current Baltimore City Charter, provisions relating to the executive budget system are found in Article VI, Sections 3 through 10. Of the nine counties which adopted charter home rule under Art. XIA of the state constitution, six have an elected executive. In four of these six counties, the charter provides for an executive budget system in which the elected executive submits a comprehensive budget to the council and the council may only strike or reduce. See Anne Arundel County Charter, Art. V, Secs. 706 and 709; Baltimore County Charter, Art. VI, Secs. 703 and 709; Harford County Charter, Art. V, Secs. 503 and 512; and Howard County Charter, Art. VI, Secs. 603 and 606.

¹³⁰ *Financial History of Baltimore*, 365.

VI. The Taft Commission's Federal Budget Study

Once budget reform was well underway at the municipal level, attention turned to introducing budget reform at the state level.¹³¹ However, unlike most municipal governments in which the mayor was the head of the administrative branch of government, executive power in most states was diffused among various elected officials. Therefore, before the governor could be made responsible for submitting a comprehensive financial plan for the administrative branch of state government to the legislature, that branch had to be recast to make the governor the effective head.¹³² At the time that states began to consider budgetary reform, the Federal government undertook a comprehensive study to improve economy and efficiency in the national government. This was a particular concern of President William Howard Taft who, as governor of the Philippine Islands from 1901 to 1904, had broad administrative responsibilities for that territory.¹³³

In his first annual message, President Taft noted the need for a comprehensive study to eliminate waste and improve efficiency.¹³⁴ As at the local level, the rationale was not to cut taxes but to have money to spend on worthwhile programs without increasing overall expenditures.¹³⁵ Congress responded to the president's request by appropriating \$100,000 to employ experts to study methods of transacting public business and to recommend new methods to improve efficiency and economy.¹³⁶ This amount

¹³¹ William Franklin Willoughby, *The Movement for Budgetary Reform in the States*, Studies in Administration, Institute for Government Research (New York: D. Appleton & Co., 1918), 8.

¹³² *Budgetary Reform*, 8, 12-13.

¹³³ *Dictionary of American Biography* (hereafter *DAB*), vol. XVIII, (New York: Charles Scribner & Sons), 268.

¹³⁴ *A Compilation of Messages and Papers of the Presidents XV* (Bureau of National Literature, Inc.), 7409, 7425. This compilation was prepared under the direction of the Joint Committee on Printing of the House of Representatives and the Senate pursuant to an act of Congress.

¹³⁵ *Messages and Papers*, 7751. See also Jane S. Dahlberg, *The New York Bureau of Municipal Research: Pioneer in Government Administration* (New York: New York University Press, 1966), 31-32, 43.

¹³⁶ 36 Stat. 703, Ch. 384, Act of June 25, 1910.

was supplemented for a total outlay of \$260,000.¹³⁷ In carrying out his responsibilities under the 1910 statute, President Taft appointed a Commission on Economy and Efficiency, which became known as the Taft Commission and which was chaired by Frederick A. Cleveland, Director of the New York Bureau of Municipal Research.¹³⁸ The other members included W. F. Willoughby, author and professor at Princeton University; Frank J. Goodnow, then a professor at Columbia University; and Harvey Chase.¹³⁹

The Taft Commission prepared 110 reports; 56 concerned administrative matters and were submitted only to the president. However, 26 were submitted to Congress.¹⁴⁰ (When the commission's work ended in 1913, there were 28 reports that had not been issued.) In its report on a national budget system, the commission noted that, except in the United States, the executive's role is one of initiative and leadership.¹⁴¹ The legislative role is limited to powers of final determination and consent. However, in the United States, the legislature ordinarily has the authority to initiate and determine policy. The role of the executive is to carry out policies established by the legislature. Thus, in financial matters, including the expenditure of public money, the initiative lies primarily with Congress.¹⁴²

¹³⁷ W. F. Willoughby, *The National Budget System With Suggestions for Its Improvement*, The Institute for Government Research, Studies in Administration (Baltimore: The Johns Hopkins University Press, 1927), 20.

¹³⁸ *National Budget System*, 20.

¹³⁹ At Princeton, W. F. Willoughby was a professor of jurisprudence and politics. After China became a republic in 1911, he served as a constitutional advisor to the Chinese government for two years. In 1916 he became the director of the Institute for Government Research in Washington, D. C. Dr. Goodnow was chairman of the Board of Trustees. The vice chairman was Robert Brookings, a native of Cecil County, who became a successful businessman in St. Louis. The Institute, which was later re-named the Brookings Institution, was instrumental in enactment of the Federal Budget and Accounting Act of 1921. See Charles B. Saunder, Jr., *The Brookings Institution: A Fifty Year History* (Washington, D.C.: The Brookings Institution, 1961), 15-18, 20, 23. W. F. Willoughby's twin brother was Westel Woodbury Willoughby, a noted legal scholar and professor of political science at The Johns Hopkins University. W. W. Willoughby succeeded his brother as a constitutional advisor to the Chinese republic. See *DAB*, Supl. Three, 830-31.

¹⁴⁰ *New York Bureau*, 87-88.

¹⁴¹ H. Doc. 854, 62nd Cong., 2nd Sess., *The Need for a National Budget: A Message from the President of the United States Transmitting Report of the Commission on Economy and Efficiency on the Subject of the Need for a National Budget*, 10. Hereinafter cited as *National Budget Report*.

¹⁴² *National Budget Report*, 10.

The term “budget” ordinarily refers to a collection of documents concerning a government’s financial affairs prepared by the administrative head and submitted to the legislative branch of government.¹⁴³ It includes a plan of expenditures for the ensuing financial year.¹⁴⁴ Thus, “[t]he use of a budget would require that there be a complete reversal of procedure by the Government—that the executive branch submit a statement to the Legislature which would be its account of its stewardship as well as its proposals for the future.”¹⁴⁵ A budget, it was said, was “an advantage to the legislator since it makes the head of administration assume responsibility for each proposal and for supplying the facts necessary to support his conclusions.”¹⁴⁶

In an appendix to the National Budget Report, the Taft Commission included responses to a questionnaire on budget practices sent to foreign governments. The British response noted that the responsible minister presented the budget to Parliament and that members of the House of Commons may not propose an expenditure of public money without ministerial approval.¹⁴⁷ This longstanding limitation was adopted as a standing order of the House of Commons in 1713.¹⁴⁸

¹⁴³ *National Budget Report*, 8. The word “budget” is derived from the French word *bougette*, the diminutive of the word *bouge*, which means pouch, bag, or wallet commonly made of leather. At one time, there were references to “opening the budget.” Thus, in the eighteenth century, there was a pamphlet entitled, “The Budget Opened,” which likened the presentation of the budget in Parliament with a “mountebank opening his wallet of quack medicines and conjuring tricks.” See the *Oxford English Dictionary*, 2d ed., Vol. II (Oxford: Clarendon Press, 1989), 620.

¹⁴⁴ *National Budget Report*, 8-9.

¹⁴⁵ *National Budget Report*, 10.

¹⁴⁶ *National Budget Report*, 139. Shortly before leaving office on March 4, 1913, President Taft submitted a budget and related documents for the next fiscal year to Congress. (S. Doc. 1113, 62nd Cong., 3rd Sess.) In a message accompanying the proposed budget, the President acknowledged that under the constitution “the power to control the purse is given to Congress.” However, he also noted that the constitution provides that the President shall periodically inform Congress on the state of the union and recommend measures for congressional consideration. Moreover, the constitution requires the President to submit to the Congress a regular statement on receipts and expenditures. Citing these constitutional provisions, it was maintained that there was ample constitutional authority for the President to submit a budget to Congress.

¹⁴⁷ *National Budget Report*, 517.

¹⁴⁸ *Precedents of Proceedings of the House of Commons*, Vol. III (Hansard and Sons, 1818), 167-168. This order reflected a well-established practice that developed to curb monarchical extravagance. Thus, the convention that a demand by the monarch for supply (of money) had to precede a grant of supply by Parliament. See Erskine May, *A Treatise on the Law: Privileges and Proceedings and Usage of Parliament*, 14th ed. (London: Butterworth & Co., 1946), 639, 653-54. The vital role of money in establishing parliamentary supremacy was memorably expressed by a parliamentarian in the late

Although the Taft Commission did not recommend that Congress be subject to a similar limitation, this limitation was well documented in widely available books comparing the American practice, in which the initiative in financial matters lay with the legislative branch subject to an executive veto, and in some states, the item veto, with the British practice, in which the initiative lay with the responsible ministers subject to the negative of the House of Commons.¹⁴⁹ American authors who dealt with this subject included Luther Cushing in his comprehensive treatise, *Elements of the Law and Practice of Legislative Assemblies in the United States of America* (1856; rpt. Fred B. Rothman & Co., 1989), Sec. 2027 and Woodrow Wilson in his book, *Congressional Government*, first published in 1885.¹⁵⁰ Two perceptive British writers also dealt with this subject: Walter Bagehot in his book, *The English Constitution*, first published in 1867, and James Bryce's comprehensive survey of American government, *The American Commonwealth*, first published in 1888.¹⁵¹

In addition to his description of the federal government, Lord Bryce also included accounts of state and local governments. With respect to state governments, he concluded that the “real blemishes” were “in the composition or conduct of the legislatures.”¹⁵² Commonly, the members were poorly informed and improvident in

seventeenth century when he said, “When princes have no need of money, they have no need of us (Parliament).” See Oxford Reference Online, “Parliament.” Whatever the origin of the order, in the modern British government it plainly serves the interest of the governing ministry (the Prime Minister and the Cabinet), which is essentially a committee of the legislature and effectively exercises executive power on behalf of the monarch, who has a largely ceremonial role. See also fn. 192.

¹⁴⁹ Under the Parliament Act of 1911, the House of Lords lost the power to disapprove money bills. See 1 & 2 Geo. 5, Ch. 13, Sec. 1 (1911). A short but readable account of the controversy which led to this enactment is found in Roy Jenkins' *Mr. Balfour's Poodle Peers v. People* (New York: Chilmark Press, 1954).

¹⁵⁰ See p. 103 of a 1973 reprint by Peter Smith, Gloucester, Massachusetts. At this time, Woodrow Wilson was a graduate student at The Johns Hopkins University. The book was submitted as his thesis for a Doctor of Philosophy degree, awarded in June of 1886. See *DAB*, Vol. X, 353.

¹⁵¹ See Walter Bagehot, *The English Constitution* (1872; rpt. Oxford University Press, 1968), 120, 302 and ff; and James Bryce, *The American Commonwealth*, Vol. I (1888; rpt. Macmillan Company, 1911), 177-78.

¹⁵² Bryce, Vol. I, 556. An appendix to the first volume sets out some of the provisions of the Constitution of the Confederate States of America. One of these provides that, with certain exceptions, it takes a two-thirds vote of the two houses of the Congress to appropriate money from the treasury unless requested by the agency head and submitted by the president. See Art. I, Sec. 9. The British North American Act of

financial matters.¹⁵³ Remedies included enhancing the power of the governor, who, as a statewide elected official, has a broader perspective than legislators elected from districts, and limiting the power of legislatures.¹⁵⁴

Lord Bryce was also critical of municipal government. In this regard he observed that, “There is no denying that the government of the cities is the one conspicuous failure in the United States.”¹⁵⁵ In the first edition, published in 1888, Seth Low, the president of Columbia University and future mayor of New York City, and Frank Goodnow, then a professor at Columbia University, contributed chapters on municipal government and the Tweed Ring of New York, respectively.¹⁵⁶ However, the chapter on the Tweed Ring was substantially rewritten by Lord Bryce on account of a defamation suit.¹⁵⁷

1867, which served as the Constitution of the Dominion of Canada, Vol. I, p. 697, included a limitation which was based on the British practice. 30 Vic., Ch. 3, Sec. 54.

¹⁵³ *American Commonwealth*, Vol. I, 549-50.

¹⁵⁴ *American Commonwealth*, 556-57.

¹⁵⁵ *American Commonwealth*, 642.

¹⁵⁶ Robert G. Brooks, ed. *Bryce's American Commonwealth Fiftieth Anniversary* and Frances L. Reinhold, *State and Local Governments in the American Commonwealth: Comparisons and Contrasts with the Present* (New York: The Macmillan Company, 1939), 41.

¹⁵⁷ *State and Local Governments*, 41-42. Speculating on Lord Bryce's motives in seeking American collaborators, Mr. Reinhold observes that, “Now Bryce's motives in inviting collaboration were generous enough, but no Scotchman could have failed to consider the pertinent business of American copyright procedure.” (41). The defamation suit was brought in England by A. Oakley Hall, a former mayor of New York who was supported by the Ring, against James Bryce. In the High Court of Justice, Queen's Bench Division, Statement of Claim and Defence, 1889-H-234. Copies of the statement of claim and defense are in Box 24 of the Frank Johnson Goodnow Papers in the Special Collections of the Milton S. Eisenhower Library of The Johns Hopkins University.

VII. The Proposed New York State Constitution Budget System

An adaptation of the British budget system was incorporated in a proposed constitution approved by the New York State constitutional convention of 1915. Although voters rejected the proposed constitution, the issue of a budget system was thoroughly considered in the same year in which such a system became the central issue in the Maryland gubernatorial election. Moreover, one of the most prominent advocates of a budget system at the New York State constitutional convention was Dr. Frank J. Goodnow, the same Dr. Goodnow who was president of The Johns Hopkins University and chair of Maryland's Commission on Economy and Efficiency. The New York State constitutional convention convened on April 6, 1915 at the capitol in Albany. Well-known and well-regarded delegates included Elihu Root, a former United States senator and secretary of state, who served as president of the convention, and Henry Stimson, a former and future secretary of war and future secretary of state, who served as chair of the convention's Committee on State Finances, Revenue and Expenditures.

In preparation for the convention, the Constitutional Convention Commission asked the New York Bureau of Municipal Research to prepare an appraisal of the constitution and government of New York State. The commission transmitted the resulting report to the delegates without comment.¹⁵⁸ One of the themes was the importance of enhancing the governor's power, as the executive is the official who can best provide leadership and be held accountable by the electorate. Another theme was that the legislature can best function as a body that enforces executive responsibility.¹⁵⁹ Accordingly, it was proposed that the governor be given the responsibility of formulating,

¹⁵⁸ *The Constitution and Government of the State of New York—An Appraisal* (Bureau of Municipal Research, 1915). Transmitted to the New York State constitutional convention by the New York State Constitutional Convention Commission.

¹⁵⁹ *Constitution and Government*, 4-5, 72, 79.

submitting, and defending financial measures.¹⁶⁰ The Constitutional Convention Commission also published a collection of papers presented to the New York Academy of Political Science under the title, *The Revision of the State Constitution*. Authors included Dr. Goodnow, who delivered a paper entitled, “The Adaptation of a Constitution to the Needs of a People,” and F. A. Cleveland, the Director of the New York Bureau of Municipal Research, who delivered a paper entitled, “Constitutional Provision for a Budget.”¹⁶¹

Dr. Goodnow was also invited to testify before a joint meeting of the convention’s Committee on the Governor and other State Officers and the Committee on State Finances, Revenues and Expenditures.¹⁶² In his testimony, given on 3 June 1915, Dr. Goodnow reviewed the practice of leaving the initiative in financial matters to the legislative branch.¹⁶³ He particularly noted that without administrative supervision, agencies are naturally inclined to seek excessive funding.¹⁶⁴ Moreover, legislative bodies are particularly inclined to fund local projects of questionable value.¹⁶⁵ Although the governor may veto specific items in an appropriation bill, this power is exercised at the end of the legislative process.¹⁶⁶ As a remedy, Dr. Goodnow proposed that the roles of the executive and legislative branches be transposed.¹⁶⁷ Thus, the initiative would shift to the governor who would review and reduce agency requests for submission to the

¹⁶⁰ *Constitution and Government*, 77-78.

¹⁶¹ *The Revision of the State Constitution* (New York, N.Y.: New York State Constitutional Convention Commission, 1915), 27, 141.

¹⁶² Former President William Howard Taft and A. Lawrence Lowell, president of Harvard University, also testified. For a transcript of their testimony see *Documents of the Constitutional Convention of the State of New York 1915*, Documents 11 and 14, respectively. Although President Woodrow Wilson was invited to testify and responded that he would like to do so, he declined due to his preoccupation with the consequences of the European war which began in August, 1914 and specifically with the repercussion of the sinking of the British liner Lusitania on May 7, which resulted in the loss of 124 American lives. See Thomas Schick, *The New York State Constitutional Convention of 1915 and the Modern State Governor* (National Municipal League, 1978) 79.

¹⁶³ *Documents of the Constitutional Convention of the State of New York 1915*, Document No. 13, 4.

¹⁶⁴ *Documents*, #13, 4-5.

¹⁶⁵ *Documents*, #13, 7.

¹⁶⁶ *Documents*, #13, 3.

¹⁶⁷ *Documents*, #13, 38.

Legislature at the beginning of the session.¹⁶⁸ Moreover, the legislature's power would be limited to reducing the amounts requested.¹⁶⁹ It was frankly stated that this arrangement was adapted from the British practice.¹⁷⁰

On August 4, 1915, the Committee on State, Finances, Revenue and Expenditures reported a proposed executive budget amendment to the convention.¹⁷¹ On behalf of the committee, Henry Stimson, the chair, submitted a memorandum that reviewed the state's financial condition, defects in existing practice, and recommendations for an executive budget system.¹⁷² With respect to the condition of the state's finances, the memorandum noted that, like other states and the national government, expenditures were rising much more rapidly than revenue.¹⁷³ This was attributed to government greatly expanding its activities.¹⁷⁴ Moreover, there was waste and extravagance.¹⁷⁵

In considering the defects of existing practice, the memorandum noted that (1) there was no comprehensive state financial plan or budget, (2) that agency heads submitted uncoordinated requests for appropriations without regard to the state's revenue (3) that the legislature was not suited to preparing a comprehensive plan, in part, because the members do not have the kind of information about agencies that results from administrative supervision, (4) that in the absence of a prohibition on members increasing appropriations, as in the longstanding House of Commons order, "the spirit of mutual accommodation"¹⁷⁶ will prevail, (5) that an item veto at the end of the process gives the governor what is essentially a legislative power and reverses the proper roles of the executive and legislative branches and (6) in the absence of a comprehensive financial

¹⁶⁸ *Documents*, #13, 9, 27.

¹⁶⁹ *Documents*, #13, 9-10, 29.

¹⁷⁰ *Documents*, #13, 9, 16.

¹⁷¹ *Journal of the Constitutional Convention of the State of New York 1915*, 383-84. Hereinafter cited as *Convention Journal*.

¹⁷² *Convention Journal*, 385-403. The memorandum also served as the report of the Committee. See *Documents of the Constitutional Convention of the State of New York 1915*, Document 32.

¹⁷³ *Convention Journal*, 387.

¹⁷⁴ *Convention Journal*, 387.

¹⁷⁵ *Convention Journal*, 387-88.

¹⁷⁶ Can there ever have been a more genteel reference to "logrolling"?

plan submitted to the legislature at the beginning of the session, members do not have an opportunity properly to scrutinize public spending.¹⁷⁷

The committee's recommendations included providing for revision of agency heads' estimates (requests for appropriations) by a central executive authority and preparing a comprehensive plan of expenditures consistent with the state's revenue.¹⁷⁸ This responsibility should be vested in the governor, rather than in a board of revision, for reasons of efficiency and accountability.¹⁷⁹ As the head of administration, the governor has ongoing familiarity with the work of administrative agencies that best equips him to review and coordinate agency requests.¹⁸⁰ Moreover, as head of state government, the governor is the public official who can best explain the state's fiscal policy and be held accountable for this policy.¹⁸¹ To help make the governor accountable, it was recommended that the governor hold public hearings before exercising the revision power.¹⁸² However, recognizing the separation of powers principle, the governor's power of revision would not apply to estimates of the legislative and judicial branches.¹⁸³ To give the legislature ample time to consider the budget, it was recommended that the budget be presented before the first of February.¹⁸⁴

Inspired by the British practice of ministers answering questions in the House of Commons at "Question Time," it was suggested that the governor and other officials have the right and, when asked, the duty to appear before the respective legislative chambers to answer questions about the budget.¹⁸⁵ Moreover, adapting the British practice of forbidding the House of Commons to increase amounts requested for supply unless

¹⁷⁷ *Convention Journal*, 389-95.

¹⁷⁸ *Convention Journal*, 395-96.

¹⁷⁹ *Convention Journal*, 396-97.

¹⁸⁰ *Convention Journal*, 396.

¹⁸¹ *Convention Journal*, 396.

¹⁸² *Convention Journal*, 398.

¹⁸³ *Convention Journal*, 398.

¹⁸⁴ *Convention Journal*, 398.

¹⁸⁵ *Convention Journal*, 399.

approved by the responsible minister, it was proposed that the legislature have the power to strike or reduce items in the budget but not to increase them.¹⁸⁶ However, to address the objection that the governor might misuse power in failing to include appropriations for matters the legislature deemed worthy, legislative initiative in financial matters was preserved subject to two conditions: first, that this power could not be exercised before both houses acted on the budget, and, second, that such appropriations had to be in a separate bill, each being for a single work or object.¹⁸⁷ It was also recommended that all appropriations expire simultaneously three months after the end of the fiscal year.¹⁸⁸

Responding briefly to some of the common objections to the executive budget plan, the memorandum rejected the contention that the legislature would lose power.¹⁸⁹ The budget system would allow the legislature to review in an orderly way a “comprehensive plan of expenditures.” Moreover, the legislature would retain the power to initiate its own appropriations.¹⁹⁰ The memorandum also rejected the contention that the budget system would give undue power to the governor. It was pointed out that the governor already had an item veto which was not subject to review. Under the proposed system, the governor would be deprived of the item veto over budget items and would exercise the revisory power at the beginning of the process.¹⁹¹ To the objection that the budget system was “un-American,” it was pointed out that it was used in some of the largest cities of the country and had been advocated by leading statesmen, including Presidents Taft and Wilson.¹⁹²

¹⁸⁶ *Convention Journal*, 399.

¹⁸⁷ *Convention Journal*, 399-400.

¹⁸⁸ *Convention Journal*, 401.

¹⁸⁹ *Convention Journal*, 401.

¹⁹⁰ *Convention Journal*, 401.

¹⁹¹ *Convention Journal*, 401.

¹⁹² *Convention Journal*, 402. The memorandum (Report) did not address an insightful observation in a minority report submitted by Robert F. Wagner. Mr. Wagner, who was a member of the New York Senate and subsequently served in the United States Senate, pointed out that the term “Executive Budget” was not

The committee's executive budget amendment was considered by the convention on August 10 and 11 sitting as the committee of the whole.¹⁹³ Mr. Stimson, as chair, gave an address that elaborated on the points made in the memorandum.¹⁹⁴ The only extended address in opposition was delivered by Edgar Brackett, who had been a member of the legislature.¹⁹⁵ He objected to the criticism of the legislature and rejected the contention that the legislature would not lose power.¹⁹⁶ On August 18, 1915, the proposed executive budget amendment was approved by a vote of 137 in favor and 4 against.¹⁹⁷

As approved, Article V of the proposed constitution required agency heads annually to submit their estimates of expenditures to the governor on or before November 15. After holding a public hearing, the governor was required to submit to the legislature a "budget containing a complete plan of proposed expenditures and estimated revenue." Requests for appropriations as submitted by the legislature and the judiciary were to be included without revision. Moreover, the budget was to be accompanied by a "bill or bills for all proposed appropriations and reappropriations clearly itemized." Before final action by the legislature, the governor could amend or supplement the budget. It was provided that the legislature could not alter an appropriation bill submitted by the governor except to strike out or reduce items therein. However, this limitation did not apply to appropriations for the legislature or the judiciary. Once both houses passed the bill, it became law without further action by the governor. However, appropriations for the legislature and judiciary were subject to the governor's item veto. Moreover, the

appropriate for countries with a parliamentary system. In such countries, the budget is a "parliamentary budget." See *Documents of the Constitutional Convention of the State of New York 1915*, Document 35, 2. Unlike the national government of the United States and state governments in which the executive is independently elected for a fixed term and is a separate branch of government, in Great Britain and in other parliamentary countries the executive is essentially a committee of the legislature and serves at the pleasure of the legislature. See also fn. 148.

¹⁹³ *Convention Journal*, 445-46, 454-55.

¹⁹⁴ *Record of the Constitutional Convention of the State of New York 1915* (unrevised), Vol. II, 1567-1589.

¹⁹⁵ *Record*, 1627-33.

¹⁹⁶ *Record*, 1628-29, 1631-32.

¹⁹⁷ *Convention Journal*, 519-20.

legislature could then consider other appropriation bills provided that each was limited to a single object or work. Such supplemental appropriation bills would be subject to the governor's veto.¹⁹⁸

At an election on November 2, 1915, voters defeated the proposed New York State constitution by a margin of more than two to one (910,462 to 400,423).¹⁹⁹ Among the factors cited as reasons for its defeat were opposition to Elihu Root, the convention president, as a prospective Republican nominee for president in the 1916 presidential election and the proposed constitution's reorganization of state government which, in the view of opponents, unduly increased the governor's power.²⁰⁰

¹⁹⁸ *Convention Journal*, 686-88. Unlike the Executive Budget Amendment which was subsequently adopted as part of the Maryland Constitution, the New York version did not require the governor to submit a single, omnibus bill for a specific fiscal year. Another striking difference was that the Maryland plan required that supplementary appropriations bills to levy a tax for their support. The New York plan did not. However, a curious similarity was that neither plan explicitly required a balanced budget.

¹⁹⁹ *Modern State Governor*, 119.

²⁰⁰ *Modern State Governor*, 122-23.

VIII. The Gubernatorial Election of 1915 and the Budget Issue

On the same day that New York State voters rejected the proposed constitution, Maryland voters elected a governor following a campaign in which adoption of an executive budget system was a central issue. By a narrow margin, the Democratic candidate, Emerson Harrington, the incumbent comptroller, defeated the Republican candidate, Ovington Weller, who had served as chairman of the State Roads Commission in the Republican administration of Governor Phillips Lee Goldsborough (1912-1916). Both party platforms endorsed an executive budget system. Moreover, as the state's faltering financial condition became known during 1915, this condition and the remedy became a major issue in the contest for the Democratic nomination in which Comptroller Harrington was challenged by United States Senator Blair Lee.

The nominations of the major parties for statewide offices were decided under a primary election law first enacted in 1908 and based on legislation introduced by Blair Lee while serving as a member of the State Senate representing Montgomery County.²⁰¹ For statewide offices, the party's voters did not directly nominate candidates. Rather, the party's voters in each county and Baltimore City's four legislative districts determined how delegates from these units would vote in the party's state convention. The number of votes cast by each unit in the convention was based on its representation in the General Assembly.²⁰² This, of course, was long before the "one-person, one-vote" principle governed the distribution of seats in the General Assembly. Thus, it was possible for a candidate to win a majority or plurality of the statewide popular vote but lose the nomination.

²⁰¹ Robert J. Brugger, *Maryland: A Middle Temperament, 1634-1980* (Baltimore: The Johns Hopkins University Press, 1988), 425.

²⁰² Laws of Maryland, 1908, Ch. 737 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000483/html/am483--103.html>); Laws of Maryland, 1910, Ch. 741, Art. 33, Sec. 160k (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000487/html/am487--123.html>).

The primary election law was one of the reforms enacted during the administration of Governor Austin Crothers (1908-1912), a Democrat who was the immediate predecessor of Governor Goldsborough.²⁰³ Governor Crothers did not seek re-election in 1911. However, State Senator Blair Lee challenged Arthur P. Gorman, Jr., the president of the state Senate and son of the late United States Senator Arthur P. Gorman who had died in 1906.²⁰⁴ Although state Senator Gorman won the Democratic nomination, he was defeated in the 1911 general election by Goldsborough, who was from Cambridge, had been elected to a two-year term as comptroller in 1897, and had served as U. S. Collector of Internal Revenue for Maryland.²⁰⁵ At the 1911 general election, voters also rejected the third attempt by the Democratic machine to amend the constitution to disenfranchise black voters.²⁰⁶ Although Republicans won the governorship in 1911, a Democrat, Emerson Harrington, who had been Insurance Commissioner in the Crothers administration, was elected to a two-year term as comptroller and re-elected in 1913.²⁰⁷ Governor Goldsborough, like Governor Crothers,

²⁰³ *Middle Temperament*, 425-26.

²⁰⁴ James B. Crooks, "Maryland Progressivism" in Richard Walsh and William Lloyd Fox, eds., *Maryland: A History 1632-1974* (Baltimore: Maryland Historical Society, 1974), 651-52. Senator Gorman died on June 4, 1906. See *Gorman*, 362. Freeman Rasin, the senator's longtime associate and leader of the machine in the City, died on March 9, 1907. See *Baltimore Sun Almanac 1908*, 30-31.

²⁰⁵ *Maryland Manual 1912-1913*, 243

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000123/html/am123--243.html>).

²⁰⁶ Margaret Law Calcott, *The Negro in Maryland Politics 1870-1912* (Baltimore: The Johns Hopkins University Press, 1969), 131-32.

²⁰⁷ *Maryland Manual 1918-1919*, 294

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000129/html/am129--294.html>). Mr. Harrington was born in 1864 at Madison in Dorchester County. He was reared on a farm and educated in local public schools. Upon graduating from St. John's College in Annapolis, he taught in the college's preparatory department for two years. Although he was engaged to teach Latin and mathematics at the college, he resigned to become a school principal in Cambridge, Maryland. While serving as principal, he studied law and was admitted to the bar. Shortly after he began practicing law, he was elected state's attorney. However, he was defeated for re-election in 1903, a defeat attributed to his vigorous prosecution of violations of the oyster and alcoholic beverages laws. See Frank F. White, Jr., *The Governors of Maryland 1777 to 1970* (Annapolis: The Hall of Records Commission, 1970), 251-52.

was regarded as a Progressive.²⁰⁸ However, facing opposition in his own party, Governor Goldsborough did not seek re-election in 1915.²⁰⁹

In the Democratic gubernatorial primary campaign of 1915, Emerson Harrington was challenged by Blair Lee, who had been elected to an unexpired term in the United States Senate in 1913.²¹⁰ In the campaign leading up to the primary election on September 14, 1915, Senator Lee charged that Mr. Harrington, as the incumbent comptroller, had known that the legislature was over-appropriating but had failed to prevent it.²¹¹ Moreover, beginning on July 14, 1915, the *Sun* ran a series of fourteen articles documenting what it considered waste in the form of useless offices and extravagant practices.²¹² Among the allegations, it was said that the office of State Wharfinger had no duties, that the recommendations of the Board of State Aid and Charities were ignored by legislative committees, and that the Maryland Agricultural College was inefficiently managed and did not use its money to the best advantage.²¹³ The *Sun* further alleged that the legislature was overstaffed, its “expenditures defy analysis,” and that “printing expenditures of the state are so wasteful as to be a searing extravagance.”²¹⁴ While this series of articles was running, Senator Lee alleged that Mr.

²⁰⁸ “Maryland Progressivism,” 652-53. Compare John R. Lambert, “Reconstruction to World War I” in Morris Radoff, ed., *The Old Line State: A History of Maryland* (Annapolis: The Hall of Records Commission, 1971), 123.

²⁰⁹ *The Baltimore Sun*, 29 July 1915, 12.

²¹⁰ Blair Lee was the first senator elected by popular vote after the ratification of the Seventeenth Amendment to the U. S. Constitution. Senator Robert C. Byrd, *The Senate 1789-1989: Addresses on the History of the Senate*, Vol. I (Washington, D. C.: U. S. Government Printing Office, 1988), 404 (S. Doc. 100-20, 100 Cong., 2d. Sess.).

²¹¹ *The Baltimore Sun*, 12 August 1915, 1.

²¹² At the beginning of the progressive era in the early 1890s, the *Baltimore News*, under the leadership of Charles H. Grasty, was the most forceful journalistic voice for reform. See “Maryland Progressivism”, 598-601, 657. Mr. Grasty, who was a native Virginian, had been a journalist in Kansas City and modeled the *News* on William Rockhill Nelson’s *Kansas City Star* and Joseph Pulitzer’s *New York World*. See “Maryland Progressivism,” 600. After selling his interest in the *News*, Mr. Grasty gained control of the *Sun* in 1910. *Politics and Progress*, 119. While leading the *Sun*, he resumed his advocacy of reform. See *DAB*, Vol. VII, 503. After experiencing health problems, he severed his ties with the *Sun* in October, 1914. However, his legacy was quite evident in the gubernatorial campaign the following year.

²¹³ *The Baltimore Sun*, 14 July 1915, 1; 15 July 1915, 1,3; 20 July 1915, 1.

²¹⁴ *The Baltimore Sun*, 9 August 1915, 1; 16 August 1915, 1. Other articles of the series were published in the *Sun* on 16 July 1915, 1; 17 July 1915, 1; 26 July 1915, 1; 28 July 1915, 3; 30 July 1915, 1; 11 August 1915, 1; 25 August 1915, 1, and 27 August 1915, 1.

Harrington, as “chief lieutenant” of United States Senator John Walter Smith, the leader of the state Democratic machine, had directed the “system at the last Legislature which created these useless offices and which made no move toward economy.”²¹⁵

Moreover, it was said that Mr. Harrington could not be expected to reform a system he had helped to create.²¹⁶ In an editorial published on August 8, the *Sun* noted that a committee of the New York State constitutional convention had recommended adoption of an executive budget system.²¹⁷ As Maryland and New York had similar experiences in handling their finances, the editorial suggested that an executive budget system would be a welcome improvement.

In responding to his opponent’s charges and the *Sun*’s revelations, Mr. Harrington stated that he had advised the last General Assembly of the financial condition of the state and had done all that he could as comptroller to prevent the deficit. He also promised that his administration would be conducted economically and be committed to abolition of useless offices.²¹⁸ However, Mr. Harrington evidently concluded that he needed to take a less defensive and more affirmative position. Accordingly, when Joseph D. Baker, a Frederick banker, commended the *Sun* for its articles and proposed a well-qualified commission to recommend reforms to put state government on a basis of “economy and efficiency,” the comptroller endorsed the proposal.²¹⁹ However, Mr. Harrington suggested that the Democratic state convention appoint the commission so that it could report to the legislature which would convene the following January.²²⁰ Mr. Baker had suggested that the next legislature appoint the commission, which would have

²¹⁵ *The Baltimore Sun*, 12 August 1915, 3.

²¹⁶ *The Baltimore Sun*, 12 August 1915, 3.

²¹⁷ *The Baltimore Sun*, 8 August 1915, 6.

²¹⁸ *The Baltimore Sun*, 15 August 1915, 3.

²¹⁹ *The Baltimore Sun*, 17 August 1915, 12; 18 August 1915, 12.

²²⁰ *The Baltimore Sun*, 18 August 1915, 12.

meant that the report could not be acted upon until the 1918 session, as the legislature still met in regular session only every other year. Mr. Baker accepted the change.²²¹

Mr. Harrington's change in the Baker proposal was endorsed by Philip Laird, a former delegate from Montgomery County, who was to serve as speaker of the House of Delegates in the 1916 session. Mr. Laird, described as one of the "real authorities upon State finances," suggested Joseph Baker and Judge Alfred Pearce as individuals who should serve on such a commission, which they in fact did along with Mr. Laird.²²² In an editorial, the *Sun* commended Mr. Laird for his support of the proposal that the Democratic state convention appoint a commission to develop well thought out measures to address the problem of useless offices and extravagance.²²³ Mr. Harrington's opponent, Senator Lee, opposed the idea of a commission as "undemocratic." However, both candidates for the Democratic nomination published statements in which they supported the adoption of a "budget system."²²⁴

On the Republican side, Mr. Weller and his opponent, William T. Warburton from Cecil County, supported the appointment of a commission on economy and efficiency.²²⁵ However, Mr. Weller favored appointment by the new governor, while Mr. Warburton favored appointment by the Republican state convention.²²⁶ Both also declared that they favored adoption of a budget system.²²⁷ Moreover, Mr. Weller issued a statement in which he specifically set out the essential provisions of such a system.²²⁸ In his statement, he explicitly referred to the Taft Commission's work and the proposed New York State constitution.²²⁹

²²¹ *The Baltimore Sun*, 17 August 1915, 12; 19 August 1915, 12.

²²² *The Baltimore Sun*, 24 August 1915, 12.

²²³ *The Baltimore Sun*, 24 August 1915, 6.

²²⁴ *The Baltimore Sun*, 11 September 1915, 16; 12 September 1915, 1.

²²⁵ *The Baltimore Sun*, 20 August 1915, 12; 23 August 1915, 12.

²²⁶ *The Baltimore Sun*, 20 August 1915, 12; 23 August 1915, 10.

²²⁷ *The Baltimore Sun*, 19 August 1915, 12; 23 August 1915, 10.

²²⁸ *The Baltimore Sun*, 31 August 1915, 14.

²²⁹ *The Baltimore Sun*, 31 August 1915, 14.

As Senator Lee had the support of the city machine led by Mayor James Preston, while Mr. Harrington had the backing of the state machine led by Senator Smith, the *Sun* observed that there had been a “great deal of hypocritical twaddle” in attempting to show that all political virtue was on one side.²³⁰ The contest for the Democratic nomination was essentially a factional fight. Accordingly, the *Sun* declined to support either candidate.²³¹ In the primary election, held on September 14, 1915, Mr. Harrington defeated Senator Lee by carrying two of Baltimore City’s four legislative districts and fifteen of the twenty-three counties.²³² In the Democratic state convention this translated into 81 votes for Mr. Harrington and 48 votes for Senator Lee. Moreover, the convention nominated Mr. Harrington’s ticket mates, Hugh McMullen for comptroller and Albert C. Ritchie for attorney general.²³³ In the Republican primary election, Mr. Weller decisively defeated Mr. Warburton. In the Republican state convention, Mr. Weller had 112 of the 129 votes.²³⁴

Two days after the primary election, editorials in the *Sun* reminded the winning nominees of their public endorsements of a commission to make recommendations to end waste and to reform the state’s finances. Moreover, it was noted that the Republican nominee had outlined a budget system. Failure of either party to incorporate its candidates’ promises in its platform and to pledge their redemption would greatly benefit the other party.²³⁵ At the Democratic state convention in Baltimore on September 23, the delegates duly ratified the nominations of their candidates and adopted a platform²³⁶ that claimed credit for enactment of various Progressive measures including the Good Roads

²³⁰ *The Baltimore Sun*, 11 September 1915, 6.

²³¹ *The Baltimore Sun*, 28 August 1915, 6; 11 September 1915, 6.

²³² *The Baltimore Sun*, 16 September 1915, 1.

²³³ *The Baltimore Sun*, 16 September 1915, 1.

²³⁴ *The Baltimore Sun*, 16 September 1915, 1.

²³⁵ *The Baltimore Sun*, 16 September 1915, 6.

²³⁶ *The Baltimore Sun*, 24 September 1915, 14.

Law, Public Service Commission Law, Statewide Primary Election law, Corrupt Practices Act, Workman's Compensation Law, and Child Labor Law.²³⁷

Recognizing that various offices and commissions had become obsolete, the Democratic platform also promised "to promote the greatest economy and efficiency in the administration of the State's affairs." To redeem the party's promises, the platform appointed a seven-member commission to survey the entire subject and report its findings and recommendations to the next governor soon after his inauguration. There was also a specific promise to adopt a budget system in which the governor or the Board of Public Works would present a comprehensive plan of expenditures to the legislature for the following two years. Under this system, the legislature could only reduce or eliminate items in the comprehensive plan but could not increase or appropriate funds for a purpose not specified in the budget. All appropriations were to be made in two general appropriation acts for the two succeeding fiscal years, with proper provisions for emergencies and contingencies. All continuing appropriations were to be repealed. The commission was charged with developing and recommending a detailed plan for a budget system.²³⁸

Meeting the next day in Baltimore, the Republican state convention ratified its nominations and adopted a platform. The platform commended the administration of Governor Goldsborough and condemned the waste, extravagance, and inefficiency that had become the practice during the many years that the Democratic machine controlled the state government. Thus, it declared that "the paramount issue was that of economy, efficiency and honesty." The platform promised that the candidate for governor would immediately appoint a well-qualified commission to investigate fully organization and waste in state government. The findings and recommendations "in bills" were to be

²³⁷ *The Baltimore Sun*, 24 September 1915, 7.

²³⁸ *The Baltimore Sun*, 24 September 1915, 7.

reported to the next General Assembly. There was a pledge to pass the recommended bills. The platform also specifically promised adoption of a “scientific budget system” as recently outlined by the party’s gubernatorial candidate.²³⁹

In the general election campaign, both major party candidates for governor agreed that the central issue was curtailment of wasteful public spending and establishment of an executive budget system.²⁴⁰ However, the Republican candidate, Mr. Weller, argued that the Democratic machine had caused the problem and could not be relied on to fix it.²⁴¹ Mr. Harrington, the Democratic nominee, argued that, as comptroller, he had warned of the impending crisis and had taken the lead in advocating appointment of a commission to develop an executive budget system.²⁴² In an editorial, the *Sun* concluded that Mr. Harrington’s argument was the more persuasive.²⁴³ On election day, November 2, Mr. Harrington defeated Mr. Weller by a vote of 119,317 to 116,136.²⁴⁴ Voters thus elected a candidate whose party had promised to adopt a budget system that would fundamentally alter the respective roles of governor and legislature in the expenditure of public money. At the same election, voters continued the trend of limiting legislative power when they ratified the Charter County Home Rule Article and the Referendum Article.²⁴⁵

²³⁹ *The Baltimore Sun*, 25 September 1915, 5.

²⁴⁰ *The Baltimore Sun*, 12 October 1915, 7; 21 October 1915, 3.

²⁴¹ *The Baltimore Sun*, 21 October 1915, 3.

²⁴² *The Baltimore Sun*, 21 October 1915, 3; 29 October 1915, 3.

²⁴³ *The Baltimore Sun*, 1 November 1915, 6.

²⁴⁴ *House Journal*, 1916, 18.

²⁴⁵ *Maryland Manual 1915-1916*, 252

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000126/html/am126--252.html>).

IX. The Goodnow Commission and the Budget Amendment

The Democratic platform designated seven individuals to serve on the commission: Frank J. Goodnow, James Alfred Pearce, Joseph D. Baker, Philip Laird, William Maloy, B. Howell Griswold, Jr., and F. Neal Parke. Dr. Goodnow was then serving as president of The Johns Hopkins University. James Alfred Pearce, from Chestertown, was the son of United States Senator James Alfred Pearce (1842-1862) and a former judge of the Maryland Court of Appeals (1897-1912).²⁴⁶ As previously noted, Mr. Baker was a Frederick banker who had been the first prominent person publicly to propose such a commission.²⁴⁷ In 1907 he was a leading candidate for governor until he withdrew.²⁴⁸ In addition to his service in the House of Delegates, Mr. Laird also served as a member of the Public Service Commission.²⁴⁹ He had, as noted, endorsed the proposal that the commission be appointed by the Democratic state convention and was to serve as speaker of the House of Delegates in the 1916 session.²⁵⁰

²⁴⁶ See memorial tributes, 138 Md., xxvi-xl (1921).

²⁴⁷ In 1890, Mr. Baker became a receiver of the Chesapeake and Ohio Canal after a flood damaged the canal. The state's investment in this enterprise had, of course, been a factor in the debt crisis of the 1840s. Evidently, the canal's financial prospects had not improved, as a report of the receivers concluded that "the profitable operation of the canal was out of the question." See T. J. C. Williams and Folger McKinsey, *History of Frederick County, Maryland*, Vol. II (1910; rpt. Baltimore: Regional Publishing Company, 1967), 711. See also *State of Maryland v. Brown*, 73 Md., 484, 491-492 (1891).

²⁴⁸ Although not a politician, Mr. Baker was a leading candidate for the Democratic nomination for governor in 1907. See Matthew Page Andrews, *History of Maryland: Province and State* (Garden City, NY: Doubleday, Doran & Co., 1929), 610. "The knock out blow to his candidacy was delivered by himself in his letter declining to join the Democratic Club in Baltimore because liquor was sold in the club house. With characteristic frankness and fearlessness, Mr. Baker made plain his position on the liquor question, and the last hope of nominating him for Governor went up with that explanation." Frank Richardson Kent, *The Story of Maryland Politics* (1911; rpt. Hatboro, PA: Tradition Press, 1968), 364.

²⁴⁹ *Maryland Manual 1912-13*, 151

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000123/html/am123--151.html>).

²⁵⁰ Edward C. Papenfuse, ed. *Archives of Maryland, New Series I: An Historical List of Public Officials of Maryland* (Annapolis: Maryland State Archive, 1990), 458

(<http://mdsa.net/msa/speccol/sc2600/sc2685/html/hsespkrs.html>).

Mr. Maloy was serving as a state senator from Baltimore.²⁵¹ In the recent primary election he had been a candidate on Senator Lee's slate for attorney general but had been defeated by Albert C. Ritchie.²⁵² Mr. Griswold was an attorney who left the practice of law for a career in banking with Alexander Brown and Sons. He was a graduate of The Johns Hopkins University, had served as a Hopkins trustee,²⁵³ been active in reform circles, and served on a commission to revise the 1898 Baltimore City Charter. However, the revision was not enacted into law.²⁵⁴ Mr. Parke was a Westminster attorney who was to serve on the Maryland Court of Appeals from 1924 to 1941.²⁵⁵ He was also president of the Maryland State Bar Association in 1924.²⁵⁶

At the time of the Democratic state convention, Dr. Goodnow was in China where he had spent the summer as a constitutional advisor to the Chinese government.²⁵⁷ His appointment to the commission had been made without his knowledge upon the recommendation of State Senator Carville D. Benson.²⁵⁸ With the understanding that the commission appointed by the Democratic party platform would be considered a temporary body until a commission could be appointed by the legislature, Dr. Goodnow

²⁵¹ *Historical List*, 467 (<http://mdsa.net/msa/speccol/sc2600/sc2685/senate/html/bcsenate.html>) (Baltimore City, District 3, 1904-1922).

²⁵² *The Baltimore Sun*, 16 September 1915, 1.

²⁵³ *The Baltimore Sun*, 28 July 1946, 24. Mr. Maloy and Mr. Griswold were charter members of the Lawyers' Round Table of Baltimore, founded in 1911. See H. H. Walker Lewis, *The Lawyers' Round Table of Baltimore and its Charter Members* (Baltimore: H. H. Walker Lewis, 1978), 48-49. The original membership included several prominent supporters of the Reform League (*Round Table*, 4-5). In a brief biographical sketch of Mr. Griswold, it was noted that he had the following verse carved into the stone above the fireplace in his library:

Life is mostly froth and bubble
Two things stand like stone:
Kindness in another's trouble
Courage in your own (*Round Table*, 48).

²⁵⁴ *Politics and Progress*, 103, 106, 203. See also *The Baltimore Sun*, 26 July 1946, 24.

²⁵⁵ *Historical List*, 325 (<http://mdsa.net/msa/speccol/sc2600/sc2685/html/ctappj.html>).

²⁵⁶ Memorial tributes, 208 Md.at ix-xxxiii.

²⁵⁷ *The Baltimore Sun*, 12 October 1915, 6. In 1911, China had become a republic. While serving as an advisor to the Chinese government, it was reported that Dr. Goodnow had advocated a return to the imperial system. In an interview, he remarked that a return to the old absolute monarchy would be a step backward. However, he noted that he had written a memorandum in which he suggested that a constitutional monarchy might be better suited to the traditions and conditions of that country and address the problem of the succession. He also noted that such a change would have to be acceptable to the Chinese people.

²⁵⁸ *The Baltimore Sun*, 12 November 1915, 14.

agreed to accept his appointment.²⁵⁹ Mr. Weller, as the Republican nominee for governor, had named a three-person commission and had promised to appoint two members from the commission appointed by the Democrats if he won the election.²⁶⁰

Although the platform did not designate a chairman, Dr. Goodnow was a natural choice. Both in terms of his academic interests and his public service, he was especially well qualified to chair a commission charged with devising an executive budget system for the Maryland State government. He not only had well-developed views on this matter, but these views were well known. Dr. Goodnow was born in Brooklyn, New York in 1859. He was educated at Amherst College and practiced law briefly after graduating from Columbia University's law school. After studying in Paris and Berlin, he began an academic career at Columbia University. As noted, his specialty was public administration and he became known as "The Father of American public administration." However, his academic work reflected an understanding of European ideas and practices and an interest in comparative studies.²⁶¹ As has been noted, he contributed a chapter to the American Commonwealth on the "Tweed Ring," which was re-written because of a defamation suit.

Dr. Goodnow was not, as already indicated, merely an academic observer. His roles as delegate to the National Municipal League convention in 1899, member of a commission to draft a new New York City charter, Taft Commission member, constitutional advisor to the Chinese government, and advocate at the New York State constitutional convention demonstrate this point.²⁶² Moreover, upon becoming president

²⁵⁹ *The Baltimore Sun*, 16 October 1915, 14.

²⁶⁰ *The Baltimore Sun*, 20 October 1915, 14.

²⁶¹ *ANB*, Vol. 9, 250-51; *DAB*, Vol. XXII, Supplement Two, 250-51.

²⁶² The appointment to draft a new charter for New York City was made by Governor Theodore Roosevelt in 1900. See *ANB*, 251. While serving as advisor to the Chinese government, Dr. Goodnow drafted a constitution that included an executive budget system. In relevant part, the president was annually required to submit a budget to Parliament. See Art. II, Sec. 9. A note following this provision began with the statement, "The control of the government of a country is centered on the control of the appropriation of its money." The draft constitution also forbade the two house of Parliament from increasing the amounts

of The Johns Hopkins University in 1914, Dr. Goodnow became head of an institution identified with progressive era reforms.²⁶³ Both graduates as well as faculty members were active reformers. Like Dr. Goodnow, some of the reform leaders had been educated abroad and were receptive to European ideas.²⁶⁴ Indicative of Dr. Goodnow's stature was the fact that the Democratic state convention entrusted development of a fundamental change in state government to a distinguished scholar who had recently arrived from New York and whose political preference was Republican.²⁶⁵ Also reflecting Dr. Goodnow's stature was the fact that the commission, which was officially called the Commission on Economy and Efficiency, was commonly referred to as the Goodnow Commission.

The commission held its first meeting on October 25, 1915 in Dr. Goodnow's office at The Johns Hopkins University.²⁶⁶ The commission decided to obtain copies of the executive budget amendment which was part of the proposed New York State Constitution to be voted on in the November election. A newspaper account of this meeting noted that Dr. Goodnow had explained his views to a committee of the New York convention and that his "advice was followed almost minutely in framing the New York budget plan."²⁶⁷ Shortly after the general election, the commission met and decided to recommend a budget system.²⁶⁸ At a subsequent meeting it was decided to engage Harvey S. Chase to study state government and to recommend a reorganization plan.²⁶⁹

recommended by the president and no appropriation of public money could be made unless recommended by the president. Art. I., Sec. 9. In a note, it was stated that this limitation was modeled on a similar provision in the Canadian Constitution and was consistent with the British practice. There is a copy of this draft in Box 25 of the Frank Johnson Goodnow Papers in the Special Collections of the Milton S. Eisenhower Library at The Johns Hopkins University.

²⁶³ As noted, Daniel Gilman, the first president of The Johns Hopkins University, was a member of the commission which drafted the Baltimore City Charter enacted by the legislature in 1898.

²⁶⁴ *Politics and Progress*, 203.

²⁶⁵ *DAB*, Supl. Two, 251.

²⁶⁶ In a letter to Governor Harrington dated December 7, 1916, Dr. Goodnow stated that after the work of the commission was concluded he had distributed the papers he had accumulated. This letter is part of the correspondence file of Governor Harrington's papers at the Maryland State Archives, GOVERNOR (General File) 1916, Folder GO 54 to GQ, MSA T849, 2/29/3/49.

²⁶⁷ *The Baltimore Sun*, 26 October 1915, 16.

²⁶⁸ *The Baltimore Sun*, 18 November 1915, 14.

²⁶⁹ *The Baltimore Sun*, 18 November 1915, 14.

In the meantime, a committee chaired by Judge Pearce drafted an executive budget amendment, which the commission approved on December 18, 1915.²⁷⁰ On the same day, the Chase report to the comptroller on the extent of the deficit became available to the commission.²⁷¹ Also, a letter of this date from B. Howell Griswold, a member of the commission acting at the chairman's request, asked Albert C. Ritchie, the new attorney general, to review the proposed constitutional amendment providing for a budget system which the letter stated had been drafted by Judge Pearce. In a reply dated December 23, 1915, Mr. Ritchie acknowledged that the amendment had been well drafted and was evidently the result of a thorough discussion. Although he suggested four changes, he conceded that only one "might be of any importance." This evidently referred to a proposed clarification of the responsibility of submitting estimates for the public schools.

In its report, the Goodnow Commission noted that the excess of expenditures over revenue which had caused a large accumulated deficit demonstrated the inadequacy of the existing practice on making appropriations.²⁷² Although the constitution required the comptroller to report on the "estimates of revenue and expenditures," it had never been

²⁷⁰ *The Baltimore Sun*, 18 December 1915, 3; 19 December 1915, 16.

²⁷¹ *The Baltimore Sun*, 18 December 1915, 14. The report of the Harvey S. Chase & Co. to the comptroller on the state's financial condition, dated December 15, 1915, is to be distinguished from that company's report to the Goodnow Commission on the inefficiency and extravagance of various departments and boards, which is dated January 17, 1916. The latter report noted that the company had recently learned that not less than \$1,695,000 had been deposited by various boards in sundry banks. If these funds had been paid into the state treasury, the deficit in dedicated funds amounting to \$171,868.11 could have been covered. It was strongly recommended that these funds be paid into the treasury. See *A Report to Dr. Frank J. Goodnow, Chairman and the Members of the Commission on Efficiency and Economy of the State Government of Maryland Concerning Inefficiency and Extravagance in Various Departments and Offices* (Harvey S. Chase & Co., 17 January 1916), 3. Copies of these reports are at the Maryland State Archives COMMISSION ON EFFICIENCY AND ECONOMY IN GOVERNMENT (Financial Report) Submitted by Hon. E. Harrington, 18 December 1915, MdHR 806036, 2/3/6/27 and Maryland State Archives COMMISSION ON EFFICIENCY AND ECONOMY IN GOVERNMENT (Report) Concerning Inefficiency and Extravagance in Various Departments and Offices, 17 January 1916, MdHR 806037, 2/3/6/27.

²⁷² *Senate Journal 1916*, 130-31

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--130.html>). The text of the report and accompanying bill which proposed a constitutional amendment were also published in *The Baltimore Sun*, 28 January 1916, 1-2, 13.

thought that the comptroller could revise the estimates.²⁷³ Moreover, recommendations of the Board of State Aid and Charities had not been effective in limiting legislative appropriations. Only a constitutional limitation would be effective.²⁷⁴ Such a fundamental limitation already existed for other governments and in a number of municipal charters, including Baltimore City's charter.²⁷⁵

To insure accountability, the commission recommended that the governor, not the Board of Public Works, have responsibility for preparing and submitting to the General Assembly a complete and comprehensive plan of estimated revenues and appropriations,²⁷⁶ recognizing that the Board of Public Works might be politically divided.²⁷⁷ In preparing estimates of appropriations, the governor would have the power of revision, subject to certain limitations. Based on separation of powers considerations, estimates of appropriations for the judiciary and the legislature would be submitted as prepared by those branches of government without being subject to the executive's power of revision.²⁷⁸ Moreover, in accordance with existing provisions of the constitution, the governor would be required to include estimates for payment of the public debt, for payment of certain salaries, for the public schools as provided by law, and for other purposes provided by the constitution.²⁷⁹ As the weakness of all American financial methods was the ability of legislative bodies to add or increase items of expenditure, it was fundamental to a sound budget system that the General Assembly be limited to

²⁷³ *Senate Journal 1916*, 130

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--130.html>).

²⁷⁴ *Senate Journal 1916*, 130

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--130.html>).

²⁷⁵ *Senate Journal 1916*, 130

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--130.html>).

²⁷⁶ *Senate Journal 1916*, 131

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--131.html>).

²⁷⁷ *Senate Journal 1916*, 131

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--131.html>).

²⁷⁸ *Senate Journal 1916*, 132

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--132.html>).

²⁷⁹ *Senate Journal 1916*, 132-33

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--132.html>).

striking or reducing the amounts proposed by the governor.²⁸⁰ However, this power of reduction would not apply to appropriations for the public debt, for certain salaries, or for the public schools as mandated by law.²⁸¹ Moreover, the legislature could not reduce appropriations for the judiciary but could increase appropriations for the judiciary or the legislature.²⁸²

Although the commission referred to the executive budget system in the Baltimore City charter as an example to be followed, the commission concluded that the state legislature, unlike the Baltimore City Council, should have power to initiate appropriations for matters not provided for in the governor's executive budget.²⁸³ However, reserving this power to the legislature should not lead to further deficits.²⁸⁴ Thus, it was recommended that such legislatively initiated appropriations be subject to the requirements that the legislature levy a tax for their support, that they be approved by a three-fifth's vote in each house, and that they be subject to the governor's veto.²⁸⁵ Finally, it was recommended that at special sessions called by the governor, the legislature could consider emergency appropriations.²⁸⁶ In summary, it was said that the intent had been to make the governor solely responsible for formulating a comprehensive plan of revenue and expenditures and to prevent the legislature from altering the law to produce a deficit, but to allow the legislature to initiate appropriations not provided for in

²⁸⁰ *Senate Journal 1916*, 130-31

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--130.html>).

²⁸¹ *Senate Journal 1916*, 133

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--133.html>).

²⁸² *Senate Journal 1916*, 132

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--132.html>).

²⁸³ *Senate Journal 1916*, 131-32

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--131.html>).

²⁸⁴ *Senate Journal 1916*, 131

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--131.html>), 133-34

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--133.html>).

²⁸⁵ *Senate Journal 1916*, 131-32

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--131.html>), 134

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--134.html>).

²⁸⁶ *Senate Journal 1916*, 133

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--133.html>).

the governor's plan so long as the legislature levied a tax for the support of such appropriations.²⁸⁷ Although this major alteration of the method of handling the state's finances had been prompted by a deficit and it was stated that the intent of the executive budget system was to prevent such a deficit, the report did not refer to an explicit balanced budget requirement.

²⁸⁷ *Senate Journal 1916*, 133

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--133.html>).

X. The 1916 Session and Passage of the Executive Budget Amendment

At the beginning of 1916, Governor Goldsborough submitted a farewell message in which he urged consideration of a budget system in which a maximum amount would be set for appropriations for particular purposes and in which the legislature could not appropriate funds in excess of those amounts.²⁸⁸ However, it was suggested that the maximum be set by the treasurer and comptroller as budget commissioners.²⁸⁹ This would mean that the legislature as well as the governor, using the veto, could act as a check on the budget commissioners' recommendations.²⁹⁰

Governor Goldsborough's successor, Emerson Harrington, was inaugurated on January 12, 1916. In the General Assembly, the new governor's party enjoyed comfortable majorities in both chambers.²⁹¹ Governor Harrington submitted the Goodnow Commission's Report on an Executive Budget, which included a draft of a constitutional amendment, on January 28, 1916,²⁹² urging prompt and favorable consideration of the report and bill.²⁹³ On the same day, the accompanying bill was introduced in the Senate, SB 76, and referred to the Committee on Amendments to the Constitution.²⁹⁴ On February 9, Dr. Goodnow, accompanied by four other commission members, testified before the committee. As reported in the *Sun* the next day, Dr.

²⁸⁸ *Senate Journal 1916*, 43

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--43.html>).

²⁸⁹ *Senate Journal 1916*, 44

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--44.html>).

²⁹⁰ *Senate Journal 1916*, 44

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--44.html>).

²⁹¹ There were 56 Democrats and 44 Republicans in the House of Delegates. Two members from Worcester County were affiliated with the People's Party. In the Senate there were 16 Democrats and 11 Republicans. See *Maryland Manual 1916-1917*, 254-57

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000127/html/am127--254.html>).

²⁹² *Senate Journal 1916*, 128

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--128.html>).

²⁹³ *Senate Journal 1916*, 129

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--129.html>).

²⁹⁴ *Senate Journal 1916*, 127

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--127.html>).

Goodnow focused on two interrelated issues. One was the concern that too much power was being given to the governor and the other the suggestion that the Board of Public Works would be better suited to preparing the budget. With respect to the governor's power under the budget system, Dr. Goodnow maintained that the governor's actual power would be no greater than in existing practice. The governor currently exercised the veto in a hurried atmosphere after the end of the session, and the legislature had no opportunity to override. The proposed budget system simply required the governor to exercise the negative at the beginning of the process in an atmosphere of deliberation. To insure accountability, Dr. Goodnow rejected the suggestion that the Board of Public Works prepare the budget. Unlike Baltimore City's Board of Estimates, which prepared the municipal budget and was controlled by the mayor, the governor did not control the Board of Public Works.²⁹⁵

The senate committee reported SB 76 favorably with amendments.²⁹⁶ According to a report in the *Sun*, on the morning of the day the bill was reported to the Senate, there was a conference between the governor and leading members of the Senate at which proposed amendments were reviewed. It was decided to discard a proposed amendment that would have allowed the legislature to fund supplementary appropriation bills from unexpended funds rather than the proceeds of a tax. Another abandoned amendment would have exempted higher education from maximum limits on appropriations established by the executive. Finally, a proposed amendment to require the governor to include an appropriation as provided by law was rejected as destructive of executive control of the budget.²⁹⁷

²⁹⁵ *The Baltimore Sun*, 10 February 1916, 1.

²⁹⁶ *Senate Journal 1916*, 235

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--235.html>).

²⁹⁷ *The Baltimore Sun*, 18 February 1916, 1. Former President Taft expressed a different view on the nature of an executive budget in his testimony before the joint meeting of two committees of the New York State constitutional convention. Like all advocates of the executive budget, he thought that the governor was best qualified to prepare the budget as "He is the man who has the responsibility of execution, he is the man

Among the committee's recommendations were amendments which (1) set a deadline for submission of the budgets and budget bill to the General Assembly, (2) limited the circumstances for gubernatorial amendments and made such amendments subject to legislative consent, (3) deleted a school funding provision, (4) added an express reference to "direct or indirect" taxes for supplementary appropriation bills, and (5) substituted a majority of the membership of each house for a three-fifths majority in approving supplementary appropriation bills.²⁹⁸ In addition to the committee amendments, Senator Frederick Zihlman from Allegany County, the Republican leader, offered amendments which would have substituted the Board of Public Works for the governor.²⁹⁹ On February 21, 1916, the committee amendments were adopted, but the Zihlman amendments were rejected.³⁰⁰ In arguing for his amendments, Senator Zihlman expressed concern about one-man power.³⁰¹ Debate on the bill centered on whether too much power was being concentrated in one official.³⁰²

Although the bill passed unanimously on the third reading, Senator William Norris of Baltimore City, who was subsequently president of the Senate,³⁰³ explained his vote in a statement printed in the journal. He characterized the proposed amendment as "vicious in the extreme."³⁰⁴ Although he complained about reversing the roles of the legislative and executive branches, he voted for the bill on the grounds that the

who spends the money, he knows and has the means of knowing where the money is spent." Moreover, the legislature's role should be to "cut down and not increase." However, he also observed that, "If the legislature wishes to adopt a general policy and pass general legislation that involves expenditure, of course he would then have to put that into the budget." See *Documents of the Constitutional Convention of the State of New York 1915*, Doc.11, 23.

²⁹⁸ *Senate Journal 1916*, 235-36

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--235.html>).

²⁹⁹ *Senate Journal 1916.*, 261-64

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--261.html>).

³⁰⁰ *Senate Journal 1916*, 272

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--272.html>).

³⁰¹ *The Baltimore Sun*, 22 February 1916, 1.

³⁰² *The Baltimore Sun*, 22 February 1916, 1.

³⁰³ *Historical List*, 49 (<http://mdsa.net/msa/speccol/sc2600/sc2685/senate/html/bcsenate.html>), (Baltimore City, District 1, 1904-1922), and 483 (<http://mdsa.net/msa/speccol/sc2600/sc2685/html/senpres.html>).

³⁰⁴ *Senate Journal 1916*, 388

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--388.html>).

Democratic party platform had pledged support for adoption of the budget system and he had been elected as a Democrat.³⁰⁵ However, the senator expressed the fervent hope that the proposed amendment would be “slaughtered at the polls by an awakened and enlightened citizenship.”³⁰⁶

In the House of Delegates, the bill accompanying the Commission’s report was introduced on February 3, HB 118, and referred to the Committee on Constitutional Amendments.³⁰⁷ Dr. Goodnow, accompanied by all the members of the commission, testified before the committee on February 15, 1915. Although he conceded that the budget amendment shifted initiative from the legislature to the executive, he maintained that this change would not increase the sway of the governor in any material way.³⁰⁸ The committee favorably reported the bill without amendments on February 17, 1916.³⁰⁹ The only floor amendment considered was one that would have made the governor along with several other officials responsible for preparing and submitting the budget.³¹⁰ In the debate, concern was expressed about concentrating so much power in one official. However, the response was that only by concentrating power in one official could there be accountability. Moreover, legislators would have more time to scrutinize the budget. This was so, it was said, because the existing practice was for the chairs of the Ways and Means and Finance Committees to prepare the omnibus appropriations bills at the end of the session with the assistance of the comptroller’s office.³¹¹ The floor amendment was rejected by a vote of 18 for and 69 against.³¹² On final passage, there were 79 yeas and 8

³⁰⁵ *Senate Journal 1916*, 389

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--389.html>).

³⁰⁶ *Senate Journal 1916*, 389

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--389.html>).

³⁰⁷ *House Journal, 1916*, 147-152.

³⁰⁸ *The Baltimore Sun*, 16 February 1916, 8.

³⁰⁹ *House Journal, 1916*, 252-57.

³¹⁰ *House Journal*, 321, 385.

³¹¹ *The Baltimore Sun*, 25 February 1916, 1, 3.

³¹² *House Journal, 1916*, 385-86.

nays.³¹³ In the Senate, HB 118 was referred to the Committee on Amendments to the Constitution, which did not act on the bill.³¹⁴

In the House of Delegates, the Senate Bill, SB 76, was referred to the Committee on Amendments to the Constitution.³¹⁵ The committee reported favorably with amendments.³¹⁶ Among the amendments, one required funding the public schools in accordance with the law. Another restored the three-fifth's vote requirement for approval of supplementary appropriations. A third amendment deleted reference to "direct or indirect" in connection with levying a tax to support a supplementary appropriation bill.³¹⁷ These amendments were adopted by the House on March 9, and upon final passage the same day, SB 76 was returned to the Senate, which refused to concur in the house amendments.³¹⁸ The Senate recommitted the initial report of the conference committee to the committee.³¹⁹ Subsequently, the Senate accepted a revised conference committee report that restored a provision requiring funding of public schools in accordance with the law but did not restore a provision requiring a three-fifth's vote for approval of supplementary appropriations.³²⁰ The bill then passed the third reading by a vote of 25 to 0.³²¹ The House of Delegates also accepted the revised conference

³¹³ *House Journal, 1916*, 476.

³¹⁴ *Senate Journal*, 375

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--375.html>).

³¹⁵ *House Journal, 1916*, 547-52.

³¹⁶ *House Journal, 1916*, 668-73.

³¹⁷ *House Journal, 1916*, 673.

³¹⁸ *House Journal, 1916*, 679; *Senate Journal 1916*, 458

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--458.html>).

³¹⁹ *Senate Journal 1916*, 644

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--644.html>).

³²⁰ *Senate Journal 1916*, 649-50

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--649.html>).

³²¹ *Senate Journal 1916*, 649-50

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--649.html>). There were 27 senators, one from each of the 23 counties and one from each of the four Baltimore legislative districts (Md. Const., Art. III, sec. 2). See *Maryland Manual 1916-1917*, 30.

committee report and passed the bill.³²² A corrected version was printed in the journal for March 24.³²³

In broad terms, the General Assembly passed a constitutional amendment that reflected the essential elements of an executive budget system as recommended by the Goodnow Commission. Thus, the governor is required to submit budgets for succeeding fiscal years along with a budget bill, subject to certain exceptions. The General Assembly may only strike or reduce amounts and may initiate supplementary appropriation bills only by levying a tax for their support.³²⁴ Although the General Assembly did not change these essential elements of the system, it did amend the bill to set a deadline for submission of budgets and the budget bill; to limit the governor to amending the budget bill for purposes of correcting an oversight or an emergency; to require the General Assembly's consent to a gubernatorial amendment; to add a reference to the tax supporting a supplementary being "direct or indirect;" and to require a majority of the membership of each house, rather than a three-fifth's majority in each house, for passage of a supplementary appropriation bill.³²⁵

In the Senate, a resolution was introduced asking the governor to forward other reports and recommendations of the Goodnow Commission.³²⁶ Before the Senate acted on this resolution, which was ultimately withdrawn, the governor submitted a message to the Senate noting that the Goodnow Commission's reports on legislative expenses and the budget had previously been made available.³²⁷ Moreover, reports making

³²² *House Journal, 1916*, 998-99.

³²³ *Senate Journal 1916*, 825-30

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--825.html>).

³²⁴ *Laws of Maryland 1916*, Ch. 159

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000534/html/am534--268.html>).

³²⁵ *Laws of Maryland 1916*, Ch. 159

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000534/html/am534--268.html>).

³²⁶ *Senate Journal 1916*, 722-25

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--722.html>).

³²⁷ *Senate Journal 1916*, 742

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--742.html>). In an article on implementation of the Goodnow Commission's recommendations on reducing legislative

recommendations on administration of state government in an economical and efficient manner had only recently been received and were being made available.³²⁸ Furthermore, the attorney general had drafted implementing legislation. The implementing legislation which was subsequently enacted included repeal of continuing appropriations,³²⁹ authorization of \$2,000,000 in bonds to pay outstanding appropriations,³³⁰ and establishment of a per capita system for appropriations to charitable and benevolent institutions.³³¹ In enacting the omnibus appropriation acts for FY 1917 and FY 1918, the equivalent statutes enacted in 1912, Ch. 556 and 637, were used as guides.³³²

expenses, the *Sun* claimed that the economy "craze" even threatened the legislators' ice water supply. This would not have been a serious matter in the days when beverages of a more "cheering character" were available. However, "as the common or garden variety of Annapolis water is of a taupe tint and unappetizing taste, there is talk of a petition to the Goodnow Commission to 'have a heart' and allow thirsty law-makers some moderately cold and decent water to drink, lest they be tempted to disobey Dr. Hare and rush to the rum demon for relief." See *The Baltimore Sun*, 17 January 1916, 3. Dr. Thomas M. Hare was superintendent of the Maryland Anti-Saloon League and was leading a campaign for prohibition. See *The Baltimore Sun*, 25 February 1916, 3.

³²⁸ *Senate Journal 1916*, 743

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000658/html/am658--743.html>).

³²⁹ *Laws of Maryland 1916*, Ch. 126

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000534/html/am534--207.html>). While advising the state on dealing with its deficit, Dr. Goodnow was also dealing with a deficit at The Johns Hopkins University. As that institution received a continuing appropriation of \$50,000 and was seeking additional state funds, there was much interest in Dr. Goodnow's response to a question at a legislative hearing on whether he favored continuing appropriations. While conceding that such appropriations enabled a receiving institution to make longer range plans, Dr. Goodnow was applauded for unequivocally stating that as a matter of sound public policy, such appropriations should be abolished. See *The Baltimore Sun*, 25 February 1916, 3.

³³⁰ *Laws of Maryland 1916*, Ch. 142

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000534/html/am534--231.html>).

³³¹ *Laws of Maryland 1916*, Ch. 705

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000534/html/am534--1651.html>).

³³² *The Baltimore Sun*, 26 March 1916, 7.

XI. Ratification of the Executive Budget Amendment

The proposed amendment was submitted to the voters of the state at the presidential election held on November 7, 1916. The major party candidates for president were the incumbent Democrat, Woodrow Wilson, and the Republican challenger, Charles Evans Hughes, a former governor of New York who had recently resigned from the United States Supreme Court. Although the major European countries had been at war since August 1914, the United States did not enter the First World War until April 1917. Thus, foreign involvement was a sensitive issue, reflected in the Democratic slogan, "He kept us out of war." Thus, one of the criticisms of the Budget Amendment was that it was "un-American." This was dealt with in the first of seven articles written by Goodnow Commission members published in the *Sun* in the weeks before the ratification vote.

The first article, written by Judge Pearce, frankly acknowledged that the budget concept had been developed in England. However, Judge Pearce pointed out that the most cherished principles and practices of government had been derived from English principles and practices.³³³ Other articles stated that the existing practice was one in which General Assembly members abdicated their power to the fiscal committees of the two houses. Late in the session these committees fashioned one or two omnibus appropriation bills from the appropriation bills that had been referred to them.³³⁴ Inevitably, there was an absence of individual responsibility. The accepted remedy was an executive budget system. As the governor dealt on a daily basis with the administration of state government, he was the official best suited to preparing a budget; that is, a comprehensive plan of expenditures. Moreover, being elected by voters

³³³ *The Baltimore Sun*, 4 September 1916, 10.

³³⁴ Francis Neal Parke, *The Baltimore Sun*, 25 September 1916, 6.

throughout the state, he would also have a better understanding of voters' views across the state. Finally, as a single official, he could more easily be held accountable for his conduct of the state's financial affairs. The articles also rejected the contention that generally limiting the legislature to striking or reducing items in the budget bills impaired legislative power. In the existing practice, the governor had a veto at the end of the process, one that was almost absolute as appropriation bills were commonly passed so late in the session as to preclude the opportunity for an override.³³⁵ The General Assembly would also have the opportunity to pass supplementary appropriation bills for matters not addressed or addressed inadequately in the budget bill.³³⁶ Of course, such supplementary appropriation bills had to levy a tax to provide the revenue necessary for their support.³³⁷

On election day, voters approved the Budget Amendment by a vote of 77,478 for and 37,100 against and it became Article III, Section 52 of the state constitution. Only three counties, Charles, Dorchester, and Garrett, defeated the amendment.³³⁸ Since adoption of this amendment almost eighty-eight years ago, it has been amended on ten different occasions. These included amendments to provide for annual sessions in order to enact the budget bill in the year it which it takes effect; to allow for a program budget; to authorize the General Assembly to decrease appropriations requested by the judiciary; to expressly require a balanced budget, as submitted and enacted; and to permit the General Assembly to enact a statute requiring the governor to include a minimum level of funding for a particular program.³³⁹ However, the essential provisions of requiring the

³³⁵ Francis Neal Parke, *The Baltimore Sun*, 25 September 1916, 6.; Joseph D. Baker, *The Baltimore Sun*, 2 October 1916, 6.

³³⁶ *The Baltimore Sun*, 25 September 1916, 6.

³³⁷ The *Sun* published other articles by other members of the commission as follows: Philip D. Laird, 11 September 1916, 6; William Maloy, 18 September 1916, 6; B. Howell Griswold, 9 October 1916, 6; and Frank J. Goodnow, 16 October 1916, 6.

³³⁸ *Maryland Manual 1916-1917*, 261

(<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000127/html/am127--261.html>).

³³⁹ The referenced amendments were proposed and ratified in the indicated sequence, as follows:

governor to submit to the General Assembly a comprehensive plan of expenditures and generally allowing the General Assembly only the power to strike or reduce the amounts remain intact.³⁴⁰

Laws of Maryland 1947, Ch. 497, ratified 2 November 1948 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000411/html/am411--888.html>); Laws of Maryland 1952, Ch. 20, ratified 4 November 1952 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000602/html/am602--232.html>); Laws of Maryland 1972, Ch. 373, ratified 7 November 1972; Laws of Maryland 1973, Ch. 745, ratified 5 November 1974; Laws of Maryland 1978, Ch. 971, ratified 7 November 1978. The preamble to the last amendment noted that the Court of Appeals had held in the case of *Maryland Action for Foster Children v. State*, 279 Md. 133 (1977) that the Budget Amendment did not authorize the General Assembly to enact mandatory funding that the governor would be obliged to include in the budget funds for expenses “prescribed by the Constitution or the laws” (*The Baltimore Sun*, 2 October 1916, 6). The same newspaper reported that during the 1916 session the governor and senate leaders had agreed to discard an amendment to the Amendment to require the governor to include an appropriation as provided by law. The suggested amendment was said to be destructive of executive control of the budget. See *The Baltimore Sun*, 18 February 1916, 1.

³⁴⁰ The constitution proposed by the constitutional convention of 1968 retained the executive budget system, including these specific features. See Proposed Constitution of 1968, Sections 6.09 through 6.15 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000605/html/am605--36.html>) as published by the Constitutional Convention of Maryland 1967-1968 in *Comparison of Present Constitution and Constitution Proposed by the Convention*, 39-41. This proposed constitution was rejected by voters in a special election held on 14 May 1968. See *Maryland Manual 1969-1970*, 499 (<http://mdsa.net/megafile/msa/speccol/sc2900/sc2908/000001/000174/html/am174--499.html>).

XII. Conclusion

In the early summer of 1917, the Maryland State Bar Association held its annual meeting at Atlantic City, New Jersey. One of the principal speakers was Dr. Frank J. Goodnow, who addressed the assembled attorneys on the recently adopted Executive Budget Amendment. In his address, Goodnow spoke about the fundamental change that had occurred concerning the role of government and the relationship of the branches of government.³⁴¹ At the founding of the Republic, framers of the Constitution sought to preserve liberty from the encroaching power of government. Within government, the initiation of policy was considered to be the preserve of the legislature. The executive's role was confined to executing this policy. However, as economic and social conditions changed, there was a corresponding change in the accepted view of government's role as an instrument to deal with the consequences of such changing conditions. Thus, there was a shift from a negative to an affirmative view of government. Moreover, within government, the executive's role evolved from a negative role, of which the veto was the most obvious expression, to a more affirmative role of administration and leadership. Thus, it became accepted for the executive to share in the role of setting policy. Efficiency became a concern and one of the first reforms was the introduction of the merit or civil service system. Subsequently, introduction of the budget system reformed financial administration.

The essential elements of the budget system were preparation of a complete plan of expenditures by the executive and limiting the legislative body's role to the power to strike or reduce amounts in the executive plan. It was acknowledged that the budget system derived from English parliamentary practice of forbidding increases in the

³⁴¹ For the text, see *Report of the Twenty-Second Annual Meeting of the Maryland State Bar Association, June 21-23, 1917* (Maryland State Bar Association, 1917), 238-57.

estimates of expenditures unless there was ministerial approval. The first application of the budget system in the United States occurred at the municipal level. Baltimore had had such a system for almost twenty years. It was also acknowledged that the Maryland executive budget system was closely modeled on the budget system of the New York State constitution which the voters of that state had rejected.³⁴²

Although Dr. Goodnow was a highly-regarded scholar with well-developed views on the merits of the executive budget system, the opportunity to implement these views occurred only because the successful candidate for governor in the 1915 election was the incumbent comptroller who was being blamed by his political opponents for failing to avert a substantial deficit in the state's finances. As the state's financial plight became known, the comptroller embraced the executive budget system as the appropriate remedy, arranged for his party's platform to appoint Dr. Goodnow and six other notable individuals to a commission to develop a specific budget plan, and pledged his party to implementing that plan upon taking office. Upon achieving success at the polls, the General Assembly approved and voters ratified an amendment to the state constitution that established the executive budget system proposed by the Goodnow Commission. Afterwards, Governor Harrington reflected on the experience in a paper he read at a national conference.

On June 5, 1918, Governor Harrington read a paper entitled, "The First Executive Budget" at a national conference on war economy, later published in the *Proceedings of the Academy of Political Science*, 8 (July 1918), 18-28. In his paper, the governor reviewed the practices that had led to the deficit following the 1914 session, the provisions of the Budget Amendment, and preparation of the first budget and its

³⁴² For a note on the differences and similarities of the Maryland Executive Budget Amendment and the budget provision of the proposed New York State Constitution of 1915, see footnote 198.

consideration at the 1918 session.³⁴³ He also contrasted an executive budget with a legislative budget which is prepared by a committee of a legislative body and simply puts certain information before that body.³⁴⁴ Unlike an executive budget, a legislative budget does not limit the actions of members of the legislative body.³⁴⁵ In arguing for an executive budget, the governor quoted a former congressional leader as saying that concentrating power in the executive was necessary to fix responsibility in fiscal matters.³⁴⁶ Moreover, limiting the power of legislators was necessary to resisting constituent pressure for spending public money.³⁴⁷

Governor Harrington returned to Cambridge after the expiration of his term on January 14, 1920, where he resumed the practice of law. The ending of Governor Harrington's success in elective statewide office is generally attributed to his endorsement of national Prohibition in 1918.³⁴⁸ He died on December 15, 1945 and his remains were laid to rest in the churchyard of Christ Episcopal Church.³⁴⁹ The stone that marks his grave was put in place by his family and makes no reference to his role in the adoption of the executive budget amendment. Thus, Governor Pratt retains the singular distinction of having a memorial stone placed over his grave by the state and recognizing his legacy in saving the state's credit. However, while not recorded in stone, Governor Harrington's legacy for the state's financial affairs is as profound as that of Governor

³⁴³ Emerson C. Harrington, "The First Executive Budget," *Proceedings of the Academy of Political Science* 8 (July 1918), 18-19, 19-22, 23-26.

³⁴⁴ "First Executive Budget," 27.

³⁴⁵ "First Executive Budget," 27.

³⁴⁶ The governor was quoting from testimony in favor of an executive budget system delivered by Representative John J. Fitzgerald before a committee of the New York State constitutional convention. See *Documents of the Constitutional Convention of the State of New York, 1915*, Document No. 15. From 1911 through 1917, Mr. Fitzgerald served as chairman of the Appropriations Committee of the House of Representatives. See *A Biographical Directory of the United States Congress 1774-1989* (Washington, D. C.: U.S. Government Printing Office, 1989), 1001. Unlike Mr. Fitzgerald, Governor Harrington had not served as a legislator. Moreover, for almost fifty years following the expiration of Governor Harrington's term in 1920, none of his successors had legislative experience prior to becoming governor. It was not until Speaker Marvin Mandel was elected governor by the General Assembly in 1969 to succeed Governor Spiro Agnew that a governor had prior legislative experience.

³⁴⁷ "First Executive Budget," 28.

³⁴⁸ White, *Governors*, 251, 253-54; *The Baltimore Sun*, 16 December 1945, 22, 32.

³⁴⁹ White, *Governors*, 254.

Pratt.³⁵⁰ The debt clause and the Executive Budget Amendment are fundamental to how the state's elected officials make decisions about raising and spending public money. No decisions made by state officials affect more of the state's citizens.

³⁵⁰ Governor Harrington was honored in stone by the state when a bridge over the Choptank River at Cambridge was named in his honor. However, when a new bridge was constructed at this location, the General Assembly passed a bill in the 1985 regular session that named the bridge after the long-serving Senator Frederick C. Malkus, Jr. of Cambridge. Although Governor Harry R. Hughes vetoed this bill (Laws of Maryland 1985, 4080-4083), the veto was overridden at a subsequent special session. See Laws of Maryland, Extraordinary Session of October-November 1985, Ch. 1. Any gratitude Governor Hughes had for Governor Harrington's legacy of executive power over the budget was unexpressed in his veto message.