

simply a return of contributions plus interest. The rationale for this is undoubtedly grounded upon the fact that a new judge enters the system at the average age of 50 and that a long vesting period would be inequitable. On the other hand, in the Employees' Retirement System the vesting period is 15 years, because the vast majority of its members join the system at a relatively young age. The Commission believes that the proper vesting period lies somewhere between these two extremes and that the 8-year requirement of the present legislative pension plan should be retained.

From the language of Article III, Section 15, the Commission perceives no intention to provide either the benefits or the burdens of the recommended compensation system (salary, reimbursable expenses and pension) to legislators terminating their service prior to the 1971 Legislative Session with no years of service after that date. For this reason, all such benefits are being offered only to those legislators taking office on or after January 13, 1971, with or without past years of service. While this dichotomy is clearcut with respect to the salary of the members and of the presiding officers and reimbursable expenses and mileage, some additional explanation is appropriate with respect to the proposed pension system.

Those former members of the General Assembly, not in service on or after January 13, 1971, who are either presently receiving a pension or will become entitled to receive a pension under the old system, will not be affected in any way by the proposed new pension system. Those members of the present (or of a future) General Assembly who elect the new plan and who have accrued, paid-up years of service under the old plan, will receive a pension which is the result of two calculations. First, years of service prior to 1971, creating as they do rights and benefits under the old plan, are treated in accordance with the provisions of that plan; and the pension benefit therefor becomes payable at the times and in the manner provided in the old plan, based upon a member's "highest annual earnable compensation" during that pre-1971 period. Second, years of service after January 13, 1971, create rights and benefits under the new pension plan so that a member with eight *cumulative* years of service (not necessarily either all consecutive or all after January 1, 1971) may receive a pension at age 60 for those post-1970 years at the rate of 2½% per year based upon his highest annual salary.

The Commission considered and rejected the alternative of allowing *all* paid-up years of service to qualify under the new pension plan. Such an approach would have provided, because of the higher salary basis, a pension windfall to legislators at or near the age of sixty with a high number of prior years of service. Related to the Commission's desire to avoid creating unearned benefits was its desire to avoid unduly penalizing a member with past years of service. The Commission was mindful of the fact that under the prior pension plan a legislator with 16 or more years of service who terminates his service becomes entitled *regardless of age* to full pension benefits for life based upon his years of service not in excess of 20. It could perhaps be argued that those legislators with a considerable number of (but less than 16) years of service as of January 1, 1971, would be unfairly deprived of a potential right if they were required under the new pension plan to await age 55 prior to receiving any pension benefit. On the other hand, it could also be argued that the significant increases in salary, and consequently in the basis for the pension, more than offset the possible detriment of deferring the age at which a pension could first be received. Because, however, of the language of Article III, Section 15(5) of the Maryland Constitution, quoted above, the Commission felt it desirable to make an exception for members in this category. Paragraph (g) of Item