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NEW YORK STATE BAR ASSOCIATION COMMITTEE ON STATE CONSTITUTION: SUMMARY OF 1991 ACTIVITIES

Gubernatorial succession. Upon noting the Governor's expression of interest in a constitutional amendment in relation to gubernatorial inability to serve, as well as to filling a vacancy in the office of lieutenant governor, the Committee reopened its consideration of the Law Revision Commission's proposal, which addressed these issues and was the subject of a public forum sponsored by this Committee at the 1986 Annual Meeting of the Association. During 1991, the Committee devoted its principal attention to a study of the significant provisions of this proposal, now incorporated in Assembly bill 2540.¹ As an aid to its own study as well as study by others, the Committee summarized the transcript of the 1986 forum, at which extensive remarks were delivered by Dean John Feerick, a leading authority on the 25th Amendment to the Federal Constitution, Commissioner Carolyn Gentile, chair of the Law Revision Commission, and former Governor Malcom Wilson. Each facet of Assembly bill 2540 was debated by the Committee members as they progressed toward formulating a public position. The Committee endorsed the proposal to entrust to the New York Court of Appeals the determination of the governor's inability to serve; on other matters the Committee had not concluded its consideration by year end.

Legislative reports. The Committee prepared and submitted New York State Bar Association (NYSBA) Legislation Report No. 124 on the proposed Constitutional amendment to compel the Legislature to act on any proposal for which 250,000 signatures had been obtained, the so-called limited legislative initiative.²

The majority of the Committee opposed the bill, primarily on the ground that it would undermine representative democracy. The bill was also criticized for failing to address a number of problems which it raised.

1. A. 2540, 214th Sess., 1991 N.Y. LEGIS. DIG. A 197 (Jan. 28, 1991).

2. A. 6106, 214th Sess., 1991 N.Y. LEGIS. DIG. A 473 (Mar. 5, 1991).

The Committee also prepared and submitted NYSBA Legislative Report No. 48-A on amending the Constitution to authorize the Legislature to confer on counties the same powers in regard to housing and urban development enjoyed by other local governments since 1938.³ The Committee approved the bill.⁴

Fiscal reform. The Committee has followed closely the work of the Temporary State Commission on State and Local Fiscal Policies, organized pursuant to the Laws of Chapter 220, section 9.⁵ The Commission was specifically directed by the Legislature *inter alia* to study the constitutional provisions relating to contracting of debt by the State, its public benefit corporations and local governments, and to make findings, conclusions and recommendations with respect to the State Constitution and its possible amendment. The Committee organized a panel of speakers on the work of the Temporary Commission for the January 1992 Annual Meeting of the Association.

Touro Law Review. Throughout 1991 the Committee gave its blessing and encouragement to the editors of this Review on their Annual Issue on State Constitutional Law. The Committee eagerly awaited the publication of the first issue.

Shirley Adelson Siegel, Chair
Committee on State Constitution

3. S. 1206, 214th Sess., 1991 N.Y. LEGIS. DIG. S 88 (Jan. 23, 1991); A. 2783, 214th Sess., 1991 N.Y. LEGIS. DIG. A 217 (Jan. 30, 1991); A. 3311, 214th Sess., 1991 N.Y. LEGIS. DIG. A 261 (Feb. 7, 1991).

4. The State Attorney General has since interpreted the Constitution to provide that the counties now have this power. Lisa W. Foderaro, *New York State Eases a Bar to Homeless Housing*, N.Y. TIMES, Feb. 16, 1992, at 44.

5. Act of June 11, 1990, ch. 220, § 9, 1990 N.Y. Laws 703, 723-24 (McKinney).